

THE BROOKINGS INSTITUTION

WEBINAR

MARIJUANA: A SUBSTANCE AT THE INTERSECTION OF  
RACE, POLITICS, AND CULTURE

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## P R O C E E D I N G S

MS. FERTIG: Good afternoon, everybody. Welcome to this panel today. We're really glad that you've joined us.

We're here talking with John Hudak of the Brookings Institution and Shanita Penny. And we are talking about John's new book, "Marijuana: A Short History," and it's a new edition of the book. So we're going to be talking today on racial justice and how that relates to marijuana and the push for marijuana legalization; also about the history of racism in America's current marijuana laws.

Before we get started, though, I do want to tell everybody please submit questions to us. You can submit them on Twitter using the hashtag #MarijuanaHistory and then you can also email them to [events@brookings.edu](mailto:events@brookings.edu).

So, with that said, we're going to jump right in. The first question that I wanted to ask before we really get started with the discussion is specifically for John. Why the new edition? Why now? You know, what changed between the first book and this book?

MR. HUDAK: Well, Natalie, thanks for hosting today, for moderating. And thanks, everyone, for virtually joining us at the Brookings Institution.

That's a great question, Natalie. The exciting thing about working in cannabis policy is that things are constantly changing. There's a ton of new initiatives on the ground in states. There's new legislation popping up in Congress. And there's new conversations happening around this issue at all times, not to mention new research, new research endeavors that are looking into a variety of questions surrounding this plant and the products from that plant.

And so, the reason for writing it was to essentially update the first edition, which went to press in late 2015, meaning that a lot has happened in four and a half years in politics, in culture, in life in general. And it was time, I think, to update that.

But at the same time, as the policy conversation has changed dramatically and expanded within the cannabis community about issues of racial justice, social equity, policing, and a variety of topics related to that, I thought it was important to build on what was the history of racism in cannabis policy and start to talk about what racism, policing, and a variety of other factors related to the institutionalization and

criminalization of our marijuana laws, to really bring that into a bigger part of the conversation in the book because it's a bigger part of the conversation in general.

MS. FERTIG: Sorry, guys, I keep unmuting myself and committing all of the faux pas. Shanita, why don't you introduce yourself to us and tell us a little bit about your background working in marijuana.

MS. PENNY: Hi, everybody. Shanita Penny, founder and principal consultant for Budding Solutions. When I was really starting to kick the door down in the summer of 2015, in Maryland, it was very, you know, obvious to me that I was going to have to do more than just get into this industry from a business perspective. I knew that there were things related to policy and just the industry itself that needed to be changed. There wasn't a lot of conversation around a lot of the things that we're going to talk about today.

So, I'm really excited to see a second edition of something that I really looked to as a resource for understanding the history of cannabis, where I fit in, and where I needed to help this movement go.

MS. FERTIG: Yeah, okay. And just one more call-out, if people are joining us a couple minutes late, please submit questions on Twitter via the hashtag #MarijuanaHistory or email them to [events@brookings.edu](mailto:events@brookings.edu). And, again, I'm Natalie Fertig and I'm the cannabis reporter at Politico.

So, Shanita, you mentioned the history. And, John, your book is chockful of the history of marijuana and how it came to be illegal in the United States and how that pertains to racism.

So, can you guys kind of give me -- I know we could literally spend the entire hour just talking about that, but, in the essence of time, could you give me kind of the TLDR of how a lot of America's marijuana laws -- say that five times fast -- are related to racism and stem from racism?

MR. HUDAK: Sure. I think, you know, a lot of Americans think about the history of cannabis and they think of the '60s or they think of periods not too far in the past. But in reality, the foundations of cannabis laws as we have them today, as we know of them today, really started around the turn of the 20th century. And cannabis law and drug policy in general really had explicitly racist roots in the United States.

And when we look back and see that cannabis laws initially came about out of fear of Mexican immigration into the United States, and the term that the book uses and I think has become fairly common parlance in the United States to call it “marijuana,” was actually rooted in that attempt to divide White Americans against immigrants coming across the border from Mexico. And that spiraled into a broader, racially divisive set of policies that by the 1920s began to vilify Black Americans in addition to Latinos and immigrants.

That then expanded into political opponents of presidents in the '50s and '60s and '70s are using cannabis laws to really attack outgroups. And that created this criminalization and really police state around cannabis that was not motivated genuinely because of concern over harm or risk. The roots of this were to divide Americans and really pick at Americans' worse tendencies towards racism and xenophobia.

MS. FERTIG: Right, and there was the famous Nixon aide quote from, I'm trying to remember the exact way he described it, but Nixon's aide did say we couldn't arrest anybody for being Black or for being against the war, but we could arrest them for marijuana and for heroin. And the summary of that quote was, so we made those things illegal so that we could go into their homes and we could raid their homes and we could arrest them for that, and which was, you know, the '50s and '60s is the time period that we're talking about at that point.

But can you kind of explain how Nixon and then Reagan and then Clinton set us up into new laws that we have now regarding marijuana prohibition?

MR. HUDAK: Well, Richard Nixon was the first president to sign into law what was explicit criminalization of cannabis with the Controlled Substances Act in 1970. That set in motion America's drug policy in a very serious way.

