MIXED SIGNALS: THE ADMINISTRATION'S POLICY ON MARIJUANA

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BEFORE THE

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COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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MIXED SIGNALS: THE ADMINISTRATION'S POLICY ON MARIJUANA

Tuesday, February 4, 2014

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT OPERATIONS,
COMMITTEE ON OVERSIGHTAND GOVERNMENT REFORM,
Washington, D.C.

The subcommittee met, pursuant to call, at 2:04 p.m., in Room 2154, Rayburn House Office Building, Hon. John Mica [chairman of the subcommittee] presiding.

Present: Representatives Mica, Turner, and Connolly.

Also Present: Representatives Cummings, Blumenauer, and Cohen.

Staff Present: Will L. Boyington, Majority Press Assistant; Molly Boyl, Majority Senior Counsel and Parliamentarian; Linda Good, Majority Chief Clerk; Mark D. Marin, Majority Director of Oversight; Emily Martin, Majority Counsel; Katy Rother, Majority Counsel; Laura L. Rush, Majority Deputy Chief Clerk; Jessica Seale, Majority Press Assistant; Sarah Vance, Majority Assistant Clerk; Jaron Bourke, Minority Director of Administration; Courtney Cochran, Minority Press Secretary; Adam Koshkin, Minority Research Assistant; and Leah Perry, Minority Chief Oversight Counsel.

Mr. MICA. Good afternoon. I would like to call this subcommittee hearing of the Subcommittee on Government Operations of the Government Oversight and Reform Committee to order.

Welcome, everyone. Sorry for our late start. We did have votes that delayed the beginning of this hearing, but we will go ahead and proceed.

Let me just cite, first, the order of business. We will hear statements from members as they return from votes or, through unanimous consent, we will also include their statements in the record.

We have one witness today, Mr. Michael Botticelli, from the Office of National Drug Control Policy, who is joining us. We will hear from that witness and then members will be able to question the witness.

So usually the chair gets a couple extra minutes of introductory statements for launching the hearing, and I will go ahead and get started as we have other members join us. I see our ranking member of the full committee has joined us; hopefully Mr. Connolly will be here.

I would also like to ask unanimous consent that our colleague from Oregon be permitted to participate. Without objection, so or-

dered. And I think we have several other members joining us. We will ask unanimous consent to have them join us too.

Our normal procedure is we will go through the members who sit on the committee and then defer to you, both in opening statements and in our questioning. So, again, as members return, we will begin that process.

Mr. Issa, the chair of the full committee, always likes us to have the chairs remind folks why we are here, why we do what we are doing as the Government Oversight and Reform Committee, and our mission statement, which is simple, that taxpayers sent us here to oversee taxpayer dollars, programs, how they are expended. Congress both authorizes and appropriates laws, but the oversight function is extremely important and it keeps us focused on our responsibility, making certain that programs work, that taxpayer dollars are wisely spent, that Washington and the people who represent hardworking Americans do have, again, accountability of our Government. So it is an important responsibility.

The focus of today's hearing is really going to focus on where we are on some of our Federal drug laws, policy, and enforcement. As most of you know, there is a growing disparity between what our laws say at the Federal level, now our laws at the local and State level, complete opposites in some cases, and various officials from the President of the United States to administration officials going in different direction on the question of legalization of marijuana.

As most of you also know, 20 States and the District of Columbia have taken steps to legalize marijuana for medical purposes, and in 2012, Colorado and Washington legalized marijuana at the State level for recreational use. The only problem with this is we do have conflicting Federal statutes. I asked the staff to pull out Federal statutes and these are actually the Federal statutes: Title XXI sets up a schedule and it classifies substances and sets really the highest level of narcotics that are under Federal jurisdiction and the responsibility of enforcement. So this is the Federal law and that is where we are at this point.

What has taken place is, again, these States have taken actions, and localities. But, again, we have heard what the law is, we have seen what States are doing, and, unfortunately, there is chaos as it relates to where we are going and what our policy is as far as what is allowed, what is legalized, and now enforcement is going to react.

To compound this, in our society we all look to the President for leadership, regardless of what party is, and the current President has made some statements of late. In fact, just a few days ago President Obama said, "I don't think it is more dangerous to alcohol," referring to marijuana. And then he said, "It is important for it to go forward because it is important for society not to have a situation in which a large portion of people have all, at one time or another, broken the law and only a few select people get punished."

That was a statement by the President of the United States in regard to legalization, so again you have a growing I call it schizophrenic approach to what is going on and where we are and where we may go.

At the same time the President of the United States, our chief executive, is making that statement, I have an article from The Washington Post and the DEA operations chief of the Drug Enforcement Administration called legalization of marijuana at that State level reckless and irresponsible, warning that the movement to decriminalize the sale of pot in the United States will have severe consequences.

Then it is also interesting to see the path that the Administration is also heading down. This is another article I just came across, and it said that the Department of Justice is now looking at releasing lower level drug criminals who were sentenced under tough laws. In fact, this article says, "In an unprecedented move, the Deputy Attorney General, James C. Cole, asked defense lawyers on Thursday to help the Government locate prisoners and encourage them to apply for clemency" drive as part of the Obama Administration to deal with changes again in law; and again we have an approach that is very fractured between Federal, State, and local agencies and officials, as you can hear from what I just said.

The witness that we have before us is actually under the Office of National Drug Control Policy. It was set there some years ago as part of the White House to help coordinate, again, national policy on drug use and abuse, and in spite of the Federal prohibitions on marijuana, the Department of Justice issued a policy memorandum that explicitly declines to enforce Federal marijuana laws in States that have legalized it for recreational use. In fact, illegal marijuana dispensaries in Colorado and Washington are facing the realities of operating outside the Federal law and the Department of Justice recently announced they will be issuing guidance that will allow Federally-regulated banks to serve these illegal businesses.

Let me say, too, today we are only going to hear from ONDCP, but I do plan to try to have a continuum of dialogue on where we are going with this, and we invited the Department of Justice; they declined, wanted a little bit more time. We will give them the time and then have them in. I would like to also have DEA and other agencies and then hear from some of those that have worked in the field of trying to help both the Country and our citizens and youth deal with the illegal narcotics question, so we will get representatives of some various groups.

I might recall for the benefit of my colleagues I chaired the criminal justice drug policy subcommittee from, I think it was, 1998 to 2001 and held the very first hearings ever held in Congress on the subject of marijuana. Saying that, we would also invite, I think it is normal, some of the other folks to participate in the discussions of where we are going.

So the other thing that we have to consider today is that about $25 billion was provided for drug control programs, that is $25 billion, in fiscal 2012, enforcement and a whole host of other activities; $10.1 billion, or about 40 percent, was provided for prevention and treatment programs. So we have a big financial stake in some of these programs and where we are going. In fact, 15 Federal agencies administer 76 programs aimed at drug abuse and prevention. Despite all that, illicit drug use is in fact increasing with our

adolescents, and marijuana currently accounts for 80 percent of illicit drug use by our adolescents.

I think these are probably the most recent statistics, usually some of these fall more than a year behind, but the 2011, the latest statistics we have, show that adolescent use of marijuana was the highest it has been in eight years. First-time users of marijuana have unfortunately increased under this Administration, hitting also in 2011, my most recent data, a 10-year high. Well, maybe that is not a good term to use on this. Adolescent use of marijuana is associated with increased use of drug dependence, criminal activity, and even, again, the more potent marijuana that we have on the market today affecting the IQ and also possibly the genetic makeup of folks.

ONDCP, and we will have a representative to speak for themselves and that Department today, has consistently worked to reduce the prevalence of marijuana use and focused on evidence-based prevention messaging. In 2013, the National Drug Control Strategy, the President's message to Congress, and he gives us a message with that title every year, said, "The importance of prevention is becoming ever more apparent. Despite positive trends in other areas, we continue to see elevated rates of marijuana use among young people, likely driven by declines in perception of risk." That is what the official document that was sent to us said.

