Episode 443: As the Drug War Recedes, What Are the Results?

Guest: Mark Thornton

WOODS: Seems like I was just welcoming you back to the show just a moment ago, doesn't it?

THORNTON: It does.

WOODS: All right. (laughing) Anyway, that's just an inside joke for those of us who were here for the botched initial beginning of our conversation. We're talking today about the drug war, and in particular, we are looking at two places. We're focusing on Portugal, because Portugal just had not too long ago, its 14th year — so it celebrated 14 years of drug decriminalization. And I want to talk about what the effects of that have been. I've read some reports on this — Glenn Greenwald wrote something on this years ago — and they talked about what drug use has been like in the wake of the decriminalization, and they compared it to what people fear-mongeringly predicted it would be, the consequences. Let's start right there. We can get into the background later, the history of it, but let's start right at the beginning with what most people's objection to this would be, which is that if you decriminalize drugs, everybody's going to be walking down the street with a heroin needle hanging out of his arm.

THORNTON: Yeah, and the case of Portugal just illustrates what a fallacy that is, that somehow if you legalize a dangerous product, that somehow everybody and their mother is going to go out and start using these drugs. When I was at the Oxford Union debate last year, debating the War on Drugs, one of the participants on the other side that wanted to maintain prohibition actually did argue that if we legalize drugs, that pretty soon virtually everybody in the UK was going to be hooked on heroin. And that's just preposterous, because we know that, first of all, that people do consider it dangerous. It is dangerous; it is addictive, and so most people want to stay as far away from that as possible, unless it was needed medically.

So the idea that if we decriminalized it or legalized it, that everybody in the whole country would go out and get hooked on heroin is just ludicrous. And Portugal has pointed the way. 14 years of experience, 14 years of data, 14 years of debating the outcome of this experiment. And it was considered a grand experiment. It was considered very risky. It was attacked by right-wing people as being detrimental to society, and what we've found basically is that all their fear mongering was wrong and

actually we've seen improvements in many of the social indicators that are related to hard drug use in Portugal.

WOODS: Can you explain the difference, if there is one, between decriminalization and legalization?

THORNTON: Oh yeah, there's a big difference. Legalization is like what we have in Colorado, where marijuana production and sale is legal; it's commercial; it's integrated into the rest of the economy. There are no fines; there's no imprisonment; there's no nothing, basically. Whereas with decriminalization, the products themselves remain illegal, and if you are producing these drugs or you're trying to transport these drugs or you're trying to sell these drugs, you can still get into a lot of trouble; you can still go to prison for a number of years.

But if you're only caught with a small amount of it, enough, for example, for maybe a week long, then you're not fined; you're not put in prison; you're not put through the criminal justice system. They basically arrest you, and they tell you you have to report in Portugal to this committee, which might be composed of lawyers and social workers and medical personnel, and they point out all the negative things that will happen to you if you continue to use these drugs. And then basically you're sent on your way. You don't have a criminal record, and basically you're not going to get into any serious trouble unless you're continually using the stuff and continue to get caught with a small amount of these drugs.

Eventually they start upping the penalties, but basically, probably one of the greatest things about decriminalization is that thousands of people in Portugal don't have a criminal record just because they use heroin or cocaine or marijuana occasionally. And that means that they're much more able to fit into society. They have a better chance of getting a job and moving forward, because they don't have that criminal record and that stigma against them.

WOODS: All right, let's go back to decriminalization and its effects, because one effect that people will be curious about is the overall amount of consumption of these drugs that goes on afterward, as compared to before. And you say in an article you have coming out soon over on Mises.org that too many factors impact the markets for illegal drugs to be able to say definitively that drug consumption will increase or decrease after decriminalization.

But it seems to me that — let's say I'm on the other side of those 14 years; it hasn't happened yet — that if we decriminalize, chances are the price of the drugs will come down, and I know from basic economics that when prices come down, people tend to buy more of the particular good. And yet when I hear drug legalization people talk about it, they act as if this is the one area of the economy in which this general rule doesn't hold: that the price of drugs will fall, but don't worry everybody; consumption will fall too. But I don't see why that should be. How do you sort this all out?

THORNTON: Well, first of all, the reason I say that it's impossible to tell, because these products are not being sold in a legal marketplace, whether you're talking 15, 16 years ago or today. So the data, even if we tried to make the comparison, is very bad. And then of course, other factors can change in the economy that would affect the demand for these products in other ways. And so the idea that you can create an experiment, whereby under a prohibition regime this much was consumed, and then you decriminalized and another amount was consumed, there's just too many variables that are moving around over that long period of time.

Now with respect to what people think has happened is that people think — the people who are involved, the drug warriors over there, the police, the social scientists that are observing this — is that overall consumption of the various illegal drugs — heroin, cocaine, marijuana, etc. — has decreased, and that especially heroin and cocaine have decreased somewhat. Marijuana consumption appears to have increased, so people are choosing safer drugs. And also the consumption of the artificial narcotics, the synthetic substitutes which are even more dangerous, seems to have reduced greatly in Portugal.