What it did was it, first, used presidential language around war. And we call this the “War on Drugs,” but in researching for this book, when you go back and you actually look at the statements that politicians were making, I write that you could replace a couple of words and you would think presidents were talking about the Soviet Union. It was literally war rhetoric.

And what that did was, that rhetoric trickled throughout government, and not just the

federal government. It trickled into state and local governments, as well. And it really set a tone for police departments across the United States to attack this as an enemy and in that it was also attacking communities as enemies. And, you know, we know well racial disparities and arrest rates are terrible across this country and they've been there and they have been focused in drug policy in a very serious way for decades.

And what that has done was started a conversation around policing where more police, more heavily armed police, police with military equipment were necessary because what were police doing? They were fighting a war. So, why not use war equipment if you're fighting a war? And it really transformed the way police departments operate in this country. And again, all based on opposition to people of color, opposition to disagreement, and opposition to certain political groups.

MS. FERTIG: Shanita, did you have anything to add to that, as well?

MS. PENNY: No. I just think that it's a very important point. You know, when I was born in the very early '80s, growing up I had a conversation with my father about cannabis and marijuana, and it wasn't about it being dangerous for me. It wasn't about it being this terrible thing. I knew what they were telling me in school in these D.A.R.E. programs, but I also knew that I was being informed by someone who had my best interests in mind.

What I knew very early on from the home was that this plant was more dangerous to me because I'm Black. And I grew up and depending on whether I was with a group of kids that looked like or a group of kids that didn't look like me, you know, I had to govern myself in a very different manner depending on who I was doing the very same thing.

And so it's been 50 years that we've had the Controlled Substances Act in place, and we are now at a place where we are going to really talk about this, address the racial aspect, and regulate and legislate accordingly.

MR. HUDAK: And if I could add to that. You know, Shanita and I were talking the other day about this. There is an amazing conversation happening in this country right now around criminal justice, around racial injustice, around issues of equity, and around policing. And absent from a lot of that conversation has been drug policy.

Senator Sanders gave a really great speech on the floor of the Senate the other day connecting these dots, connecting what drug policy broadly and cannabis policy specifically has meant to policing in the United States and what it's meant for racial injustice really. And I think that needs to -- it is so at the core of the conversations that we need to be having right now. I think that drug policy and drug reform in the United States has to be a bigger part of that as we move forward with much larger issues that our country is facing in terms of, as I said, racial justice, race relations, and policing.

MS. FERTIG: Yeah, and that was -- I mean, when we've -- all of us have talked about this before, but it's one of the biggest questions right now that I have as a reporter, is why is this not being talked about, especially by lawmakers who have brought it up in the past, you know, on the presidential campaign trail, even just when the MORE Act was moving through the House last fall?

For those who don't know, the MORE Act is a bill that would remove cannabis from the Controlled Substances Act, which essentially makes it legal. States would still have to legalize it, but it also expunges some records and it provides for equity programs within the industry. And that bill passed the Judiciary Committee in the House last fall. And there was so much conversation about this as a criminal justice reform effort, and none of those people are talking about that right now as the entire nation begins discussing policing reform and criminal justice reform.

And so, I wanted to get both of your takes on why that is and then, also, why you think it should be part of the conversation. You know, John kind of answered half of that already, so, Shanita, why don't we start with you?

MS. PENNY: You know, the criminal justice reform movement and marijuana legalization movement have not been collaborative at all. And I think it was December 2018 that I realized that we had really missed an opportunity to work collaboratively when we saw the First Step Act pass. We had this huge criminal justice reform, it was progressive, and we weren't a part of it.

And then there was this, you know, real push in the 11th hour to throw cannabis language into that and it felt like a real hijacking of years and years of work as opposed to working together. So, I think we're at a critical point now where you can't talk about fixing this country unless you talk about race.

And it's not enough for the marijuana legalization movement to say, hey, legalizing cannabis will help race relations. That's not enough because we know that it does not work that way.

If we're talking about records being cleared or we're talking about a second chance at life for folks, it doesn't just happen when you legalize. Many of the systems that have held these same individuals down for years, you know, most of their lives since they were impacted or before that, even if they weren't impacted, are still in existence. And they are systems that have to be retooled for any of these other little pieces of progressive legislation to ever stand a chance. If we don't bring and center race equality in this conversation, it will all be for naught.

MR. HUDAK: Yeah, I mean, I obviously agree with everything that Shanita has said.

One of the important aspects of the way I think about this issue is legalization doesn't do anything to fix a past arrest and record expungement fixes one day of a person's life, the day that they got their conviction. What it doesn't do is make up for what ended up being years and years of missed opportunities that have happened because of that arrest.

And so, when we think about what the future of cannabis policy is, particularly as it relates to issues of race and opportunity, we have to think of this as a broader spectrum of processes throughout a person's life; that you can be set on a certain trajectory because of a drug conviction that perhaps you didn't get into college. Perhaps if you did get into college, you weren't eligible for student loan money. Perhaps you weren't eligible for certain jobs, whether or not you went to college or not. And that creates a real lifetime of underprivilege. It creates a lifetime of opportunities that could have been very different had that police officer not pulled you over or had that police officer not stopped and frisked you.