So given the recent statements to the media in the past couple weeks claiming that marijuana is no more dangerous than alcohol, it appears that, unfortunately, the President may in fact be a major contributor now to some of the declines we see in the perception of risk and what we are going to see in the future.

So, again, our hearing today will focus on our major agency dealing with this, the Office of National Drug Control Policy. We will hear statements and hopefully some idea of where we are going. I have a number of questions and we have had a lot of interest from members on both sides of the aisle to find out what direction the Administration and our Federal laws are heading in the future on the question of marijuana use and legalization.

With that, I am pleased to welcome, with perfect timing, and we do have the full committee ranking member, but our ranking member of the subcommittee is Mr. Connolly, the gentleman from Virginia. You are recognized in whatever order you wish to proceed.

Mr. CONNOLLY. Mr. Chairman, thank you, but, as certainly a courtesy, I would defer to Mr. Cummings, the ranking member of the full committee, if he has a statement.

Mr. CUMMINGS. Thank you very much, Mr. Connolly, and to you, Mr. Chairman. I want to thank you both for holding this hearing.

And you are absolutely right, Mr. Chairman, this is a very complex and difficult issue. I want to also thank Deputy Director Botticelli for testifying before the subcommittee.

This is also a quickly changing issue, and the positions of conservatives and progressives alike are evolving as we learn from experiences of States with legalization initiatives.

According to a Gallop poll taken in October, 58 percent of the American people favor the legalization of marijuana. Over the past eight years, 20 States and the District of Columbia have passed laws permitting the use of marijuana for medical conditions; and

in 2012 Colorado and Washington chose to legalize, tax, and regulate limited amounts of marijuana for recreational use.

I believe the purpose of today's hearing is worthwhile: to review the position of Federal agencies with respect to States that are legalizing marijuana both for medicinal purposes and recreational uses.

The Office of National Drug Control Policy serves a very critical role in balancing our Nation's drug control efforts by coordinating Government-wide public health and safety initiatives that address drug use and its consequences in our communities. In addition, the Department of Justice is charged with enforcing the Federal Control Substances Act and it issued guidance to prosecutors in August on marijuana enforcement.

Mr. Chairman, I am thankful that ONDCP is here today, but, as you know, I believe this hearing would have been more informative with the Justice Department at the table. I know our offices worked together to try to find a mutually acceptable date, and your decision to move forward today with ONDCP alone is not your prerogative. I hope we can continue to work together in a bipartisan way, as we have in the past, to get the viewpoints of the other agencies involved.

Personally, I share your concerns about the negative health effects of marijuana, particularly on the youth in my district and across the Country. Even when it is used for medicinal purposes, people should understand very clearly that smoking marijuana is dangerous to their lungs and their hearts, and it results in a wide range of negative health effects.

Apart from health concerns, however, I also have serious questions about the disparate impact of the Federal Government's enforcement policies on minorities. After reviewing the FBI uniform crime reports and State databases, one article found "police arrest blacks for marijuana possession at a higher rate than whites in every State and nearly every city and county, despite the two races using marijuana at equal rates." My home State of Maryland has similar disparities in enforcement. In October, the American Civil Liberties Union issued a report finding that "police arrest blacks for marijuana possession at higher rates than whites in every county in Maryland," accounting for 58 percent of arrests for marijuana possession.

These disparities have a real impact on people's lives, their families, and their communities. An arrest for even the smallest amount of marijuana can disqualify a person from public housing, student financial aid, or even employment for life. These are the exact opportunities that so many low-income individuals need to lift themselves out of poverty.

I think the President was exactly right when he said last week middle-class kids don't get locked up for smoking pot; poor kids do. African-American kids and Latino kids are more likely to be poor and less likely to have the resources and the support to avoid unduly harsh penalties and, I would add to that, records, criminal records that remain with them for a lifetime.

For these reasons, Maryland has chosen to decrease penalties to 90 days for possession of marijuana in small amounts. It also required courts to consider a defendant's use of medical marijuana as

an affirmative defense and it permitted research on medical marijuana.

Mr. Chairman, I previously served as the ranking member of the subcommittee on Criminal Justice and Drug Policy, so I understand that there are various components to this debate. But one thing does concern me greatly: how in some States one can purchase marijuana and the people in my State and in my district are getting arrested and serving sentences. It just seems to me there is something not right about that I am hoping that you will address that, Mr. Botticelli, because these are serious consequences. It is one thing when you have equal enforcement, but it is another thing when some people are engaged in purchasing marijuana in the streets and other ones in the suites. So what happens is that you have unequal enforcement and you have many African-American young men, as you well know, spending long sentences sitting in prison, while others law enforcement don't even touch.

So those are the kinds of concerns that I have, Mr. Chairman, and I am hoping that we will get to some of that today. With that, I yield back.

Mr. MICA. The gentleman's time has expired.

Mr. Turner, you had no opening statement.

We will go back to Mr. Connolly.

Before I do Mr. Connolly, ask unanimous consent that the gentleman from Tennessee, Mr. Cohen, be allowed to participate on this panel. Without objection, so ordered.

We are also joined by Mr. Davis, who will be recognized after Mr. Connolly because he is on the committee, but not the subcommittee. And we will go in alphabetical order and we will hear from Mr. Blumenauer and Mr. Cohen next.

Mr. Connolly, you are up.

Mr. CONNOLLY. Thank you, Mr. Chairman, and thank you for holding this hearing to examine the Federal response to State marijuana laws.

I want to be clear from the outset. I am not unsympathetic to the concerns raised by skeptics on decriminalization. As a child of the 1960s, I witnessed firsthand the ravages of drug abuse among so many friends and so many idols my generation had in both Hollywood and in the music scene. I count myself, frankly, a skeptic.

Further, as a former senior professional staff member on the Senate Foreign Relations Committee, one of my jobs was the authorization of the International Narcotics Matter Bureau of the State Department, and I traveled the world looking at production and distribution of illicit drugs and saw the damage caused. But it must also be noted that simply ramping up criminal penalties, such as enacting mandatory minimum sentences through the Boggs Act and the Narcotics Control Act of the 1950s, did not prove effective in countering the very movement and the very ravages I just talked about in the 1960s.

In addition, as a member of Congress, it has been disappointing to visit countries such as Afghanistan, only to find that many of the current international narcotics control challenges are the very same ones I looked at in the 1980s.

Further, despite my wariness of outright marijuana legalization, I am alarmed by the figures contained in a recent FBI report that

found, in 2011, 750,000 Americans were arrested for marijuana law violations, which amounts to one American every 42 seconds; and that rate outpaced the total number of arrests made for violent crimes that same 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, and this in a time of extreme budget constraints at the State and local level. In an era of constrained budgets, this drastic increase in enforcement costs raises the important question over how effective we are prioritizing limited law enforcement resources.

It is troubling that despite four decades of Federal efforts to enforce the criminalization of the manufacture, distribution, dispensation, and possession of marijuana, the United Nations World Drug Report found that while global cannabis consumption stays fairly stable, marijuana use is actually increasing here in the United States.

The Federal Government's ineffectiveness in significantly reducing marijuana becomes even starker when one contrasts our Nation's failure to stem rising marijuana use and trades with the results of our Country's anti-tobacco campaign, which has actually been pretty successful. Without resorting to a policy prohibition or criminalization, our Country has brought tremendous resources to bear in an effort to prevent and reduce tobacco use, especially among young people, and those efforts are working. Our Nation cut adult smoking in half, from 42.4 percent in 1965 to 18 percent in 2012.

Employing data-driven tactics, States and municipalities have continued to refinance the tobacco initiatives, enacting policies focused on creating smoke-free environments and increasing the price of cigarettes. Just today there was a new campaign announced by the United States Government aimed specifically at teenage smoking to deter it.

