The drug war’s profit motive

By Radley Balko  February 17, 2014

Terrific reporting here from the Capitol Report, a small publication that covers politics and policy in Minnesota.

Minnesota state Rep. Carly Melin is trying to introduce legislation to legalize medical marijuana in the state, but she’s bumping up against some aggressive opposition from the state’s police agencies and law enforcement organizations, who have united behind a group called the Minnesota Law Enforcement Coalition.

It may at first seem odd that police groups would so vigorously oppose medical pot. These aren’t medical organizations. They have no clear stake in the debate over the drug’s potential therapeutic benefits. According to the article, the police groups say they’re concerned about public safety, but we’ve been living with medical pot for nearly 20 years now, and there’s no empirical data to support the contention that legal medical marijuana brings an increase in crime. If you’re a fan of public choice theory, you might argue that narcotics cops may oppose any move toward legalization because a decrease in the demand for and supply of illegal pot might mean a decrease in need for narcotics cops to police it. And of course there will always be a supply of and trade in other illicit drugs to keep them busy.

So why such strident opposition? Rep. Melin has discovered what drug policy reformers have been arguing for years: It’s about revenue. Police agencies have a strong financial incentive to keep the drug war churning.
From the Capitol Report piece, by reporter Mike Mosedale:

“They wouldn’t discuss any specific provisions and said they had a blanket opposition to medical marijuana,” Melin recalled. She took note of one objection voiced at the meeting but not mentioned in the coalition’s 10-page, bullet-point laden white paper: concern about the impact the measure might have on police budgets.

According to Melin, Dennis Flaherty, the executive director of the MPPOA, explicitly told her that he was worried that legalization — in any form — could lead to harmful reductions in the federal grants that are an important funding source for many police agencies . . .

Melin took pains to acknowledge that many in law enforcement have legitimate public safety concerns related to medical marijuana. But the uncompromising posture of the top leaders, she added, makes it “pretty obvious that something else is going on here.” . . .

For those police who see medicinal marijuana as gateway legislation, the financial implications of change are real. In Washington, where recreational marijuana is legal, police are already complaining they’ve been forced to slash budgets because they can no longer rely on any revenue from marijuana-related asset seizures. A drug task force in one county cut its budget by 15 percent to compensate for the lost revenue.

Mosedale then dives into the abundant sources of drug war revenue for law enforcement agencies that provide a strong incentive for those agencies to make drug policing a far higher priority than it might otherwise be, and often at the expense of policing crimes that have actual victims. It might also induce those same agencies to speak out to ensure that the drug laws remain intact.
Take the Department of Justice Byrne Grants, for example:

Byrne grants are especially critical to the operations of inter-agency drug task forces, which don’t have the same dedicated funding sources as municipal police departments. In 2012, 23 such task forces in Minnesota received a total of approximately $4.2 million from Byrne grants. The money is spent on everything from military-grade hardware to officer overtime.

Critics contend that Byrne grants effectively encourage police to pursue relatively low-level drug offenses, including marijuana possession. Mainly, they say, that’s because the performance measures used in determining awards are based on such factors as numbers of arrests or new task force investigations, with little regard paid to the quality of the arrest or the outcome of the court case.

Or asset forfeiture policy:

In 2012, police in Minnesota seized approximately $8.3 million of cash and property under the state’s forfeiture law, according to a report from the Office of the State Auditor. About 47 percent of those forfeitures were related to controlled substance violations, with most of the rest associated with drunk driving . . .

The St. Paul Police Department netted more than $582,000 from asset seizures in 2012. It was the second-biggest haul of any police agency in the state — a fact made more notable since the proceeds were derived exclusively from controlled-substance cases.

According to Lee McGrath, an attorney with the libertarian Institute for Justice, Minnesota law enforcement agencies netted nearly $30 million between 2003 and 2010 through the use of forfeiture.
“What is most offensive in Minnesota is that you can be acquitted in criminal court and still lose your car or your cash in civil court,” McGrath said. “The only people defending the current law are in law enforcement. Everybody else is offended by the idea.”

While forfeiture was sold to the public as a good way to hit drug kingpins and gang leaders in the wallet, McGrath said, Minnesota law enforcement mostly use forfeiture to target small game. “No Colombian drug lords are being busted under this law. The average seizure in Minnesota is worth $1,253,” he said.

In Minnesota, the law enforcement coalition lobbied not only against the medical marijuana bill, but also against a bill to put limits on the use of asset forfeiture, particularly in cases where the property owner is never convicted of any crime. It takes guts for a politician to publicly oppose the law enforcement lobby. But at heart, these are interest groups like any other. The best interests of law enforcement personnel, police agencies, and police organizations will sometimes, perhaps even often, coincide with the best interests of public safety. But certainly not always. That’s why it’s important that elected leaders push back when necessary, even when doing so could be politically perilous. To her credit, Rep. Melin is doing just that:

In a sharply worded letter to Public Safety Commissioner Mona Dohman and the members of the VCCC, Melin made her frustrations clear:

“The public has long questioned law enforcement’s motivation behind its staunch opposition to medicinal marijuana, and suspected that a threat to the law enforcement’s revenue stream through forfeiture laws creates an inherit conflict. The fact that the VCCC opposed both medical marijuana and a restructuring of forfeiture laws at the same meeting raises a red flag that needs further exploration.”
In addition, Melin wrote that “it is especially concerning to me that the VCCC flew in a law enforcement officer from Colorado to address the Council on medical marijuana laws in the State of Colorado.”

Melin said the incident further highlighted the outsized role that law enforcement has assumed in a debate she would prefer be defined by doctors and patients. But, she said, Gov. Dayton invited law enforcement to the table. “It would be very helpful for us if the governor asked law enforcement to negotiate in good faith,” she added.

I’d add here that what these law enforcement agencies are doing is entirely predictable. It’s even understandable. They’re merely advocating for their own self-interest. Once the politicians created these policies, they simultaneously created a powerful lobby to ensure those policies permanently remain in place, regardless of their efficacy, or of any harmful unintended consequences.

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