That is something that in this conversation I think we need to see more of. Talking about legalization is one step. Talking about record expungement, especially automatic record expungement, is one thing. But we also have to do something to invest in the communities that have been specifically targeted by this nation's cannabis laws.

MS. FERTIG: Yeah. So, when we're looking at -- you know, there have been steps in some states, right, recently to address some of this. Nevada's governor, for example, approved a plan

that would expunge -- or, sorry, not expunge, pardon, which is slightly different, pardon up to 15,000 I think is the number of people who could potentially qualify for the pardon of low-level marijuana arrests.

But when we're looking at the policing bill on Capitol Hill, it's very focused on policing practices. And do you think that there is a place in that bill for any type of cannabis reform?

Some of the things in the bill are related to the War on Drugs, like no-knock warrants are typically used when SWAT teams go to make drug arrests. That was the origin and the usefulness of them was in getting into a house before someone could hide drug paraphernalia or something like that. And it's what was in possession of -- police officers had that in possession when they went into Breonna Taylor's house. So, that's been part of the conversation, but that's a product of the drug war rather than the sort of creation of the drug war itself.

Do you think that the drug war and cannabis legalization should be in the policing bill or is that something for a different bill?

MS. PENNY: Arrest Breonna Taylor's murderers, first and foremost. You know, this is a great example of policy that comes down or reform that comes down without actually addressing the root. Right? You've gone as far as to say that we won't allow no-knock warrants anymore, but you haven't arrested the person who -- and persons responsible for the murder of Breonna Taylor.

So, I don't think it's enough for us to try to roll things up into -- we have to address these things individually and thoroughly. Cannabis legalization is not going to decrease the instance of arrests for Black and Brown people. I don't care, we've seen it. In Colorado, the disproportionate rate at which Black and Brown youth are still being arrested in Colorado demonstrates the fact that there has to be criminal justice, law enforcement reform in addition to these legalization efforts, in collaboration with.

But I don't want us to get into a situation where we throw something into something else and expect that we will have magical results when we haven't addressed the root cause, which, again, goes back to these age-old systems and organizations that are interconnected when you think about legalization, drug policy reform, law enforcement, and criminal justice reform. Right?

MR. HUDAK: Yeah. And as Shanita said, this is a complex problem. This is a complex issue. When we look at states that have legalized, we know that the number of arrests have decreased,



in most places pretty dramatically. But the disparities in arrest rates with those lower numbers are the same, in some places they're even worse. And so, that tells you that something else is going on. It's not necessarily cannabis laws. It's cannabis law enforcement that becomes a problem and the manner in which those laws are enforced.

And so, I think any opportunity that can be taken to help retrain police officers, to introduce training around implicit and explicit bias, and reform from the top, this has to come from the leadership in police departments, this desire to do things differently.

And, you know, Brookings isn't in the business of endorsing specific legislation, but what I will say is that there are some ideas on Capitol Hill right now that would seek to audit police departments that have racial disparities in arrest rates. I'm thinking about the way the federal government allocates funding to certain police departments if, as we know, you have a jurisdiction where, like across America, Whites and non-Whites use cannabis at about the same rates, but Black Americans, for instance, are four times more likely to get arrested for a cannabis offense.

Looking at what's happening in police departments, using the numbers, using the data, and trying to institute reforms at the ground level is essential. Congress is not going to fix policing in the United States. This has to be an intergovernmental effort that involves states, federal, and local officials getting together and coming up with broad solutions that work, but also solutions that need to be tailored for the specific jurisdictions and the specific problems that they have.

MS. FERTIG: So, I wanted to talk a little bit about through the ripple effects of the War on Drugs, transition a little bit here. You know, the main discussion when we talk about cannabis policy is the number of people who are arrested. But there's also things like asset forfeiture that are playing into a lot of the bigger problems with policing that people are now discussing.

Can you guys kind of tell me in your mind what some of these ripple effects are that just spread out from, you know, what you're saying, John, of this is interconnected and this is a multiagency thing? This is local, this is federal, this is -- you know, kind of work me through that a little bit.

MR. HUDAK: I think when a lot of people -- and, you know, when I first started working in this area, it was true of me, too, when I thought about cannabis policy, I thought in very narrow terms. I

didn't -- you know, you think about possession, arrest, conviction, and that's it. But when you think about the ways in which cannabis policy specifically and drug policy generally affects a lot of people indirectly, I think it creates a conversation or it facilitates a conversation where we need to think holistically about what these reforms look like.

Reforming drug laws are one step, but reforming the way in which, like I said, police do business, other aspects of the criminal justice system do business, the ability, as you said in your question, Natalie, to use asset forfeiture to essentially balance the books of local communities. And we see, you know, governments doing this in a lot of insidious ways, and drug policy is just one of those.

You know, we look at ICE contracts, for instance, for local governments to use parts of their jails as detention facilities for ICE detainees. Those contracts are balancing budgets in some rural counties in the United States. And so, the county isn't necessarily doing this because they think it's a great policy idea. They're doing it because they need money. And at no time are they going to need money more than a year like this, where the receipt of state and local taxes are plummeting because of the recession and because of the pandemic.