These types of policies have led to impressive results. For example, California successfully lowered its adult smoking rate from 16.3 percent in 2000 to 12.7 percent 12 years later. And with respect to reducing frequent cigarette use among youth nationwide, the CDC 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 serves as a valuable reminder that the best policy is to prevent and reduce the use of harmful substances need not always be, and perhaps shouldn't be, total prohibition and criminalization.

Beyond questions of effectiveness, Congress must also not forget the issue of equity, which the distinguished ranking member eloquently pointed us to. Research has found that in 2010 black Americans were nearly four times as likely as white Americans to be arrested and charged with marijuana possession, even though both groups use marijuana in roughly equal percentages.

Worse, the data indicates that these racial disparities are even greater when you dig down to the State level, black Americans being eight times as likely as whites to be arrested in certain States; Iowa, Illinois, and Minnesota, for example.

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 we 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 the States, which for decades have served as the laboratories of our democracy. The citizens of the States across the Country seem to have spoken loud and clear; they want their local governments to have the opportunity to innovate, and even experiment, with regulatory and enforcement frameworks governing marijuana use specifically. I believe it is in our national interest to let those ongoing laboratories of democracy proceed and while we learn from them.

With that, Mr. Chairman, I yield back and I thank you for your indulgence.

Mr. MICA. I thank the gentleman.

We will hear now from the gentleman from Illinois, Mr. Davis.

Mr. DAVIS. Thank you very much, Mr. Chairman, and I too want to thank you for holding this hearing. I think many of us approach it with mixed feelings and mixed emotions. Over the weekend, I have been involved in several conversations simply with friends and relatives, and I don't think in any of those did we reach any conclusions. We all had different feelings, different thoughts, different ideas. I would like to be associated with the comments relative to the disparities in arrest that the ranking member made, as well as Mr. Connolly. Quite frankly, I think that my State, the State of Illinois, has a shameful record. There are a lot of things that I am proud of my State about, but when it comes to this kind of disparity it is hard to imagine that it actually does exist and that it is continuing.

Mr. Botticelli, I would like to ask some questions relative to the role of ONDCP as we explore this issue and as we talk about it, and as we try and clarify what the role of your office might be relative to the prospective legalization of marijuana. According to the National Drug Control Policy Reauthorization Act of 1993, your office is not permitted to use any Federal funds to conduct any study or contract relating to the legalization for a medical use or any other use of a substance listed in Schedule I of Section 202 of the Controlled Substance Act, which includes marijuana. How does this congressional mandate restrict your ability to examine the spreading legalization of medicine marijuana and its alleged benefits?

Oh, we are doing—well, I am delighted to continue in a— Mr. MICA. No matter. It is a little hard to hear you, Mr. Davis. Just a little bit closer.

Mr. DAVIS. That is generally very unusual; I am usually easy to hear.

In a recent Gallop poll for the first time, a majority of Americans were in favor of legalized marijuana. In addition, there is a clearly growing tide of States that have moved to legalize medicinal marijuana, and I, for one, have held the position for quite a while that it could and should be used for medicinal purposes.

However, I am not sure about the whole question of promoting in any way, shape, form, or fashion the usage for other reasons, because I am afraid that, as I have seen with alcohol in the commu-

nity where I live, there are stores where individuals are lined up before 9:00, waiting for them to open, and I am fearful that we might see the same thing with the dispensation of marijuana.

So, Mr. Chairman, I thank you for this hearing and I yield back.

Mr. MICA. Thank you.

We will now hear from Mr. Blumenauer, the gentleman from Oregon.

Mr. BLUMENAUER. Thank you, Mr. Chairman. I appreciate the committee's courtesy in permitting me to join with you in this, and I think it is a timely and important hearing.

I agree with the chair that the Federal Government is not necessarily coordinated on this. I agree that the committee has a responsibility to deal with the use of Federal dollars, and I think you referenced $25 billion spent on drug enforcement overall. And I certainly agree wholeheartedly with the dangers of adolescent use of marijuana.

I think the question before us that we might be able to explore today, and I hope we are able, under your leadership, to move further is just how best are we going to address those issues.

We have been engaged in an experiment of over 40 years of prohibition of marijuana, which has failed spectacularly. Fifty million people use it annually; about half the American public adult population has used it. As a couple of my colleagues have referenced, a majority of Americans now think it should be legal. And if you ask that question differently, if you say should the Federal Government respect the decisions of the States, like we do with alcohol, that percentage goes up even higher.

Mr. Chairman, I noted last week in your State almost 700,000 signatures were delivered that will require a vote in the fall on Florida becoming the first southern State to approve medical marijuana, and recent surveys indicate about two-thirds of the population now says they support it, and I have seen one survey that is much higher than that.

We have talked about the costs. I think if we shift from a prohibition-enforcement-incarcerate and, instead, deal to tax and regulate, it is going to mean probably, conservatively, $100 billion of public dollars available over the next 10 years.

It is outrageous that 8 million people have been arrested in the last decade. And as several of my colleagues have mentioned, it is outrageous that African-American youth, primarily young men, are almost four times as likely to be arrested as white youth, even though, in fact, there is evidence that the white youth use marijuana as much or more than African-Americans. And I think it was Mr. Cummings who referenced some of the disparities in different regions. There are some areas in Louisiana where that disparity is 11 times greater for African-American youth.

I do think the Administration needs to think through what a comprehensive approach should be. The President has acknowledged what most Americans know: marijuana is, frankly, not as dangerous to your health as tobacco, it is not as addictive.

Congress is also out of touch, I would suggest, because Congress established the schedules that you referenced in your opening statement. According to what we have in statute, marijuana is Schedule I, which puts it on a par with LSD and heroin, has no

medicinal properties, and is more dangerous than coke and methamphetamines. And I don't think you will find any sheriff, any district attorney, or any health expert who would remotely suggest that that is true.

We are in a situation now where there is nobody who checks the identification of an adolescent. They are not asked to prove their age. There is no license that a drug dealer loses. Mr. Connolly's comments about the progress that we have made with tobacco, which is highly addictive and still kills hundreds of thousands of people a year, is significant, and I am hopeful that with this committee's leadership we can look at how maybe we rationalize this, that we don't interfere with the States where 146 million people live where it is perfectly legal to buy marijuana under State laws, most of it according to votes of the people.

And there are little things that we can do to fix anomalies. Federal law forces legitimate marijuana businesses to be entirely cash; they can't get a bank account, and delivering their tax payments with shopping bags full of cash, if you care about money laundering, if you care about tax evasion and theft, is crazy. It is just crazy. And we tax these legally authorized, under State and local law, businesses two and three times more heavily than we treat other businesses. I note Mr. Norquist, Grover Norquist joined me in a press conference on legislation I have to fix that.

Mr. Chairman, I appreciate your dealing with this issue. I appreciate your courtesy in allowing me to be with you, and I hope you can help shine a light and we can have this important conversation.

Mr. MICA. Thank you for joining us.

Just one thing I will point out. When I showed the schedule today and I had heard the President say that Congress had to resolve this matter, the staff, in their briefings to me, said that actually they have the authority to change that without Congress. So that is something I want to get into with Mr. Botticelli and where they intend to go on this, but some good points.

Let me yield now a gentleman also not part of the panel but came to the hearing, thank you, Mr. Cohen from Tennessee.

Mr. COHEN. Thank you, Mr. Mica. First, I want to thank you for allowing me to participate. I enjoyed serving under you on Transportation Committee. Secondly, I would like to incorporate by reference all of the things that have been said that are politically correct on this issue as if I said them. Basically, I agree with most of them.

And I want to thank the President. I don't think the President has been schizophrenic. The President hasn't gone nearly as far as I would like to see him go on this issue because it is a freedom issue. But the President has gone somewhat in enlightening the public as to priorities and as to Louis Brandeis and the laboratories of democracy, and we are on the right path.

