



How Drugs And Crime Became One Harvard Professor's Body of Work

CNBC SPECIAL REPORT, CNBC MARIJUANA SPECIAL, MARIJUANA IN AMERICA, ECONOMICS OF POT, MARIJUANA IN AMERICA, BUSINESS OF MARIJUANA, MANUFACTURING, DISTRIBUTION, TAXES, LEGALIZATION OF MARIJUANA, BILLION DOLLAR INDUSTRY, GOVERNMENT, LOBBYISTS, LAW ENFORCEMENT COSTS, LEGALIZE MARIJUANA, TAX POTENTIAL, REVENUE POTENTIAL, LOBBYIST GROUPS, POT LOBBYISTS, LIBERAL STATES, TOUGH STATES, STATE LAWS, FEDERAL LAW, MEDICAL MARIJUANA, INTERNATIONAL LAW
Posted By: Albert Bozzo | Senior Features Editor
| 19 Apr 2010 | 11:58 AM ET

Call it CSI: Boston.

Jeffrey A. Miron's sabbatical at the National Bureau of Economic Research in Cambridge, Mass., in the second half of the 1980s didn't turn out the way he expected; in fact, it was the beginning of the end of his career as a macroeconomist.

A NBER idea to study illegal drug markets never panned out, but it was enough to prompt Miron to ask a different question: Why do authorities treat marijuana differently than alcohol?

A little research revealed that the field had an excellent academic pedigree—**Milton Friedman had written an op-ed piece for Newsweek** calling for the legalization of drugs a couple of years before his 1976 Nobel Prize for economics. But beyond that it was otherwise largely untapped.

Seeing a wealth of research potential, Miron went to work and gradually abandoned macroeconomics to focus on drug policy and economics in crime.

Miron left the University of Michigan for the first of several jobs in the Boston Area (Boston University, MIT, his alma mater, Harvard University, his current employer).

First came "The Economic Case Against Drug Prohibition," which he co-authored in 1995, followed by "The Economics of Drug Prohibition and Drug Legalization", "The Effect of Marijuana Decriminalization on the Budgets of Massachusetts Governments, With a Discussion of Decriminalization's Effect on Marijuana Use" and several others papers.

A book, "Drug War Crimes: The Consequences of Prohibition," was published in 2004. His seminal work, "The Budgetary Implications of Drug Prohibition," Report for the Criminal Justice Policy Foundation and Law Enforcement Against Prohibition, 2008." has since been updated and is **due out in book form this summer from The Cato Institute** where Miron is a senior fellow and editorial board member.

That body of work is certainly enough to make Miron one of the foremost authorities in the field.

Miron, who pops up more than a few times in our special report, "Marijuana & Money", spoke with CNBC.com about the economics of marijuana industry from his Harvard office.

CNBC: Tell us a little bit about the methodology and how given the lack of broad research and data, it makes this very convincing?

Miron: We tend to think that markets do things well, we tend to believe in consumer sovereignty, that is consumers seem to want to purchase this or that, consume this or that. We figure, well, the main reason is because they like it, they get some benefit from it. Economics doesn't really try to ask what exactly is the nature of that benefit. So that's sort of one part of my perspective and some people would think of that as a bias and some people would say that's just sort of natural economics.

But then economists are also very much trained to think about unintended consequences and the fact that if you impose some sort of policy you're going to affect the incentives faced by everybody in the affected area. So if you make it more difficult, if you make it impossible or very difficult to buy drugs legally, that doesn't necessarily mean it stops it, it just means people will look for some way to do it illegally and people want to supply it because there is a demand there and so again we expect a lot of things to happen other than just passing a law against drug use or drug production.

In terms of the social-science research parts, we are making somewhat sort of strong, if not heroic, assumptions. We can't do the controlled experiments. We can't get quite as much data as we would like because of course we don't observe drug use directly. But even worse, there haven't been that many episodes where a place that had criminalized drug use, then turned around and legalized it. And that's really what we would like to observe is what happens when you go from one policy to another. So, alcohol prohibition is one example where that did happen.

CNBC: Clearly, you have built your research based on a group of assumptions.

Miron: There is actually a pretty clean formal version of my basic model—a paper written by Gary Becker and Kevin Murphy and Michael Grossman—that shows that if you prohibit something for which there is a strong demand, particularly inelastic demand, you're going to draw a lot of resources into that activity for the purpose of getting around the prohibition. And that those costs are likely to be substantial and in particular they can show formally that using a sin tax is going to be an unambiguously sort of better way of trying to accomplish the same goal of reducing drug use relative to the prohibition. Basically, when you ban it, you mean that there are all these resources wasted in the attempt to evade it and attempt to enforce it. When you pass the sin tax, you of course still raise the price but that's mainly a transfer from the people who pay it to the general coffers—you haven't actually thrown away resources in the process of imposing the tax.