And so, those types of issues create this economic model around drug policy and local governance that means that there is a constant loop. Local government is going to enforce laws in certain ways. Why? Because they know that if they do that, they're going to get better funding from the government. And the government structures funding in ways that -- I'm sorry, incentivize local governments to behave in certain ways. And we know that's true about drug policy. We know that's true about cannabis policy.

And so, those issues need to be addressed structurally from top to bottom. But then the indirect effects of it are something that we need to think about, too. Wives, daughters, fathers, mothers of people who are arrested for these crimes and convicted of these crimes, that creates a real community loss.

And so, my colleague Makada Henry-Nickie and I have proposed a Cannabis Opportunity Agenda that helps take funding from within the cannabis industry from tax revenues and funding from elsewhere to create an opportunity agenda that's targeted specifically at the communities that are hurt

most and hit hardest by the War on Drugs. So, thinking essentially beyond the plant, right, and thinking about all of the different ways that this policy invades other areas of policy, like public finance. And also, how it invades communities that are hurt badly and are held down because of it.

MS. FERTIG: Shanita, would you like to add anything to that?

MS. PENNY: No, I just think -- well, yes. The important piece of the conversation that I think we need to refocus is that investment, reinvestment, and reconciliation for all of the damage that has been done in these communities, regardless of whether there will be a cannabis industry there or not, we have data. And you mentioned it earlier, John, we need to look at this data. We need to look at institutions and agencies that are already going in and starting to do some of the work to pour back into these communities.

And, yes, there should be cannabis tax revenue that is deployed to these agencies and organizations to do this work. It should not be left on the cannabis industry to go figure out how to go fix this mess. We're a part of the solution, but we certainly can't be the end-all, be-all, and we can't leave it up to the industry to do it.

Our municipalities, our state governments, and eventually our federal government is going to have to do something about this. And if not, then, again, we're going to continue to waste resources on efforts that don't work, like over-policing these communities, as opposed to investing in what could be educational resources, health, job/workforce development, all of the things we know that will allow these people to become more productive individuals and productive communities within our country.

MR. HUDAK: And one quick shout-out. Shanita and I have been talking a lot about racial disparities and arrest rates around cannabis. A big shout-out to ACLU, who put out a report earlier this year that updated a report that they put out earlier in the decade that looks at these disparities. And so, for the people watching today, if you're curious on what your state looks like in terms of racial disparities in arrest rates around cannabis, look at the ACLU report. And I think the findings are going to appall you.

MS. FERTIG: That report was deeply fascinating. I know that John and I definitely had a lot of long conversations when it came out, just trying to figure it out. I think the most interesting thing to

me about that, and I was actually talking about this with another reporter earlier today, is that when you look at the decline in marijuana arrests, it has no correlation to the rate of arrests between Black and White people.

So, you know, the number of arrests goes down, as might be expected when something goes from being illegal to legal, but the racial disparity in arrests goes up, down, up, over. In some states this year -- or in 2018, when that data ended, in some states it's higher than it was when it began. In other states it's way lower, but in 2017 it was higher.

It's obvious that legalizing marijuana does not end that racial disparity at all. And the racial disparity is not tied to the legalization of marijuana.

But actually, talking about states a little bit, I'd love to talk kind of about how equity and the conversation about equity and the conversation about racial justice has changed on the states level. You know, when Washington and Colorado legalized back in 2012, it was really not a part of the conversation at all. And now we're looking at New York State, it was essentially disagreements over how to fully and adequately deal with racial disparities and deal with equity that ended up kind of pushing the bill down the road and not getting it passed this year. Same with New Jersey. This has become one of the most important parts of the conversation in a lot of states.

So, can you guys talk to me kind of how that changed and where do we go from here?

MR. HUDAK: Yeah. As you said, Natalie, when these ballot initiatives first started in Colorado and Washington, this was not a big part of the conversation, and that's true for a variety of reasons. But it was legalization that passed without an enormous amount of appreciation for how policies can be molded to help deal with this.

Now, that said, states like Colorado and Washington have now looked back and realized the error of their ways and have, through the legislature, taken additional steps to create social equity programs, to deal with issues around expungement, et cetera. And so, I think that's exciting.

You know, would it have been better for these things to be addressed in 2012? Absolutely. But mistakes are made and political environments, also, sometimes don't support things years ago that they might support currently. And so, what it shows is real policy learning.

We've always seen Colorado and Washington as sort of the teachers of cannabis legalization policy across the country and really across the world. You hear the regulators from those states, the executives in those states, and others traveling to other jurisdictions to help teach people about what their experience was. But in reality, Colorado and Washington ended up being students from subsequent states that took a very serious approach, in varying degrees, but a serious approach to issues of social equity within the industry and racial justice in general.

And like you said, Natalie, now we have states like New York, New Jersey. There was real disagreement in Illinois before they passed their law about what these programs are going to look like. And I think there's a huge part of the conversation around cannabis legalization right now where communities of color, the people who were hurt worst by the War on Drugs are coming out and saying, no, you are not going to legalize this and ignore us in the meantime as we bore the brunt of the effects of this.

And so, as communities, whether it's state legislative Black caucuses or just, you know, individuals coming from similar backgrounds, similar constituencies, banding together and finally saying no to this, saying, no, we're not going to wait eight years to go back and fix the problems. We're going to do this right now or we're not going to do it at all. And I think for a lot of cannabis advocates that can be frustrating to be that close to the finish line and then not being able to cross it.