I would submit, with all due respect to my fellows on the other side, that schizophrenia, which my father was a psychiatrist and taught me something about, could be described as a party that talks about saving money all the time and being concerned with deficits and being totally driven by that, but not being concerned and saving money when people are in jail for marijuana and man-

datory minimums that judges have said were awful, and for nonviolent, first-time offenders who are serving lifetime sentences in jail, costing us $30,000 a year, and the population of jails has gone up 800 percent in the last 30 years. That is schizophrenia. You are concerned about costs and cutting costs, but not when it is jailing a population.

I think it is schizophrenia when you offer State issues and preemption and priorities and giving power back to the States, but not when it comes to them having passing laws concerning marijuana. Then you are not for State initiatives and State priorities. And I think there is a certain schizophrenia for a party that talks about civil liberties, but not when it comes to personal liberties on this subject.

So sometimes politics makes strange bedfellows, and whether they are in the same bin as McMurphy or not is another issue to be discussed.

Mr. Botticelli, your hands are tied on Schedule I, but it is ludicrous, absurd, crazy to have marijuana in the same level as heroin. Ask the late Philip Seymour Hoffman, if you could. Nobody dies from marijuana; people die from heroin. And every second that we spend in this Country trying to enforce marijuana laws is a second that we are not enforcing heroin laws. And heroin and meth are the two drugs that are ravaging our Country, and every death, including Mr. Hoffman's, is partly the responsibility of the Federal Government's drug priorities for not putting total emphasis on the drugs that kill, that cause people to be addicted and have to steal to support their habit; and heroin and meth is where all of your priorities should be. And it is not just Mr. Hoffman, a brilliant actor at 46 years of age, who first went to prescription drugs and then came back to heroin. That is our two major issues, I guess.

I had a young friend, son of a girl I dated, who died of a heroin overdose about two years ago. I went to a party in Memphis recently; not Vermont, where the governor spent his entire state of the State hour address talking about the ravages of heroin in his State, but Memphis, Tennessee, where four women, give or take my age, well, maybe 15 years younger—sometimes I lose perspective—talked about heroin being a great problem among their children and in the Memphis community, and about another young man who had died of heroin. Heroin is getting into the arms of young people.

And when we put marijuana on the same level as heroin and LSD and meth and crack and cocaine, we are telling young people not to listen to the adults about the ravages and the problems, and they don't listen because they know you are wrong. Because, as Mr. Mica said, we know a lot of young people smoke marijuana. They shouldn't. Young people should be being young people. The most precious commodity in the world is time. Young people have lots of time; Mr. Mica and I don't have that much more time. That is just the realities. And when you are young, enjoy being young; playing ball, taking it easy, just doing kids things and learning. And you shouldn't be doing drugs, but they are; and we need to make sure that we keep them alive. We need to educate them, but our efforts ought to be toward meth and heroin. That is where our efforts should be. And it shouldn't be Schedule I.

Anybody that goes to jail for marijuana is a crime, when people, for possession, are taking their liberties away. It is a waste of money, it is a waste of resources; it is a crime committed by our Government. There is a cultural lag in this Country, and this Congress is a leader in it.

My time has expired. I thank the committee for allowing me to express myself. I will participate in questioning and yield back the non-existent remainder of my time.

Mr. MICA. I thank the gentleman and thank each of the members for their opening statements.

We will now turn to our witness at this hearing. The witness is Mr. Michael Botticelli. He is the Deputy Director of the Office of National Drug Control Policy.

Mr. Botticelli, it is the custom and practice of our committee and subcommittee, as an investigative oversight panel in Congress, to swear in our witnesses, so if you would stand, please. Raise your right hand.

Do you solemnly swear or affirm that the testimony you are about to give before this subcommittee of Congress is the whole truth and nothing but the truth?

[Witness responds in the affirmative.]

Mr. MICA. The witness answered in the affirmative and we will let the record reflect that.

Mr. Botticelli, you are the only witness today, so we won't hold you too much to the five, but we will try to keep you within that. If you have additional information you would like to have submitted to the committee, the subcommittee, we would welcome that through the request of the chair. Again, we thank you for your participation and we will recognize you now for your opening statement.

STATEMENTS OF MICHAEL P. BOTTICELLI, DEPUTY DIRECTOR, OFFICE OF NATIONAL DRUG CONTROL POLICY

Mr. BOTTICELLI. Chairman Mica, Ranking Member Connolly, and distinguished members of the subcommittee, thank you for this opportunity to address the public health and safety issues surrounding marijuana in the United States. My name is Michael Botticelli. I am the Deputy Director of the White House Office of National Drug Control Policy. Before I was sworn into this position in November 2012, I was the director of the Bureau of Substance Abuse Services in the Massachusetts Department of Public Health. I have over 20 years experience working in public health. I also served a variety of leadership positions and roles for the National Association of State Alcohol and Drug Abuse Directors. In addition, I am proud to say that I am one of 23 million Americans who is also in long-term recovery from addictive disorders.

The Office of National Drug Control Policy was established by Congress in 1988 with the principal purpose of reducing illicit drug use, manufacturing and trafficking, drug-related crime and violence, and drug-related health consequences. We produce the National Drug Control Strategy, which is the Administration's primary blueprint for drug policy. This strategy is a 21st century plan that is based on science and research.

I am here today to testify specifically about marijuana, the considerable public health consequences associated with the drug, and ONDCP's ongoing efforts to reduce and prevent its use and related consequences throughout the Nation.

In 2012 alone, nearly 32 million Americans aged 12 and older reported using the drug within the past year, making it the most commonly used illicit drug in the United States. Unfortunately, although overall marijuana use rates in the United States are well below what they were in the late 1970s, they have increased in recent years. Since 2007, current marijuana use among Americans 12 or older has increased from 5.8 percent to 7.3 percent in 2012, a difference of over 4 million people.

While national survey indicate that marijuana use rates among young people aged 12 to 17 have decreased from 8 percent in 2002 to 7 percent in 2012, this trend masks recent increases in use among young people, particularly between 2008 and 2011.

Science tells us that as youth perceptions of marijuana decline, their use of marijuana goes up. And data from the 2013 Monitoring the Future Survey reveal that the perceived harm of using marijuana regularly among eighth and tenth graders is at its lowest point since the survey began collecting this information in 1991, and among high school seniors it is at the lowest since 1978.

We also know that marijuana has considerable health and safety implications for users themselves, their families, and our communities. In 2012, approximately 4.3 million Americans met the diagnostic criteria for abuse or dependence on marijuana, more than any other drug. Marijuana use can have implications for learning and memory, and long-term use of marijuana begun during adolescence is associated with an average eight point lower IQ later in life. And we are concerned about major increases in marijuana's potency, which has tripled over the past 30 years.

The consequences of marijuana use are particularly acute in our healthcare and substance use disorder treatment system. In 2011, marijuana was involved in nearly 456,000 emergency department visits nationwide, and in 2012 approximately 314,000 Americans reported receiving treatment for marijuana use in the past year, more than any other illicit drug and trailing only alcohol and pain relievers. These figures represent a sobering picture of this drug's very real and serious consequences.

This Administration has been consistent in its opposition to attempt to legalize marijuana and other drugs. This opposition is driven by what medical science and research tells us about the drugs. We know that calls for legalization often paint an inaccurate and incomplete picture of marijuana's significant health consequences. And while voters in Colorado and Washington voted to legalize the sale and distribution of marijuana in their States, the vote does not change the negative public health consequences of marijuana. Even advocates of the law in these States acknowledge the negative public health effects and maintain that underage use should not be permitted.

As you indicated, chairman, in establishing the Controlled Substances Act, Congress determined that marijuana is a harmful drug and made the illegal distribution and sale of marijuana a serious crime. Recent State laws have not changed the Federal status of

marijuana as a Schedule I controlled substance, and the Department of Justice's responsibility to enforce the CSA remains unchanged.