CNBC: Right, and that is in essence the fundamental economic argument for legalization?

Miron: Right.

CNBC: How important are these models? The question is if you can only judge prohibition, alcohol consumption—that's really the only guide in terms of people wanting to consume something that's illegal and largely recreational?

Miron: I mean, certainly we don't have any perfect assurance that what we observe with something like alcohol or cigarettes would be the same if we were to legalize marijuana but I think its very hard for people to point to some reason that it would be different either. It's not obvious what there could be about marijuana say that would make it different than all these different things—so you know driving a car on the highway is of course very risky people die from it every single day, going skiing is risky, and its not just that you might hurt yourself but people hurt other people.

So yes, we can't be 100-percent certain but that doesn't make the case for *status quo*. Because the *status quo* undoubtedly has large costs with it and the people who are asserting that the status quo is the right policy are basing that on a bunch of unknowns as well.

CNBC: *Is there anything that has happened with the progression of laws in the United States—legal medical marijuana, decriminalization—that adds credence to your research?*

Miron: Well, I think the single best piece of evidence from the experience with medical marijuana in the U.S. is we've seen a dramatic increase over the roughly ten years in the availability of marijuana for medical/recreational purposes. Everybody knows in California it's easy to get a prescription. You know, stress is considered a condition for which marijuana is efficacious—and I'm not taking a stand on whether or not it is or it isn't—but who can't work into a doctor and say I've been stressed out recently, I need some help with it? There are 800 dispensaries by some people's count in Los Angeles County, so it's now widely available – and widely more or less legally available—slightly sort of a gray area but basically legally available.

And while one could certainly point to economic issues for the California state budget—nobody thinks that any of that has anything to do with legalizing—basically legalizing marijuana and no one has seen an explosion of crime, no one has seen zillions of more teenagers dropping out of school because they have a motivational syndrome. No one has seen an explosion in cocaine use because of a gateway effect or any of the things that people claim would result from legalizing marijuana, from the increased use, none of that has materialized. So that's pretty good evidence for my view.

CNBC: *On the international level, are there any good examples? I know the situation in Amsterdam is very misunderstood and sometimes misrepresented.*

Miron: I guess I would say there are clearly no perfect examples. Europe broadly, not being so specific about one country versus another, but Europe broadly is a good example because Europe overall does way less to enforce its drug laws than in the U.S. because to varying degrees, there is some degree of decriminalization in a number of European countries, in Spain, in Italy, of course Portugal, and the Netherlands.

And the attitude toward medical provision is very different in European countries, so if the attitude say towards opiates—morphine, heroin, related Percocet, etc.—is that patients who go to their doctors and say - "Doctor, I'm addicted to heroin, I want to get off heroin, can you prescribe methadone or morphine for me?" - that people have a relatively easy time doing that, then you are going to see a relatively large fraction of the demand for those drugs accommodated through the gray, medical markets, sort of legal markets, and therefore a smaller underground industry and therefore again less of the violence and less of the quality control issues.

CNBC: *Back to the economic argument: Is there a greater economic argument today than there was say, five years ago, ten years ago, particularly post 9/11?*

Miron: You could make that case and certainly the deficits are much larger than in the past and the expenditure is scarier. But I don't actually point to the revenue that can be raised, or the expenditure on police, prosecutors, etc., that can be reduced as the most important, or even one of the four or five most important reasons that we should legalize.

I think the first order effect is there are many, many people who are being harassed in one way or another, in some cases the harassment is just the anxiety they face when they go buy their drugs from a local dealer, in other cases is they are locked up in jail or they lose their professional licenses or they become disqualified for student loans or things like that, so the loss of freedom, the loss of civil liberties, the loss of utility if you want to put it in a strictly economic words, that to me is a huge first order thing. The violence that's experienced by a large fraction of society is a very important first order thing. The health consequences both for drug users, because they have far less information about quality, and the negative spillovers to everybody because the sharing of dirty needles has spread H.I.V. and made that epidemic much worse. To me, those things are hugely important and the fact that the government budget would change by \$50 or \$75 billion, while not irrelevant, is not the most important thing we could accomplish by legalizing.