But I think, ultimately, as I've said already in this chat, if we are going to think about this holistically, advocates need to act holistically in the way that they address this issue.

MS. PENNY: Absolutely. You know, it's great that Colorado and other states are coming around. They don't have a choice. I mean, we have to evolve. We have better information. We know more.

But this is an example, and as frustrating as it is to almost get to the finish line and not get there, I'd rather not get there because I know what happens when we say we'll come back for this. You know, we are a billion plus N (phonetic) in Colorado. We're talking tax revenue, right? I remember years ago reading in an article about a community center that was built and the marble bathrooms. You know, Colorado would have been a lot better to spend a portion of that billion-plus retraining and

reeducating their law enforcement. Maybe they wouldn't have the decline in overall arrests and still have the disparity between races.

And so, it's absolutely imperative that we just say no to legalization that is not for everybody.

MS. FERTIG: So, how do states going forward -- you know, we look at Illinois' program. They have started this through -- they partnered with Code Across America to just expunge records kind of blanketly. They didn't say let's look at these one by one, like some other states have. I think in the Nevada program, for example, is more of like you apply and Illinois said we're just doing this, like we're not going to see what else was happening with your record. And I would say that's kind of like on the scale of how people are doing this, that's like we're going the furthest.

But you look at equity programs in like Massachusetts and California, and they're taking forever to get off the ground. You know, Boston has one equity-owned dispensary operating. The state of Massachusetts -- it's also the first one in the state of Massachusetts and they're about to get a second one elsewhere in the state, I think it's in Worcester -- sorry, I'm not from Massachusetts; I probably said that wrong -- off the ground. And John's like you definitely said that wrong.

But, you know, these things are passed in the law. They're heralded. They're like this is the first equity program. And two or three years later, we've got one candidate with an open equity dispensary.

So, what's happening in these local laws that it's not working? You know, so, what needs to be different?

MS. PENNY: Again, the focus on cannabis business licensing as the primary objective of social equity programs, that's our first mistake. Cannabis business is hard. It's hard if you are well-funded, politically connected, if you've run successful businesses and exited them. It's hard. And so, this idea that giving a business license to someone who's been impacted by the War on Drugs or is, you know, only making a certain amount of money a year, and that they're going to be able to take this license and now they're life is equitable in this country is an absolute -- it's a joke. It's a joke.

And so, you know, I'm not going to talk about how long it takes for a business owner to

get up and running because I'm not a social equity business in Pennsylvania. And it's taken my partners and I since 2017 to now, you know, prayerfully have product on the shelves this fall.

And so, as I work with social equity applicants and businesses and I work to incubate a social equity business in Oakland, I just always put what we're doing into context. It's very hard. And so, these, again, agencies from local zoning to, you know, any of the folks that you're dealing with at the state level, these are, again, agencies and institutions that have not been for these groups historically. Okay.

In Pennsylvania, when you had to go get your fingerprints done to apply for a business license, you had sergeants that would look at you and say, hey, no, you can't get your fingerprints done here. I called my business partner up, I tell him that a couple times, and he's like, hey, let's meet here, we'll go get your fingerprints done, and he's walking me into a friendly barrack where he knows I'll be able to get it done.

Another example, you know, negotiating for property, the requirement of actually having ownership or control of a property before being able to apply for this license. Okay, if the person got the license because they don't make \$60,000 a year, where do you think they're getting capital to start this business if you don't have access to banks? And even if we did, this same group of people are historically redlined, charged higher interest rates when they're able to borrow money.

And so, again, we have to look at social equity in a very realistic way. And what's realistic is that we can, A, pour into communities day one because those large companies, those companies that are able to get going, created a billion-plus dollars in tax revenue in Colorado. That's something to work with.

Now, once we start strengthening these communities, right, restoring and rebuilding them, now we're able to go into this community and say, hey, who's interested in a cannabis business? But it doesn't make sense to just throw this license out there and expect that they're going to be able to get up and running and be successful and thrive when we see millions and millions of dollars that are being lost, you know, annually by large companies. This just isn't realistic that there's an expectation that these folks are going to be able to get up and running any faster than anybody else or on par with anybody else.

MR. HUDAK: I can't top that.

MS. FERTIG: For people who maybe are watching this and just aren't as familiar with the conversation, can you go a little bit more into detail about where those things would be reinvested, where that money would be reinvested? What are the specific kind of places and benefits that that -- not benefits, but like the specific places that that would be the most beneficial?

MS. PENNY: Yeah. I think Illinois has done a really good job of identifying buckets where cannabis revenue is going to go. And I think that it's a great starting place. And then it's up to a state to identify the efforts that they've made in the same way and, again, collaborate.

You know, I've heard the governor of Virginia talk about decriminalization and their efforts as being steps in the right direction towards racial justice. But here's the reality: It's not unless you couple with additional efforts, you know, resources and really breaking down some of the things that have systemically harmed and held back people.

MR. HUDAK: And I'll just add to that quickly, Natalie. I think what Shanita said is right. This is a multistate process. States need to learn from other states.