As the Department of Justice has noted, Federal drug enforcement resources prioritize and target serious crimes of dealing, violent crime, and trafficking. The Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Recent Department of Justice guidance is consistent with this position and focuses on protecting public health and safety in States and communities, a goal shared by the entire Administration.

Office of National Drug Control Policy strategy has supported a wide variety of programs to prevent illicit drug use from occurring, to treat those with substance use disorders in order to avoid involvement with the criminal justice system, and encourages criminal justice system reforms to more humanely and more effectively treat those with substance use disorders through health interventions.

To this end, we have supported a variety of community prevention efforts. One such powerful tool is the Drug Free Communities Support Program, a program funded by the Office of National Drug Control Policy. DFC coalitions across the Country have identified marijuana as a significant problem in their communities. Recent evaluation data indicate that where DFC dollars are invested and coalitions operate, substance use is lower. We are working with our congressional partners on reauthorization of this vital program.

Our Above the Influence media campaign, which is being transitioned to the partnership at DrugFree.org is another important national tool for informing and inspiring young people to reject illicit drugs, including marijuana.

We also know that there is a significant treatment gap in the United States. Only one in 10 people who meet diagnostic criteria for a substance use disorder get care for their disorder, and often that is because of lack of insurance status. We recognize that we need to provide treatment for those who are dealing with the consequences of drug use. The Affordable Care Act will expand coverage for substance use disorder treatment. An estimated 27 million people, previously uninsured Americans, will have coverage that includes a substance use disorder benefit. In addition, ONDCP has identified reducing drug driving as a national priority. Data from the Department of Transportation show that in 2009 cannabinoid use was reported among 29 percent of fatally injured drivers who were tested for the presence of drugs.

In conclusion, ONDCP continues to work with our partners to reduce the public health effects of substance use, including marijuana. We know that there are ways to prevent and reduce substance use in America, and we look forward to working with Congress on this objective. Thank you.

[Prepared statement of Mr. Botticelli follows:]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF NATIONAL DRUG CONTROL POLICY
Washington, D.C. 20503

Federal Marijuana Policy

Subcommittee on Government Operations
Committee on Oversight and Government Reform
United States House of Representatives

Tuesday, February 4, 2014
1:30 p.m.
2154 Rayburn House Office Building

Written Statement
of
Michael P. Botticelli
Deputy Director
Office of National Drug Control Policy

Chairman Mica, Ranking Member Connolly, and distinguished members of the Subcommittee, thank you for this opportunity to address the public health and safety issues surrounding marijuana in the United States. As you know, the Office of National Drug Control Policy (ONDCP) was established in 1988 by Congress with the principal purpose of reducing illicit drug use, manufacturing, and trafficking; drug-related crime and violence; and drug-related health consequences. As a component of the Executive Office of the President, our office establishes policies, priorities, and objectives for the Nation's drug control programs. We also evaluate, coordinate, and oversee the international and domestic anti-drug efforts of Executive Branch agencies and ensure such efforts sustain and complement state and local drug policy activities.

As Deputy Director of National Drug Control Policy, my position allows me to raise public awareness and take action on drug issues affecting our Nation. Before being appointed to my current position by the President in November 2012, I was Director of the Bureau of Substance Abuse Services in the Massachusetts Department of Health. There, I worked to establish a treatment system for adolescents, early intervention and treatment programs, jail diversion programs, re-entry services for those leaving state and county correctional facilities, and drug overdose prevention programs. In addition, I have served in a variety of leadership roles for the National Association of State Alcohol and Drug Abuse Directors. I have also served as a member of the Advisory Committee for the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention, and the National Action Alliance for Suicide Prevention.

At ONDCP, we are charged with producing the *National Drug Control Strategy* (*Strategy*), the Administration's primary blueprint for drug policy, along with a national drug control budget. The Strategy is a 21st century plan that outlines a series of evidence-based reforms that treat our Nation's drug problem as a public health challenge, not just a criminal justice issue. It moves beyond an outdated "war on drugs" approach, while also rejecting drug legalization as a "silver bullet" solution to the drug problem. Neither of these approaches is guided by what experience, compassion, or science demonstrate about the true nature of drug use in America.

I am here today to testify specifically about marijuana, the considerable public health consequences associated with the drug, ONDCP's ongoing efforts to reduce and prevent use, and related consequences throughout the Nation.

The Health Risks of Marijuana

Marijuana is classified as a Schedule I drug, meaning it has a high potential for abuse, no currently accepted medical use in treatment in the United States, and lacks accepted safety for use under medical supervision.[1] The main active chemical in marijuana is delta-9-tetrahydrocannabinol, more commonly called THC. THC acts upon specific sites in the brain,

[1] Drug Enforcement Administration: Office of Diversion Control. *Title 21 United States Code (USC) Controlled Substances Act: Section 812. Schedules of Controlled Substances.* U.S. Department of Justice. [date unknown]. Available: http://www.deadiversion.usdoj.gov/21cfr/21usc/812.htm

called cannabinoid receptors, starting off a series of cellular reactions that ultimately lead to the "high" that users experience when they smoke marijuana. Some brain areas have many cannabinoid receptors; others have few or none.[2]

Research has shown that marijuana use can have implications for learning and memory and effects can last for up to one week after the acute effects of the drug wear off.[3] Heavy (used on average 18,000 times and a minimum of 5,000 times in their lives) marijuana users reported that the drug impaired several important measures of health and quality of life, including physical and mental health, cognitive abilities, social life, and career status.[4]

Marijuana is the most commonly used illicit drug in the United States. In 2012 alone, nearly 32 million people ages 12 and older reported using the drug within the past year.[5] A substantial portion of these Americans were using marijuana nearly every day in the past 12 months. In 2012, 17.0 percent of Americans 12 or older who had used the drug in the past year did so on 300 or more days within the past 12 months.[6] This translates into 5.4 million people using marijuana on a daily or almost daily basis over a 12-month period.[7] In fact, approximately 4.3 million people met the diagnostic criteria for abuse or dependence on this drug, more than any other drug.[8]

While significantly lower than the peak use year in 1979 , overall marijuana use rates in the United States have increased in the last decade.[9,10] Since 2002, prevalence of past month marijuana use among Americans 12 and older has increased more than a full percentage point (from 6.2 percent in 2002 to 7.3 percent in 2012).[11] This is also true among young adults aged 18

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[2] Herkenham M, Lynn A, Little MD, et al. Cannabinoid receptor localization in the brain. Proc Natl Acad Sci, USA 87(5):1932–1936, 1990. Available: http://www.ncbi.nlm.nih.gov/pmc/articles/PMC53598/

[3] Pope HG, Gruber AJ, Hudson JI, Huestis MA, Yurgelun-Todd D. Neuropsychological performance in long-term cannabis users. *Arch Gen Psychiatry* 58(10):909–915, 2001. Available: http://www.ncbi.nlm.nih.gov/pubmed/11576028

[4] Gruber AJ, Pope HG, Hudson JI, Yurgelun-Todd D. Attributes of long-term heavy cannabis users: A case control study. Psychological Med 33(8):1415–1422, 2003. Available: http://www.ncbi.nlm.nih.gov/pubmed/14672250

[5] Substance Abuse and Mental Health Services Administration. Results from the 2012 National Survey on Drug Use and Health: Detailed Tables. Department of Health and Human Services. [September 2013]. Available: http://www.samhsa.gov/data/NSDUH/2012SummNatFindDetTables/DetTabs/NSDUH-DetTabsSect6peTabs1to54-2012.htm#Tab6.1A

[6] Substance Abuse and Mental Health Services Administration. Results from the 2012 National Survey on Drug Use and Health: Detailed Tables. Department of Health and Human Services. [September 2013]. Available: http://www.samhsa.gov/data/NSDUH/2012SummNatFindDetTables/DetTabs/NSDUH-DetTabsSect6peTabs1to54-2012.htm#Tab6.1B

[7] Op Cit., SAMHSA Table 6.1A.