So the best guess is that we've seen improvements in terms of a decrease in consumption, and the people who study that in Portugal seem to suggest that the fact that people are not put in prisons and their lives ruined, and they're given an opportunity to seek treatment, to get help, to get information, has resulted in people not wanting to consume. So the fact that you're in decriminalization and people are exposed to alternatives, such as treatment and rehabilitation, and they're told that they have a medical problem not a criminal problem, has led more people to seek out treatment, and therefore, they're not consuming it anymore.

And that's one of the things about hard drugs like heroin, is that yes, people get addicted to them, but as people mature intellectually and deteriorate physically over the course of their heroin addiction, eventually people will seek out help and assistance, or simply develop the will to do without heroin. It's done by thousands of people every year. So when we say "addiction," it's not necessarily a permanent thing with heroin anymore than it is with cigarettes. Yes, it's difficult. Yes. But apparently in Portugal, we're seeing a lot more people seeking out this assistance at an earlier age, and I think that's a great thing.

WOODS: I'm seeing here that in Portugal, we have the second lowest death rate from illegal drugs in Europe. So that's — of course that's a great statistic as well, but yeah, your point about seeking out help and seeking it out earlier just puts me in mind of cases that I came across when I was writing *Rollback* a few years ago, of young kids, one of whom would have consumed too much, let's say, and is obviously dying, and they don't know what to do, because they don't all want to go to jail. Or at least his health is very, very bad, and nobody wants to report to the authorities what's really happening.

And so it's been sometimes suggested to the authorities, well maybe you want to not criminalize people who are in that situation. Let them call the authorities; let them

call an ambulance there and have them not worried about being slapped in the slammer. And they've been told, well, we don't want to send the wrong message. So apparently the right message is, "Let your friend die, because you're afraid of what's going to happen to you and the rest of your friends." It's a terrible situation, but the system puts them in that situation.

THORNTON: Yeah, and of course, it's hard for people to imagine, but you do see images of heroin addicts on TV and in the movies, and they're usually pretty accurately portrayed — although there are functioning heroin addicts as well — but you can well imagine that if you were addicted to heroin, the last place you'd want to find yourself is in prison trying to withdraw from heroin with virtually no help, assistance, or sympathy, even, from the prison guards and so forth. So that's just a very bad place to be in.

And what the people on the ground in Portugal sense is that people are using deadly drugs at a lower rate, such as heroin and cocaine, and they're also greatly decreasing their use of the synthetic products, which are more variable and much more likely to end up in a death. And so they're moving away from those products, which prohibition encourages the substitution of these synthetic products, these synthetic opiates into the marketplace. They're easier to transport; they're very, very small, and you don't need to grow plants in Afghanistan and get them halfway around the world and processed, and then into the United States and Europe. They can be produced in a small chemistry lab.

And so when you have a heavy prohibition, a lot of these artificial drugs come into the marketplace. When you have decriminalization or legalization and the penalties are lower, there's a tendency to produce the natural products and bring those into the marketplace. And while those, too, can be dangerous, they're thought to be less dangerous than their artificial counterparts.

WOODS: Mark, you mentioned Colorado earlier, and I know you've written about Colorado. Let's talk about Washington State, which gets a little bit less press. I know you're in the middle of working on an article on Washington State; you told me when we talked earlier today. So let's say something about what the consequences, the results have been there. Can we unambiguously say — from a utilitarian standpoint, simply — whether things have improved? And what kind of metrics would we look at to decide whether things have improved?

THORNTON: I would say that they definitely have improved, and based on public opinion polls, the measure was passed with 54% approval, and the public opinion polls indicate that support for continuing the legalization has improved, and the opposition has decreased. So it's pretty clear that things have gotten better in the state of Washington, with respect to marijuana.

And actually, there's a study that's just out, and it was done by the Drug Policy Alliance, which is pro legalized drugs and harm reduction policies, and I think they underplayed their hand in this. I think that when you look at all of the factors that this

experiment in legal marijuana, where you can buy and sell; you can grow it your own, as long as you stay within certain parameters, you're okay.

And so one of the most important things, which is rather obvious, is that the number of people who have been arrested for marijuana have of course greatly decreased. And so if you have less than one ounce of marijuana, you're legal. If you have more than one ounce of marijuana, you can still face prosecution. And so arrests have decreased by 63%, and convictions for marijuana violations have declined 81%. And so in one year, that's several thousands of law abiding citizens who do not have a criminal arrest record, and that's very, very important, because it figures into all aspects of your life in terms of your job, going to college. All those things are being adversely affected by having a criminal record for something as simple as having a small amount of marijuana.

So that's an obvious benefit. Another obvious benefit is that Washington taxes marijuana, and in the first year, they collected over $80 million in revenue. And of course, some of that is used to fund the marijuana bureaucracy there, but it also finances drug treatment and educational programs. So there's really no net revenue gained for the taxpayers there from this, so it's not really reducing the burden on taxpayers, but it is achieving its goals. And one area where they are saving a lot of money is on the criminal justice system.