States also need to learn from themselves. And so, I think states like Illinois, which I agree with Shanita, they've identified these buckets that are really key ways to deal with the past harms of the War on Drugs. But my guess is Illinois is not going to get everything right with this first attempt, and that's okay. It doesn't mean it's a failure. What it means is they need to look at parts of the program that are working well and continue them or expand them, and look at parts of the programs that are not doing as well and figure out whether they need to be scrapped or whether they need to be reformed in a way that better reflects the reality on the ground.

And so, states like Illinois are surely going to do that. I know Massachusetts has done that. They've looked at their own laws. They've figured out where they can do better and they've gone to work to do things better there.

States need to do more of that. You know, I think there's this belief in government that if we admit something was wrong, then, you know, we're going to get tossed out, we're going to look like failures. I think there's a lot of people, especially this year, who would love for their government to say,



you know what, we did that wrong, but we're going to do it better moving forward. No one says that and you need to do it across government and you really have to do it on these social equity programs, which are just so difficult of a nut to crack that states are going to have a lot of swings and misses, but they also need to build upon those misses and really turn them into positives.

MS. FERTIG: Yeah. One of the things I was just kind of thinking as we were talking about where, you know, tax revenue specifically from the cannabis industry goes is the fact that, you know, Portland, Oregon, just voted to redirect all tax revenue that comes from cannabis that goes to the police department. It's about \$2 million, it's not a huge amount of the budget, but it -- you know, they decided we're not putting any of our tax revenue into the police department anymore. I think 79 percent of cannabis tax revenue in the city of Portland was going to Portland Police Department.

Los Angeles is also -- I know that advocates are also looking at trying to push for something similar in Los Angeles.

What do you guys think about that, both in context of what we were just talking about and also context of this national conversation that we're currently in?

MS. PENNY: I think it's smart. I think that we've created, you know, this industry and especially in places like Colorado. And I'm not beating up on Colorado, but I'm just going to use it because I have a data point. When you see that you've not equitably decreased arrests, then, yes, you pull some money back. I think there has to be some accountability. If you're not doing anything constructive and really protecting and serving, why are we going to continue to fund that? I think it's a smart approach.

I think that our cannabis tax revenue dollars need to be explicitly deployed and it has to be legislated that way. You know, you can talk about housing, you can talk about access to nutrition, healthcare, any of the things that are inequitable in this country for those same groups of people that were targeted by the War on Drugs. There's an opportunity to roll some money into that area from cannabis tax revenue.

And I think that those are the things that we need to be saying in addition to screaming "Defund the police." Like let's be thorough with our demands.

MS. FERTIG: Do you think that those funds should be used at all to retrain police?

MS. PENNY: They have big budgets. I think that they could retrain police within the existing budgets. I don't think that there's a need to bring in cannabis tax revenue to retrain police because it's not cannabis that is the cause for us to retrain them. That's not why we're retraining police. We're retraining police because we have a problem in this country. So, no, I don't want it to come from the cannabis industry specifically or only.

MS. FERTIG: John, did you want to add anything?

All right. We're going to start going through some of the questions that we have from viewers. One of them kind of shifting our thoughts a little bit to the 2020 election. I know this is on a lot of people's minds. Could a Biden presidency, this question comes from William, could a Biden presidency lead to real leadership on legalization of cannabis on the federal level, at the DEA and in the AG's Office?

MR. HUDAK: I think there's going to be tremendous pressure on Mr. Biden if he does become our next President to move in a direction where broader drug policy reform is a reality. I think that all else being equal, the Democratic Party would push Biden on that point anyways, but I think what's been going on in this country, especially over the past several weeks, is going to make that a much bigger conversation in the Biden camp.

I think as a candidate, and I think if he is elected as president, I think there is going to be an enormous blowback against a Biden presidency from within the party if he chooses to deal with drug policy in a meek manner or if he fails to show leadership at all. Now, a President showing leadership on this could be done in a variety of ways. It could be done within the cabinet. It could be delegated to a Vice President. I write in my book about how presidents frequently delegated to their vice president the means of building up the War on Drugs. It would be an amazing task, I think, for a Vice President to dismantle the War on Drugs.

And if, you know, the rumors in media right now that Joe Biden is focusing on mostly Black women as his VP choice. That would be a great individual, probably with life experience on dealing with this issue as a Black American, to really lead that conversation.

And so, do I think Joe Biden is going to turn around overnight and become, you know, the

biggest cheerleader for cannabis legalization? Probably not. But I do think he's politically savvy enough to know what the consequences are if he doesn't.

MS. FERTIG: Shanita, did you have anything to add?

MS. PENNY: No, I look to John for his thoughts on these types of matters, especially around the presidency, and I agree. I think that, you know, Biden's got an opportunity to, if he doesn't do it himself, put the right people in place to take this thing and really do something with it. We've never seen a President really take this issue on and lead.

MS. FERTIG: Yeah, and I think that is kind of one of the most important questions, right, is there are lawmakers -- I mean, if you -- I've been told by Republicans and Democrat senators that if you put the Safe Banking Act on the floor of the House tomorrow, it has the votes to pass. But Mitch McConnell does not want it to be on the floor of the Senate tomorrow. Did I say the House? The Senate.

And so there is -- and then, also, a lot of those people that would vote for it are not using their personal political capital to push it into existence. And so many other things that happen on the federal level are, yeah, yeah, yeah, I'd vote for it if it came up, but they're never going to push for it to happen.