[8] Substance Abuse and Mental Health Services Administration. Results from the 2012 National Survey on Drug Use and Health: Summary of National Findings. Department of Health and Human Services. [September 2013]. Available: http://www.samhsa.gov/data/NSDUH/2012SummNatFindDetTables/NationalFindings/NSDUHresults2012.htm#fig7.2

[9] Substance Abuse and Mental Health Services Administration. National Survey on Drug Use and Health, National Household Survey on Drug Abuse.

[10] Institute for Social Research, the University of Michigan. Monitoring the Future Survey.

[11] Substance Abuse and Mental Health Services Administration. Results from the 2012 National Survey on Drug Use and Health: Summary of National Findings. Department of Health and Human Services. [September 2013]. Available:

to 25, with rates of past month use increasing from 17.3 percent in 2002 to 18.7 percent in 2012.[12] There may be some positive news among young people ages 12 to 17. According to national survey data, youth use rates have decreased from 8.2 percent in 2002 to 7.2 percent in 2012; however, this overall trend masks recent year-to-year increases in use among young people, particularly between 2008 and 2011.[13] These variations indicate that use by America's youth should remain a key focus for policymakers, law enforcement, and public health leaders.

Marijuana poses considerable health and safety implications for the users themselves, their families, and our communities. Decades of research into the use and effects of the drug have found an array of negative consequences. Research finds that approximately 9 percent (1 in 11) of marijuana users become dependent,[14] and the younger a person starts using it, the more likely he or she is to become dependent on marijuana or other drugs later in life.[15] These are not the only problems connected to marijuana use. For example, marijuana use can have implications for learning and memory, and its effects can last for days to weeks after the acute effects of the drug wear off, particularly in chronic users.[16] Researchers have also found that adolescents' long-term use of marijuana begun during adolescence is associated with an average eight-point lower IQ later in life.[17]

One study found that people who smoke marijuana frequently but do not smoke tobacco have more health problems, including respiratory illnesses, than nonsmokers.[18] The harms of marijuana use can also manifest in its users' quality of life. In one study, heavy marijuana users reported negative effects of their marijuana use on several important measures of health and

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http://www.samhsa.gov/data/NSDUH/2012SummNatFindDetTables/NationalFindings/NSDUHresults2012.htm#fig2.2

[12] Substance Abuse and Mental Health Services Administration. Results from the 2012 National Survey on Drug Use and Health: Summary of National Findings. Department of Health and Human Services. [September 2013]. Available: http://www.samhsa.gov/data/NSDUH/2012SummNatFindDetTables/NationalFindings/NSDUHresults2012.htm#fig2.9

[13] Substance Abuse and Mental Health Services Administration. Results from the 2012 National Survey on Drug Use and Health: Summary of National Findings. Department of Health and Human Services. [September 2013]. Available: http://www.samhsa.gov/data/NSDUH/2012SummNatFindDetTables/NationalFindings/NSDUHresults2012.htm#fig2.7

[14] Anthony, JC, Warner, LA, and Kessler, RC (1994) Comparative Epidemiology of Dependence on Tobacco, Alcohol, Controlled Substances, and Inhalants: Basic Findings from the National Comorbidity Survey, *Experimental and Clinical Psychopharmacology* 2(3):244-268. Available: http://psycnet.apa.org/index.cfm?fa=buy.optionToBuy&id=1994-45545-001

[15] Grant, B and Dawson, DA. (1998) Age of onset of drug use and its association with DSM-IV drug abuse and dependence: results from the National Longitudinal Alcohol Epidemiologic Survey. J Stust Abuse 10(2):163-73. Available: http://www.ncbi.nlm.nih.gov/pubmed/9854701

[16] Pope HG, Gruber AJ, Hudson JI, Huestis MA, Yurgelun-Todd D. Neuropsychological performance in long-term cannabis users. *Arch Gen Psychiatry* 58(10):909–915, 2001. Available: http://www.ncbi.nlm.nih.gov/pubmed/11576028

[17] Meier et al., "Adolescent-onset cannabis and neuropsychological health." Proceedings of the National Academy of Sciences. [August 27, 2012]. Available: http://www.pnas.org/content/early/2012/08/22/1206820109

[18] Polen MR, Sidney S, Tekawa IS, Sadler M, Friedman GD. Health care use by frequent marijuana smokers who do not smoke tobacco. West J Med 158(6):596–601, 1993. Available: http://www.ncbi.nlm.nih.gov/pubmed/8337854

quality of life, including physical and mental health, cognitive abilities, social life, and career status.[19]

The consequences of marijuana use are particularly acute in our health care and substance abuse treatment system. In 2011, marijuana was involved in nearly 456,000 emergency department (ED) visits nationwide, representing approximately 36 percent of all ED visits involving illicit drugs.[20] And in 2012, approximately 314,000 Americans 12 or older reported receiving treatment for marijuana use in the past year, more than any other illicit drug, and trailing only alcohol and pain relievers.[21] These figures present a sobering picture of this drug's very real and serious consequences.

State Medical Marijuana Laws

Since 1996, 20 states and Washington, D.C., have passed laws allowing smoked marijuana to be used for a variety of medical conditions. Many of these state laws originated in order to create a legal defense to state criminal possession laws or to remove state criminal penalties for purported medical use of marijuana. Since then, many have evolved into state authorization for production and distribution of marijuana for purported medical purposes. These laws vary greatly in their criteria and implementation, and many states are experiencing vigorous internal debates about the safety, efficacy, and legality of their marijuana laws.

State marijuana laws do not change the criteria or process for Food and Drug Administration (FDA) approval of new drugs. The FDA, as the authority charged with approving new drugs based on a finding of safety and efficacy, has noted that smoking marijuana is a potentially harmful method for delivering the constituent elements of marijuana. The FDA has not found smoked marijuana to have an accepted medical use in treatment in the United States and has not approved smoked marijuana for the treatment of any disease. These state laws are not the primary test for declaring a substance a recognized medication. Marijuana should be subjected to the same rigorous clinical trials and scientific scrutiny the FDA applies to all other new medications, a comprehensive process that ensures the highest standards of safety and efficacy.

The FDA has approved drugs containing synthetic compounds similar to naturally occurring delta-9-THC. Dronabinol is one such synthetically produced compound, used in the FDA-approved medicine Marinol, which is already legally available for prescription by

[19] Gruber AJ, Pope HG, Hudson JI, Yurgelun-Todd D. Attributes of long-term heavy cannabis users: A case control study. Psychological Med 33(8):1415–1422, 2003. Available: http://www.ncbi.nlm.nih.gov/pubmed/14672250
[20] Substance Abuse and Mental Health Services Administration. *Drug Abuse Warning Network, 2011: National Estimates of Drug-Related Emergency Department Visits.* Department of Health and Human Services. [May 2013]. Available: http://www.samhsa.gov/data/2k13/DAWN2k11ED/DAWN2k11ED.htm#3.1
[21] Substance Abuse and Mental Health Services Administration. Results from the 2012 National Survey on Drug Use and Health: Detailed Tables. Department of Health and Human Services. [September 2013]. Available: http://www.samhsa.gov/data/NSDUH/2012SummNatFindDetTables/DetTabs/NSDUH-DetTabsSect5peTabs1to56-2012.htm#Tab5.42A

physicians whose patients suffer from nausea, vomiting, and appetite and weight loss.[22] Another FDA-approved medicine, Cesamet, contains the active ingredient Nabilone, which also has a chemical structure similar to THC.[23] And Sativex, an oromucosal spray approved in Canada, the United Kingdom, and other parts of Europe for the treatment of multiple sclerosis spasticity and cancer pain, is currently in late-stage clinical trials to support FDA approval.[24] In November 2013, the FDA granted orphan drug designation to Epidiolex, an oral liquid formulation of a highly purified extract of plant-derived cannabidiol (CBD), a non-psychoactive molecule from the cannabis plant, for treating Dravet syndrome, a rare and severe form of infantile-onset epilepsy.[25]

Physicians routinely prescribe medications with standardized modes of administration that have been shown to be safe and effective at treating the same conditions that marijuana proponents claim are relieved by smoking marijuana. The biomedical research and medical judgment that guide the FDA approval process should continue to determine what are safe and effective medications.