CNBC: *Is it going to be hard to convince people simply on the basis of an economic argument?*

Miron: On the basis of just the money, I think so. If you imagine people who are socially moderate to conservative, who have either religious concerns, ethical concerns, moral concerns or something about drug use, I wouldn't expect that that many of those people will change their mind about it just because it's going to be an extra \$50 billion for the U.S. government. I've been told by my friends who work in drug legalization movement, that when they talk to state legislators, if they're in districts where they think that they have some chance of this being an appealing issue, they feel the economic argument gives them some cover, it makes it a little easier to talk about this, so they don't have to stand up and say—"It's OK to use drugs"—they can just stand up and say its crazy for us to be spending money on this because we have a budget crisis. So, that suggests that the economic argument is relevant now, and might be sort of be one factor that could sort of push it over the edge, and there is precedent for that in the sense that a key argument for ending alcohol prohibition in the 1930s was that the Great Depression had clobbered the amount of tax revenue the government was collecting.

CNBC: *Are we kind of simplifying it by thinking if we legalize it we save all this money, because in fact money will have to be spent by the government in other areas, like regulation?*

Miron: Well, I wouldn't say that it will have to be spent on regulation, certainly a lot of the regulations you would think of are basically already in place for other commodities, so minimum purchase (indistinguishable) assuming we were talking about marijuana, would presumably apply to both alcohol and marijuana, so its not obvious that a lot of additional expenditure needs to occur for that. Some effort would have to go into collecting tax revenue on legalized marijuana, but that infrastructure already exists for collecting sin taxes on alcohol, so I don't think that's a major increase in expenditure. If you thought that there would be, and we already having driving under the influence laws that apply to marijuana and other drugs, so a lot of that stuff is already in place. So I don't think that offset is a major issue...

CNBC: *So, its 90 cents on the dollar, 95 cents?*

Miron: I think its 90, 95 cents on the dollar. My estimate is that we are basically talking about a total of \$20 billion - that's the net effect on the unified state plus federal budget of the overall country – but still, \$20 billion is a rounding error.

CNBC: *People say, 'Ah, taxation, you can make a lot of money.' In your research, is there a reasonable methodology for how much it would raise?*

Miron: First of all, my estimates suggest that of the savings we are going to get, more than half of it is coming from the reduced expenditure, from not making arrests, prosecutions, incarcerations, etc., so the total from the tax revenue is somewhere in sort of the \$6-8-10 billion range, again it's a pretty small number. Second, in a place like California, they are already collecting a lot of that, so the net extra they are going to get is probably a lot less than the recent ballot initiative is asserting. The reason is the following: a lot of the marijuana is now being sold to medical dispensaries, these medical dispensaries are acting as legal entities – they are paying taxes, they are withholding social security from their employees and income taxes, and passing that along to the government as any legal business does – and that's one of the sources of the tax revenue which is just the standard income and social security tax you would collect on any sort of legal business, so they would still get a bit more by adding an explicit marijuana tax, but that's only going to be a fraction, a third or a half of the 6 or 8 billion I was mentioning.

I really think they are being excessively optimistic. Now in terms of pinning it down, I've tried very hard not to assume a tax rate, an excise/sin tax, that looks as though its just going to drive the market back underground, because then of course then you're just going to get zero. I basically use 50 percent, based on the fact that if we look at alcohol and cigarette tax rates around the world, we see them be maybe as high as 75 percent, 80 percent of the price in some cases, without seeming to create a significant black market. What they sometimes do is generate cross-border shopping. Clearly there are limits, and I've tried to be respectful of those limits.

CNBC: *So you're assuming 50 percent?*

Miron: I'm assuming that the sin tax rate would be fifty percent.

CNBC: *So what does this mean for the size of the market?*

Miron: I get it somewhere in the \$10-12 billion range--which puts it at half or a third the size of the current alcohol and cigarette markets and that seemed to be a believable number. There are estimates out there. One of the reasons this is a little confusing for a layperson reading about it is that some people have produced estimates of the size of the marijuana market that are literally 20 times my estimates. One of the reasons I think that those estimates just couldn't be right is if the legal alcohol market is \$35-40 billion, I cannot believe the legalized marijuana market is going to be \$200 billion. It just doesn't seem likely that we would see nearly as many people consume. In addition, looking at their methodology there are aspects of the methodology that have been used to produce these numbers that are substantially higher than mine that I find problematic. So, I think that the smaller number is much more likely, it could well be that I'm wrong, its not \$10-12 billion, its \$15-17 billion, but the \$200 billion is hard to believe.