And that can be the same in the presidency, too. Right? You know, okay, if the bill arrives on Joe Biden's desk, he'll sign it because the political implications of being a Democrat President who signs to not -- like who vetoes a bill changing drug policy would be pretty hard for him to deal with. But is he going to use political capital as a President to push for it? And I think that's kind of one of the major questions.

I don't know if either of you have an answer to that, but.

MR. HUDAK: Yeah, I mean, it is an open question about what a new President would spend political capital on. I think that the benefits of drug policy reform, like I said, has been enhanced as we're having a broader conversation about racial justice in this country.

But, at the same time, yeah, Mitch McConnell is certainly holding up cannabis legislation. He's holding up a lot of legislation. Presidential leadership, however, on an issue like this could make or break the issue.

What we know is Donald Trump has not shown leadership on cannabis reform policy. And I bet if he did, it would probably move Mitch McConnell at least a little bit, or it would move several Republican senators a little bit on that. In the same way that, frankly, Barack Obama didn't show any leadership on cannabis reform policy either, and so that did not become something that Congress really wanted to take up, even when he had a supermajority Senate and a Democratic House at the beginning of his first term.

And so, you know, as Shanita said, we've never seen a President show real leadership on this issue and I think it's hard to exactly game out what that leadership would have in effect, especially in if Republicans maintain control of the Senate. But it might also be a game-changer.

And so, I think it's a wait-and-see approach right now. Some President in the future is going to show a lot of leadership on this. Maybe it's Joe Biden, maybe it's someone the next time, but it's going to happen and then I think we're going to learn a lot about what kind of spark that -- what kind of spark it is that ignites something bigger.

MS. FERTIG: Right. I think it's also important to point out how much public sentiment about cannabis has changed in the last even just 4 years, not to mention 8 years or 10 years. I mean, it has -- one of my colleagues talked to a pollster who was saying that he hadn't seen anything change sentiment this quickly aside from the way the country changed their opinion on gay marriage, actually, was the only other thing that he'd ever seen this quick of a change from mostly being against it to mostly being for it over the last decade. And, I mean, President Obama was a president in kind of a much different -- was elected in a different sentiment.

That kind of also plays into another one of our questions, though, which is why do federal legislator or the Executive Branch struggle to make change or struggle to get behind this issue when national sentiment is so much behind it? I mean, even, you know, I don't remember the exact number right now, but I think it's 55 percent of Republicans favor national legalization, and many more favor medical marijuana.

MR. HUDAK: So, what I always say is that cannabis legalization is popular in this country, but it's not salient. It's not something that a lot of voters care a lot about. And for the most part, I

think that's because for a lot of Americans, they either live in a state where cannabis is legal and if they want to use it, they can; or if they live in a state where it's not legal, they're going to find a way to get and use it and, especially if they're White, not get in trouble for it. And so, that creates a situation in which a lot of Americans see a lot of other issues that need to come to the front of the line before cannabis.

That said, if cannabis reform gets folded into the broader conversation around racial justice and policing, that can create that policy window in which, you know, everything comes together at the right time and in the right setting and something can get done. That makes it more salient to Americans because Americans are not thinking of it just as can you buy cannabis legally or not? You're thinking about it as something systemic, something institutional, something that touches on a lot of other issues.

And those of us who work in and around this issue know it's much more complicated than I think the average American thinks about in terms of the areas of policy and the number of people that cannabis policy affects directly or indirectly. And so, if that happens, if those conversations merge, I think that the level of support in the United States for cannabis reform really starts to translate into movement.

MS. FERTIG: We have a question from a special guest, from Leon, Shanita's dad. Leon asks, do you see a path for small dispensaries getting online with large companies buying up on all of the territory?

MS. PENNY: The path is through legislation that carves out and protects a lane for those small businesses. You know, the reality is, is that even our large cannabis businesses in the grand scheme of things are small businesses. And so, these big monsters that everybody keeps complaining about in the cannabis industry are not even the real threat.

You know, when federal legalization opens up and these larger companies that haven't taken the risk early on, Constellations Brands, for instance, and some of the others, they're coming. So, we have to carve out a lane and protect the small business owner, whether that's a dispensary, a cultivator.

And I think that we do that through legislation that, again, when creating and protecting the small business owner, also creates a space and protection for Black and Brown business owners,

social equity business owners. Once we get away from thinking of social equity businesses as a charity or a handout and we respect them and provide resources for them so that they can not only get into the space, but compete, we will see small dispensaries, hopefully, here to stay. I'd like to see the mom-and-pop dispensaries of the world, you know, be here even when we have the national retail chains that are going to come to fruition at some point.

So, yes, I'm doing all that I can to carve out a lane and protect small businesses.

Thanks, Dad.

MS. FERTIG: We have another question, which is from J.R. And he asks, what, if any, recent and tangible change do you see in racial equity in the cannabis industry?

MS. PENNY: Whew.

MR. HUDAK: So, like I said --

MS. PENNY: Let Shanita sit on that for a second while John goes for it.

MR. HUDAK: So, the question was what recent change is there around racial equity?