State Legalization Efforts

The Administration continues to oppose attempts to legalize marijuana and other drugs. This opposition is driven by medical science and research. Above all, though, it bears emphasizing that the Department of Justice's (DOJ) responsibility to enforce the Controlled Substances Act (CSA) remains unchanged. As DOJ has historically noted in its guidance to prosecutors, Federal drug enforcement resources prioritize and target the serious crimes of drug dealing, violent crime, and trafficking. The law enforcement officials who have sworn an oath to uphold Federal law will continue to pursue drug traffickers, drug dealers, and transnational criminal organizations that weaken our communities and pose serious threats to our Nation. The Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property.

In 2012, voters in the states of Colorado and Washington passed initiatives legalizing marijuana for adults 21 and older under state law. In establishing the CSA, Congress determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime. DOJ is committed to enforcing the CSA consistent with these determinations. On August 29, 2013, DOJ issued guidance to Federal prosecutors concerning marijuana enforcement

[22] U.S. National Library of Medicine, Medline Plus. Dronabinol. National Institutes of Health. [September 2010]. Available: http://www.nlm.nih.gov/medlineplus/druginfo/meds/a607054.html

[23] U.S. National Library of Medicine, Daily Med. Cesamet. National Institutes of Health. [November 2009]. Available: http://dailymed.nlm.nih.gov/dailymed/lookup.cfm?setid=10553514-8001-4281-85b6-96d99ef6822ahttp://www.nlm.nih.gov/medlineplus/druginfo/meds/a607048.html

[24] eMC. Sativex Oromucosal Spray. Medicines.org.uk. [October 2012]. Available: http://www.medicines.org.uk/emc/medicine/23262

[25] GW Pharmaceuticals Provides Update on Orphan Program for Childhood Epiplepsy for Epidiolex [November 2013] Available at: http://www.gwpharm.com/GW%20Pharmaceuticals%20Provides%20Update%20on%20Orphan%20Program%20in%20Childhood%20Epilepsy%20for%20Epidiolex.aspx

under the CSA. In this guidance, DOJ stated that it expects states and local governments that have enacted laws authorizing marijuana-related conduct to establish and enforce strict regulatory schemes that protect eight public health and safety interests, including preventing the distribution of marijuana to minors, preventing revenue from going to criminal enterprises, and preventing the diversion of marijuana to other states.[26] All of these interests are critical, and we will work closely with DOJ and other Federal and state partners to monitor the implementation of these state laws.

Calls for legalization often paint a misleading picture. Although state legalization efforts include taxes on marijuana, costs associated with legalization may far exceed any additional tax revenue. For example, the tax revenue collected from alcohol pales in comparison to the costs associated with it. Federal excise taxes collected on alcohol in 2009 totaled around $9.4 billion;[27] state and local revenues from alcohol taxes totaled approximately $5.9 billion.[28] Taken together ($15.3 billion), this is just over six percent of the nearly $237.8 billion (adjusted for 2009 inflation) in alcohol-related costs from health care, treatment services, lost productivity, and criminal justice.[29] These figures present a much more complicated picture of the potential revenue streams and costs that marijuana legalization might bring to states and localities.

The existing black market for marijuana likely will not disappear if the drug is legalized and taxed. Research by the RAND Corporation noted that "there is a tremendous profit motive for the existing black market providers to stay in the market, as they can still cover their costs of production and make a nice profit."[30]

It is for these reasons and others that the *National Drug Control Strategy* focuses on drug prevention, treatment, support for recovery, and innovative criminal justice strategies to break the cycle of arrest, incarceration, and re-arrest.

Administration Response/Prevention Efforts

Drug-Free Communities Support Program

The Administration has focused efforts on addressing the public health and public safety consequences of illegal drug use. ONDCP is taking a number of steps to prevent marijuana use by working closely with the public, particularly young people and parents. ONDCP funds the

[26] Office of the Deputy Attorney General. "Guidance Regarding Marijuana Enforcement." U.S. Department of Justice. [August 29, 2013]. Available: http://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf
[27] Tax Policy Center. "Annual Federal Excise Tax Revenue by Type of Tax 1996-2009." Urban Institute and Brookings Institution. [March 2011]. Available: http://www.taxpolicycenter.org/taxfacts/displayafact.cfm?Docid=74&Topic2id=80
[28] Tax Policy Center. "Alcohol Tax Revenue." Urban Institute and Brookings Institution. [December 2011]. Available: http://www.taxpolicycenter.org/taxfacts/displayafact.cfm?Docid=399
[29] Ellen E. Bouchery, Henrick J. Harwood, Jeffrey J. Sacks, Carol J. Simon, Robert D. Brewer. *Economic Costs of Excessive Alcohol Consumption in the U.S., 2006.* American Journal of Preventive Medicine - November 2011 (Vol. 41, Issue 5, Pages 516-524, DOI: 10.1016/j.amepre.2011.06.045). Available: http://www.ajpmonline.org/article/S0749-3797(11)00538-1/fulltext
[30] Pacula, Rosalie L. Legalizing Marijuana: Issues to Consider Before Reforming California State Law. RAND Corporation. [October 2009]. Available: http://www.rand.org/pubs/testimonies/2009/RAND_CT334.pdf

Drug-Free Communities (DFC) Support Program, a powerful tool supporting drug prevention efforts in communities nationwide. The rationale behind the DFC program is that local drug problems require local solutions, and since the passage of the DFC Act in 1997, ONDCP has awarded nearly 2,000 DFC grants to community coalitions across the Nation. DFC grantees have included community coalitions in all 50 states, the District of Columbia, the Virgin Islands, American Samoa, Puerto Rico, Guam, Micronesia, and Palau. With a small Federal investment, the DFC program doubles the amount of funding to address youth substance use through the DFC program's match requirement. The program currently provides grants to approximately 650 local drug-free community coalitions, enabling them to increase collaboration among community partners, including local youth, parent, business, religious, civic, law enforcement, and other groups, to prevent and reduce youth substance use, including marijuana use.

DFC coalitions across the country have identified marijuana as a significant problem in their communities. In fact, nearly 90 percent of Fiscal Year (FY) 2012 DFC coalitions list marijuana as one of their top five targeted substances, and are taking action to prevent young people from using the drug.[31] These coalitions employ a host of prevention strategies, including disseminating multi-lingual educational materials, hosting drug-free social events for youth, working with schools and educators to promote drug free campuses, and working with local media to highlight prevention activities.

DFC coalitions are also working to prevent youth marijuana use in states with more permissive laws. For example, a DFC coalition in Mercer Island, Washington, is partnering with the local high school to produce a video to be shown to all students that advises them about Washington state law regarding minors and marijuana, as well as the consequences of breaking the law. In addition, the coalition started an outreach campaign in the community that lasted through spring and summer and included information in the City newsletter, online news outlets in the community, Faith Community outreach, and other media efforts, seeking to better inform citizens about the law and its constraints. This is just one example of the many DFC grantees around the country seeking to prevent marijuana use among young people in their communities.

