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# Congress of the United States

## House of Representatives

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### Opening Statement of Ranking Member Gerald E. Connolly (VA-11)

#### Subcommittee on Government Operations Committee on Oversight and Government Reform

#### *Mixed Signals: The Administration's Policy on Marijuana, Part Two* March 4, 2014

Chairman Mica, thank you for holding today's hearing, which is the second in a series of oversight hearings held by our Subcommittee to examine the Federal response to State marijuana laws. This hearing will focus on the implementation of two recent policy guidance memorandums issued by the U.S. Department of Justice (DOJ) with respect to Federal marijuana enforcement priorities and marijuana-related financial crimes under regulations promulgated by the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN).

As I noted one month ago, I want to be clear from the outset, I am not unsympathetic to the concerns raised by skeptics of marijuana decriminalization or legalization. As a child of the sixties who witnessed firsthand the ravages of drug abuse – which included many tragic cases that invariably originated with marijuana use – I tend to be a skeptic myself. Further, as a former senior professional staff member on the U.S. Senate Foreign Relations Committee, one of my responsibilities was handling the authorization of the U.S. Department of State's Bureau of International Narcotics and Law Enforcement Affairs, and traveling across the globe, I witnessed firsthand the serious harm that can be inflicted on international communities overrun by violent drug cartels.

However, as I also noted at our prior hearing, skeptics such as myself must also acknowledge that simply ramping up criminal drug penalties, such as enacting mandatory minimums through the Boggs Act and the Narcotics Control Act of the 1950's, has proven utterly ineffective at preventing the development of the damaging drug culture that I lived through in the 1960's. As a Member of Congress, I experienced this disappointing reality when I participated in CODELs to countries such as Afghanistan, where I found that the current international narcotics control challenges are the very same set of issues that I worked to address in the 1980's.

Further, despite my wariness of outright marijuana legalization, even I am alarmed by the figures contained in a recent Federal Bureau of Investigation report that found in 2011, approximately 750,000 Americans were arrested for a marijuana law violation – which amounted

to one marijuana arrest every 42 seconds – and outpaced the total number of arrests made for violent crimes that year. In 2010 alone, even in the face of budget shortfalls, States spent an estimated \$3.6 billion enforcing marijuana possession laws – a total that represents a 30 percent increase compared to the amount spent a decade earlier.

In an era of constrained Federal, State, and local budgets, this drastic increase in enforcement costs raises the important questions over whether we are effectively prioritizing limited law enforcement resources. It's troubling that despite four decades of Federal efforts to enforce the criminalization of the manufacture, distribution, dispensation, and possession of marijuana – the United Nation's World Drug Report for 2012 found that while global cannabis consumption remains stable, marijuana use is actually increasing in the United States.

After years of ineffective efforts to stem marijuana use in this country, perhaps it is time that we as a Nation approach the debate over marijuana policy with more honesty and less hyperbole. I was disappointed at our previous hearing when the Deputy Director of the White House Office of National Drug Control Policy was unable to identify the annual rate of deaths in our country resulting from marijuana overdoses, and had to be badgered into confirming basic public health facts.

It is a disservice to public discourse when policymakers refuse to grapple with challenging and complex issues in an objective and open manner. Though it may be uncomfortable at times, we must let cold hard facts guide our policymaking efforts with respect to establishing a statutory framework that *best* safeguards public health and promotes effective law enforcement priorities and principles.

The great irony is that while the law enforcement arm of the Federal Government continues to stubbornly pursue policies that have failed to stem rising marijuana use, our Federal public health entities have been concurrently engaged in a comprehensive anti-tobacco campaign that has achieved impressive results in stemming the use of a harmful and deadly substance.

Without resorting to a policy of prohibition and criminalization, our country has brought tremendous resources to bear in an effort to prevent and reduce tobacco use. Most importantly, in contrast to our failed marijuana efforts, our anti-tobacco initiatives are working, with our Nation cutting the adult smoking rate in half from 42.4 percent in 1965 to 18 percent in 2012.

Employing data-driven tactics, States and municipalities have continued to refine anti-tobacco initiatives, enacting policies focused on creating smoke-free environments and increasing the price of cigarettes. California successfully lowered its adult smoking rate from 16.3 percent in 2000 to 12.7 percent in 2012 – and with respect to reducing frequent cigarette use among youth nationwide, the Centers for Disease Control reports the decrease has been dramatic, falling from 16.8 percent in 1999 to just 7.3 percent in 2009.

Our steady progress in reducing tobacco use – in addition to America's ill-advised attempt at instituting complete alcohol prohibition – both serve as valuable reminders that the best policies to prevent and reduce the use of harmful substances need not and perhaps should not, involve total prohibition and criminalization.

Finally, beyond questions of effectiveness, Congress also has a duty to protect basic principles of fairness. Research by the American Civil Liberties Union found that in 2010, black Americans were nearly four times as likely as white Americans to be arrested on charges of marijuana possession, even though both groups used marijuana at similar rates. Worse, the data indicates that these racial disparities are even greater at the State-level, with black Americans being eight times as likely as whites to be arrested in certain States.

I cannot help but view all of this data through the prism of my time in local government, where we prioritized results over ideology, and allowed evidence to guide policy, particularly when addressing matters of public health and safety.

I have long believed that the Federal Government governs best when it truly listens and learns from our States, which for decades have served as our Nation's "Laboratories of Democracy." As the Honorable John Urquhart, Sheriff of King County in Seattle, Washington, testified at a hearing held by the United States Senate Judiciary Committee in September 2013:

*"I have been a police officer for 37 years, and I was elected as King County's Sheriff last year. During my career I've investigated everything from shoplifts to homicides. But I've also spent 12 years as a narcotics detective. My experience shows the War on Drugs has been a failure. We have not significantly reduced demand over time, but we have incarcerated generations of individuals, the highest incarceration rate in the world.*

*So the citizens of the state of Washington decided it was time to try something new. In November of 2012 they passed Initiative 502, which legalized recreational amounts of marijuana and at the same time created very strict rules and laws. I was a strong supporter of Initiative 502 last year, and I remain a strong supporter today. There are several reasons for that support. Most of all, I support 502 because that's what the people want. They voted for legalized marijuana. We—the government—have failed the people and now they want to try something else. Too often the attitude of the police is "We're the cops and you're not. Don't tell us how to do our job." That is the wrong attitude and I refuse to fall into that trap.*

*While the title of this hearing is conflict between State and Federal marijuana laws, I don't see a huge conflict. The reality is we do have complimentary goals and values. We all agree we don't want our children using marijuana. We all agree we don't want impaired drivers. We all agree we don't want to continue enriching criminals. Washington's law honors these values by separating consumers from gangs, and diverting the proceeds from the sale of marijuana toward furthering the goals of public safety.*

*Is legalizing and regulating the possession and sale of marijuana a better alternative? I think it is, and I'm willing to be proven wrong. But the only way we'll know is if we are allowed to try. DOJ's recent decision provides clarity on how we in Washington can continue to collaborate with the Federal Government to enforce our drug laws while at the same time respecting the will of the voters."*

The citizens of States across the country have spoken loud and clear. They want their local governments to have the opportunity to innovate and experiment with regulatory and enforcement frameworks governing marijuana use – and I believe it is in our national interest to let these ongoing laboratories of democracy proceed.

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