And I think, you know, you're seeing, as I mentioned before, what's happening in Massachusetts with a reform of their program with regard to equity. The director up there taking a look at what the commission is doing and saying we have to do better. And as I said before, you don't hear that from government officials a lot. And so, I think kudos to the administration there on recognizing that more needed to be done and then actually doing something about it.

I think the Massachusetts model, even if ultimately it does not serve all of the purposes and goals that were intended, I think that governance approach of admitting challenges and trying to overcome them is something that should be modeled in every state that deal with drug policy in this way and states that deal in a lot of areas of policy.

Next, I think, as I mentioned before, the effort in Illinois, which it's a new program. It remains to be seen whether that is going -- which parts of that program are going to be successful with regard to racial justice and equity issues. And I think it's something definitely to watch.

The intent there is spectacular. The goals that are laid out I think are really something that other states should look to, even if it's just for the goals to meet and the types of interventions to

have. And so those are two, I think, of the most exciting tangible changes, as I think the question said, that we can look at and be interested in and want to see those play out and see what changes need to happen to those programs to make them even better.

MS. FERTIG: Shanita, did you sit and --

MS. PENNY: Thank you.

MS. FERTIG: -- create an answer? Okay.

Nicole (phonetic) asks, how can deep-rooted bias and fear be addressed both in organizations governing the regulation of cannabis and also in the communities?

MS. PENNY: It starts with the individual and then a commitment from the organization to put the energy and resources needed to actually understanding how individually an organization -- you know, as an organization you have allowed these biases to affect how you do business, right, whether it's recruiting, whether it's investing, whether it's creating regulations. And so I think it's something that we've all had brought to the light for us over the last several weeks.

And you see it. It's happening in companies, in organizations, in education. It's happening throughout the fiber of this country. And that is essentially what it takes. But, again, it's an individual thing. You've got to realize when you walk into that room every single day, you know, you're helping to either perpetuate or now dismantle, you know, what's been going on for over 400 years here.

MR. HUDAK: And just to add to that quickly, I agree with Shanita. You start with the individual and then you also look at the institution or organization. And one of the key parts that connects those two are incentives. And I think we have to look within these institutions at what those incentive structures, whether they're formal incentive structures or whether they're informal ones that get perpetuated. Because I think when you look at those, you're really going to get to the root cause of what's happening on the ground level.

And what makes it more complex is that those incentives may be different from, you know, city to city, state to state, or even precinct to precinct within the same city. And so, understanding what those look like and how to overcome them is going to be important.

You have some bad actors out there who are probably going to go to work and say I'm

going to screw communities of color today, but then there are others who are doing it because that's how things are done. And sometimes they're not even realizing what they're doing, but they're working within this system where the incentives are pushing them to do these things. And so, reforming those are going to be key to getting this right.

MS. FERTIG: All right, you guys. Well, we have just about three minutes left, so if either of you guys have some final statements or questions. Let me just pose one to you guys, I guess, actually.

You know, with what's going on and everything, with the conversation right now on racial justice reform, what is the one step that you think, the one cannabis-related step you think could or should be taken, either on the state level or the federal level, in governance to just start the process of rectifying or fixing these problems?

MS. PENNY: I'd like to start with the tax issue. You know, we are looking at cannabis legalization as a part of the economic recovery, as part of economic recovery for this country.

And, you know, it's a big burden to legalize at the state level and operate and then not be able to write off, you know, business expenses and to have that burden. So, you know, as states are thinking about this for their coffers, I would encourage state lawmakers to think about how they can collaborate and push on our federal lawmakers to close and get rid of that gray area. Close the gap of the disconnect between federal illegality and state legality.

I think we're at a critical place where if we do this right, we address a number of issues, and then we become an example for other regulations and laws, we become an example for other industries. And we really play our part in not only just being a new industry, but a better industry and example for the world.

MR. HUDAK: God, that was a great answer, Shanita. For me, I think that if we go back to the issue of leadership, I think it would be great to see coming out of a White House, whether it's this White House or whether it's the next White House, a real set of goals, a real set of targets to hit, whether it's federally or at the state level. It does two things.

First, I think it strengthens the conversation around the broad ways in which cannabis



policy needs to be tailored to meet the current needs, but also the needs that have grown over decades of injustices being piled up and really piled up disproportionately within a couple of communities within this country. I think that's the first part that a roadmap would help.

The next part would be to, you know, signal to states what federal legalization might look like some day to help states understand if this is what federal expectations are going to be, we need to start thinking at the state level about how we're going to operate when that day comes and Congress actually acts on this.

And I think people underestimate what an upheaval federal legalization could mean for state-level programs. And I don't just mean taxes or licensing or things like that. But especially for the issues of justice that operate at the core of this issue. How states are going to respond to those federal expectations are going to be key.

MS. FERTIG: Great. Well, thank you guys both for this conversation today. I hope it was as enlightening for everyone else as it was for me.

I want to remind everyone who tuned in John's book, "Marijuana: A Short History," is very good. I was very excited to get my copy in the mail. You guys should all go out and buy it.

And, yeah, thanks, everyone, for being here today. The conversation will obviously, as always, continue on Twitter where we all are existent too much of our lives. But, yeah, thank you, everybody.

MR. HUDAK: Thank you, guys.

MS. PENNY: Thanks.

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