WOODS: Yeah, this was very interesting.

THORNTON: Yeah, the amount of money that it takes to arrest, to put in jail, and then bring to trial for a minor marijuana violation prior to legalization was a couple thousand dollars on the side of the state. As a matter of fact, the city of Philadelphia legalized marijuana by making it the lowest priority for the police department, and they saved a half a million dollars in the first six months.

So it's not a humongous amount of money that you're saving here, but that's not the whole picture, because this means that you have police; you have jails; you have court systems that are unplugged by these petty crimes. And as a result, you can turn the police loose, in terms of preventing and solving property crimes and violent crimes. And also the jails are not completely overfilled, and the court system is not completely clogged.

And so lo and behold, the proponents of prohibition thought that crime was going to increase as a result of legalizing marijuana, but what actually happened is that property crime fell by about 10%, which is a significant drop for the state of Washington. And it's basically because police were freed up to deter and solve violent crimes as well as property crimes.

WOODS: Right, and that certainly seems to me to be at least a plausible — there could be other explanations; it could be incidental or something, but this does seem to make sense, and that has been what opponents of the drug war have said for a long time. A lot of times, from the other side, they'll say that violent crime increased during these

years of the drug war, for the opposite reason; that now resources to combat violent crime were tied up in all this drug war nonsense, and therefore, you couldn't deal with the violent criminals.

THORNTON: Yeah, until this wonderful revolution in terms of legalizing and decriminalizing marijuana in the United States and in other places around the world, the police were completely overwhelmed. The prisons were filled beyond belief. The court system was clogged to the extent that court cases for property crimes, violent crimes, and drug crimes were all years with waiting lists to hear these cases.

And also just the basic relationship between marijuana consumers and the police has improved a great deal. The foot soldiers of local police, they don't want to be a part of the nanny state. They probably smoked pot when they were kids, and they're not the least bit interested in breaking up the parties of young people. They want to be seen not as the nanny state; they want to be seen as somebody who comes to the rescue. They want to be Superman and Batman and all that kind of stuff that break up crimes and save lives. They don't want to be — they're not really in those jobs to hand out parking tickets or to arrest kids for smoking pot. And so the relationship between the people and the police has also improved in places like Colorado and Oregon, Alaska and Washington. It's a wonderful thing.

And of course the other big thing that prohibitionists talked about is if we legalize marijuana, there's going to be much more accidents on the highways, and there's going to be more people dying as a result of legalizing marijuana. But what I've found is that that's really not the case, and I'll cite some statistics here to give you a feel for what's going on. In 2008, the number of fatalities involving drug- and alcohol-impaired drivers was 255. By 2012, that number had come down to 212, and the five-year rolling average was 232. So the safety was improving marginally. The goal for 2013, the first year that there was some legality for marijuana consumption, that was set at up to 247. So they anticipated the number of deaths going up. But the actual number was 182, beating all previous years and smashing the goal by a wide margin. So fewer people died, and fewer people died than was expected, and the number was significantly lower.

The same is true with serious injuries involving drugs and alcohol. The moving average prior to legalization was 509, but in 2013, there were only 411 such injuries, easily beating all other years in the report. So it's clear that law enforcement and the proponents of prohibition were dead wrong on this. This is a key issue, of course. Highway safety affects everybody: marijuana consumers, non-marijuana consumers, everybody out there. But it turns out that their expectations were clearly wrong, and it seems pretty clear that marijuana legalization resulted in fewer fatalities and fewer serious injuries, and there's actually some research which suggests that alcohol increases the likelihood of serious accidents and deaths, but that marijuana consumption actually tends to make drivers want to try at least to drive safer, to drive slower. And that the people who study this issue believe that decriminalization and legalization is actually leads to safer driving, as people consume marijuana rather than alcohol, you should see this kind of drop in deaths and serious injuries.

WOODS: Well, that's our time for today, Mark. I appreciate your joining us and sharing with us a lot of this information, in terms of what they've found in looking back and seeing what the results have been, and were these places going to be showcases for the disasters that were predicted or were they actually going to yield us the results that somebody like Mark Thornton would have predicted? And it turns out that, well, as with the housing bubble — I mean, how many times can one guy be vindicated in his lifetime, Mark? I mean, you were telling people these things for years, and nobody believes you, and then of course they all come true. And then of course the jerks will come along and say, well, no one could have predicted this. Well, nobody except for Mark Thornton apparently — and of course the anti-drug war community.

But for a long time, people like you were very, very much in the shadows. We were not considered to have an opinion worth listening to. And now all of a sudden everybody wants to talk to people who hold your views. But it was not always so. But during all those years, you were nevertheless writing about this subject, even when it was deeply unpopular, so it's very interesting to be around for your own vindication, Mark Thornton. Thanks so much again fro being here.

THORNTON: Thank you, Tom. It was a pleasure to celebrate these wonderful anniversaries on the Tom Woods Show.