CNBC: *Is this a market that is big enough that Big Tobacco is saying, 'Hey, we are ready when the time comes?'*

Miron: Oh that's a big enough market to attract some pretty aggressive entrepreneurs and whether its **Phillip Morris** or **Anheuser-Busch** or just a brand new entrepreneur, whether like the Cali Cartel can go legal, its quite likely it would end up if it were allowed to be a cartel like market, where you have a relatively small number of producers of a relatively moderate price, highly advertised, product differentiated brand like Coke and Pepsi, and then lots of small players making boutique marijuana just like we have micro-breweries.

CNBC: *Clearly there are a lot of questions. There's the assumption that it's a cash crop, it's a commodity, that if marijuana were legalized it would be as a plant and it would be consumed largely as it is maybe with some tech enhancements that would address the health issues. Why wouldn't Big Pharma put it in a pill?*

Miron: Well they could put it in a pill.

CNBC: *Have you thought about that in terms of any of your models?*

Miron: I thought about that. You could put nicotine in a pill, you could put caffeine in a pill and yet that is not the dominant method of consumption. So I suspect that we would see this consumption be similar to currently, so certainly there is a scope for filtered marijuana cigarettes, and there is substantial scope for consuming it by heating systems that don't actually burn it. The THC actually becomes volatile, becomes inhale-able, at a temperature that is not that high, you don't have to burn you just have to sort of warm it. So that allows people who are concerned about taking in the smoke and it damaging their lungs to basically inhale the THC vapors without actually taking the risk. So that's all entirely possible, you would think that a legal market would offer that possibility to people, just like it would offer other means of consuming like marijuana brownies, marijuana beer.

CNBC: *It's not like the powers that be would be fighting over it.*

Miron: No, I don't think so. I think it's partly a cultural thing, I think it's partly just a ritual thing, just like with lots of other substances, like coffee. You don't want to just pop a pill, you like the whole idea of walking across the street and going to the Starbucks and ordering an espresso and going through the whole ritual...so I think most of the market would be that way, but you would certainly see these other things, as we do with existing legal products.

CNBC: *Is it an agribusiness? Is it a grassroots things? Would you say it's probably both?*

Miron: [laughs] I think you have all that, but I think you have the equivalent of **Anheuser-Busch** or **Phillip Morris** that's marketing the consumer product after buying it from some agribusiness that's growing the crop.

CNBC: *It does sort of cater to the entrepreneurial type.*

Miron: Oh absolutely, I think there is room for large and small entrepreneur. There is certainly plenty of room for product differentiation in the same way that you see for, say beer, because it can have different scents, it can have different THC content, allegedly different buzzes, different varieties. There is plenty of room for the entrepreneur try to market one as being in some way superior and capture a good market share.

It can be grown in a huge range of states. I would say as with most agricultural products the high rate of return stuff is not the agricultural part—the raw material part—it's selling the somewhat processed, highly advertised, marked up brand-differentiated version of it. Think about Coke and Pepsi—it's just colored water. The marginal Pepsi—you're paying for all that advertising and that's what I think you would expect with legalized marijuana. And that's a reason to allow legal advertising—because then the price is going to end up being higher, and if you worry that use is a bad thing, and you want to discourage use, then high price is better than a low price.

CNBC: *Presumably there would be a fairly popular advertising element like anything else, like in the heyday of booze and pot? Or not? In the heyday of booze and cigarettes it was on TV. Now it's been restricted.*

Miron: Well, it probably would, but in all of the cases, the legal ones and the currently illegal ones, there is a very good argument that restrictions on advertising are counter-productive that they allow firms with a large initial market share to basically hold on to a lot of that market share, to not worry that that market share is going to get competed away, because some new guy comes in with a slightly better or slightly differentiated product, that he can make some inroads with through advertising, both because you want to let the price be higher if that's what advertising does, you also want people who develop a better version of the product, say people can develop marijuana that delivers the THC with less smoke, there's only a good return to that if you can advertise that and get it out there. So, the advertising is a good thing, and the same would be true of beer and tobacco, and that was a policy mistake that we limited it.

CNBC: *Clearly an argument people would make against legalizing this stuff – that it would be appealing to minors, etc.*

Miron: Yeah, they would be making that argument for whatever, thirty forty fifty years, if it were really so fast growing it would have already been 100 percent long, long ago. So they continue to talk as though the stuff is so incredibly appealing that nobody can resist it, but the evidence doesn't suggest that.

The second thing to note teenagers largely seem to think they have access to it already. If you look at the results of a "Monitoring the Future Survey", which is an annual survey of high- school seniors done by the University of Michigan research center, what they find is that a very high fraction of students say its easy or very easy to get marijuana. Indeed, about as many or more say that than say the same thing about alcohol. So, prohibition is doing a very bad job of making it inaccessible to teens. So legalizing it, yes, does in some sense mean it is somewhat more available, although in some ways the ability to control would go up once its legal. An underground seller, who's already risking a felony conviction, just for selling it at all, just for possessing a significant amount at all, is not going to worry too much about whether he's selling to a minor or not.

CNBC: *The Drug Enforcement Agency says marijuana is a carcinogen, and it's a health issue. Are we going to need more research on the health issue to make a wise decision on this, or is all the research out there and the DEA just sort of propagandizing?*

Miron: I think the DEA is propagandizing. There is no question that there is potential for some health issues, but again since huge fractions of teenagers are already getting access to it, we're not eliminating the health issue by prohibiting it, we're just getting all the costs associated with prohibiting it. By legalizing, again, we have the at least the opportunity to try and say certain forms of it, pay a higher sin tax, or certain forms of it are not allowed because they are relatively unhealthy—to allow teenagers to get better information on which ways of consuming it are relatively unhealthy and which ways are relatively benign. Our ability to nudge people in a reasonable direction is much greater for a legal product than it is for an underground product.

CNBC: *Is it safe to say there is a lobbying industry around this at this point?*

Miron: Certainly, a movement, an industry, all sorts of advocacy groups like the Marijuana Policy Project, the Drug Policy Alliance, clearly their mission is to try and change the legal status of marijuana. And some emphasize a bit more on the medical marijuana, some are a bit more on full legalization.

In terms of being opposed to it, there's the drug czar's office and the DEA. There's treatment groups, which tend to be opposed to legalization. It must be tens of billions of dollars for treatment. So, I think that's mainly self-interest, if it were legal many fewer people would be pushed into treatment by the criminal justice system and there would be a lot less demand for treatment services. Of course, law enforcement is the other main group—the prison building industry, vice squads, etc. A lot of law enforcement is going to have less of a job, if in fact marijuana were legalized.

CNBC: *On the legalization issue, is it realistic to think that this would be a constitutional amendment that would require the approval by states?*

Miron: There's never been any constitutional amendment giving the federal government authority to outlaw drugs or marijuana, so you could argue that the Controlled Substances Act and other things that led to the prohibition of marijuana are completely unconstitutional. So, in any event, simply without even repealing that, simply moving marijuana from being a Schedule 1 drug, to being a Schedule 2 or 3, to being a less serious category under the CSA [Controlled Substances Act] would allow for far more legal provision.

CNBC: *Is it hard to foresee a battle between the states and the feds on this?*

Miron: Well, the battle I think, we may well see very soon is if California passes its ballot initiative, then the federal government is in a really awkward spot, because then it has to decide are we going to simply decide not to enforce the federal law in California. Even though on the books, it obviously applies to California citizens? And if they don't, if they just let that be the outcome, then given it's pretty hard to seal borders, then you can imagine that California is going to be producing, legally, and supplying the whole nation. So you almost kind of *de facto* legalize for the entire country, so it wouldn't be surprising if there wasn't a huge fight over the what the federal government would do for California's ballot initiative to pass.

CNBC: *While they are choosing to enforce it, they are also contesting it in court?*

Miron: Absolutely, no it would be contested., it would be years before we saw it all play out.

CNBC: *If we had national legalization, do you envision a situation where the states and the feds would be fighting over taxing authority or would the feds just put a certain tax on pot and then the states are adding ten cents or twelve cents?*

Miron: I think mainly the latter. Although you raise a good question, which is if the Fed puts a pretty heavy one on, then the states know if they put a heavy one on, they are going to drive the activity to some other lower-tax state and they are all going worry well, if we do too much we are just going to drive it entirely back underground. Now in fact for alcohol and tobacco and gasoline we have that same issue, and we seem to have some level of peaceful co-existence, nobody has yet jacked it up to a level which completely mucks up the system.

CNBC: *Some states would have more interest in taxing it higher than others, right?*

Miron: Absolutely, as they do with lots of things.

CNBC: *How do you explain the difference in enforcement state to state? Is it rational or is it just how things happened?*

Miron: I think it mainly reflects the underlying attitude of the populations of the state. There are clearly very different political views on average between say red states and blue states, so that shows up in which items end up being priorities for the people who make the decisions for governors, sheriffs, etc. Clearly some amount of it is just dumb luck, you end up with a big law and order guy in a blue state or a laissez-faire guy in a red state. I think it is mainly just a variation of political preferences.

CNBC: *At the end of the day, would you say there is no rational reason to keep the current system in place?*

Miron: Yes I agree with that statement. There is no rational reason to keep the current system in place.

© 2010 MSNBC Interactive

URL: <http://www.cnn.com/id/36215834/>

© 2010 CNBC.com