Recent evaluation data indicate that where DFC dollars are invested and coalitions operate, youth substance use is lower. Between 2002 and 2012, youth living in DFC communities have experienced reductions in use of alcohol, tobacco, and marijuana among both middle school and high school students. In fact, across all DFC grantees, long-term prevalence of past 30-day marijuana use by middle school youth declined 23 percent. Marijuana use among high school youth also declined over this time period, though only by four percent.[32] Among current DFC grantees, evaluations found similar promising results among middle school youth, with the long-term prevalence rate of past 30-day marijuana use declining by 21 percent from the first to the most recent evaluation report.[33] And when compared to national trends in high school students' use of marijuana, DFC communities demonstrated consistently lower rates of use in

[31] Unpublished Drug Free Communities Support Program Evaluation Tracking.
[32] ICF International. *Drug Free Communities Support Program: 2012 National Evaluation Report*. Report Prepared for the Office of National Drug Control Policy, page 16. [June 2013]. Available: http://www.whitehouse.gov/sites/default/files/dfc_2012_interim_report_annual_report_-_final.pdf#page=18
[33] Ibid.

2003, 2005, 2007, and 2009.[34] In DFC communities, both middle and high school students' perception of parental disapproval of marijuana also increased significantly among all grantee cohorts.[35]

All of these results suggest that DFC community coalitions play a significant role in decreasing marijuana use and changing attitudes for the better among young people across the country. For these reasons, ONDCP continues to support the DFC program through training, technical assistance, and evaluation to ensure that community prevention efforts are based in evidence, and can address the challenges presented to young people by marijuana and other substances. ONDCP recently announced the FY 2013 DFC grants, including $19.8 million in new grants to 147 communities and 19 new DFC Mentoring grants across the country. These awards join the $59.4 million in DFC continuation grants released to 473 currently funded DFC coalitions and 4 DFC Mentoring continuation coalitions. Colorado currently has 5 community coalitions funded through the DFC program, and Washington state has 34 coalitions, all focused on preventing youth drug use in communities throughout their states.

National Youth Anti-Drug Media Campaign/Above the Influence

In addition, the National Youth Anti-Drug Media Campaign provides teens exposure to anti-drug messages, using targeted outreach through outlets such as online social media, radio, and television. The Media Campaign's youth-targeted "Above the Influence" (ATI) campaign balances broad prevention messaging at the national level with targeted efforts at the local community level. This approach allows the campaign to reach teens across the country with a highly visible and effective national messaging presence while encouraging youth participation with ATI at the community level. Youth-serving organizations, such as DFC grantees, Boys and Girls Clubs of America, SADD Chapters, Girls Inc., Girl Scouts, Community Anti-Drug Coalitions of America (CADCA), the National Organization for Youth Safety (NOYS), ASPIRA, and Y's (formerly YMCAs), worked directly with the Media Campaign to implement on-the-ground ATI activities with teens.

The "Above the Influence" campaign, which is being transitioned to the Partnership at Drugfree.org, is an important national tool for informing and inspiring young people to lead healthy lives that include rejecting illicit drugs, including marijuana. The new home of the ATI, the Partnership at DrugFree.org, has a long-standing commitment to educating parents and young people about the dangers of marijuana use, as well as connecting people to intervention and treatment information they may need.

Drugged Driving

Driving under the influence of drugs or alcohol continues to pose a significant threat to public safety. A systematic review of the literature indicates that acute marijuana consumption is associated with an increased risk of motor vehicle collisions resulting in serious injury or death,

[34] Ibid, pg. 17
[35] Ibid, pg. 19

compared with drivers not consuming marijuana.[36] Sadly, this is too frequently being demonstrated on America's roads. In 2009, marijuana accounted for 25 percent of all positive drug tests for fatally injured drivers for whom drug-test results were known and for 43 percent among fatalities involving drivers 24 years of age and younger with known drug-test results.[37] Moreover, approximately one in eight high school seniors responding to the 2013 Monitoring the Future survey reported driving after smoking marijuana within two weeks prior to the survey interview, more than the number who reported driving after consuming alcohol.[38]

In response to this problem, four years ago, ONDCP identified drugged driving as a national priority in the 2010 *National Drug Control Strategy* and set an ambitious goal of reducing drugged driving in America by 10 percent by the year 2015. In the four years since we started, we have made progress in addressing this issue. President Obama declared December *National Impaired Driving Prevention Month* in 2010, 2011, 2012, and 2013 and called on all Americans to commit to driving sober, drug free, and without distractions. And in October 2011, leaders in youth prevention, highway safety, law enforcement, government, and research gathered at ONDCP's Drugged Driving Summit to identify priorities to reduce this problem. At this event, ONDCP and Mothers Against Drunk Driving (MADD) agreed to raise public awareness regarding the consequences of drugged driving. The "Above the Influence" campaign also released a Drugged Driving Toolkit to assist parents and community leaders with drugged driving prevention. In 2013 and 2014, the National Transportation Safety Board has included eliminating substance-impaired driving on its Most Wanted List, the top 10 advocacy and awareness priorities for the agency.

The Administration is also making training more available to law enforcement and prosecutors, creating an online version of the Advanced Roadside Impaired Driving Enforcement program (ARIDE), a training course that gives officers additional skills to recognize signs and symptoms of drugs other than alcohol. ONDCP is also supporting driving-simulator research to examine driving impairment as a result of marijuana and combined marijuana and alcohol use and to correlate the findings with the results of oral fluid testing.

As these initiatives move forward, ONDCP continues to support enhanced laws against drugged driving. Through the dissemination of best practices guidance documents, educational packets, and webinars, ONDCP provided states with information and technical assistance needed to enact drugged driving legislation. Both Colorado and Washington have recognized that drugged driving is a significant concern, and have passed laws against driving under the influence of marijuana. Colorado passed its law setting a threshold of 5 nanograms per milliliter of delta 9-tetrahydrocannabinol in the blood as an indication of driving under the influence in

[36] Asbridge, M; Hayden, J.; Cartwright, J. (2012). Acute cannabis consumption and motor vehicle collision risk: systematic review of observational studies and meta-analysis, *BMJ* 201;344:e536. Available at http://www.bmj.com/content/344/bmj.e536

[37] Office of National Drug Control Policy. (October 2011). Drug Testing and Drug-Involved Driving of Fatally Injured Drivers in the United States: 2005-2009. Available at http://www.whitehouse.gov/sites/default/files/ondcp/issues-content/fars_report_october_2011.pdf

[38] Institute for Social Research, the University of Michigan. 2011 Monitoring the Future survey.

May 2013,[39] and Washington passed a similar standard as part of its marijuana legalization effort in 2012.[40]

High Intensity Drug Trafficking Areas (HIDTA) Program

ONDCP's High Intensity Drug Trafficking Areas (HIDTA) program provides assistance to Federal, state, local, and tribal law enforcement agencies operating in areas determined to be critical drug trafficking regions of the United States. The HIDTA program facilitates cooperation among an array of law enforcement agencies to share information and implement coordinated enforcement activities to improve law enforcement capabilities to reduce the supply of illegal drugs in designated areas of the United States and in the Nation as a whole. ONDCP currently funds 28 HIDTAs, which cover approximately 16 percent of all counties in the United States and 60 percent of the U.S. population. HIDTA-designated counties are located in 46 states, as well as in Puerto Rico, the U.S. Virgin Islands, and the District of Columbia.

While the HIDTA program's primary mission is to dismantle and disrupt drug trafficking organizations, expanding prevention efforts offers HIDTAs the ability to address the drug threat in a community in a more balanced fashion. As recently as 2010, only four HIDTAs used base funding for prevention initiatives. Currently, 22 HIDTAs, including all 5 Southwest Border HIDTA Regions, sponsor prevention activities. Nine HIDTAs (Houston, Michigan, Milwaukee, North Texas, Northwest, Puerto Rico, Southwest Border (SWB)-Arizona, SWB-San Diego/Imperial Valley, and Washington/Baltimore) specifically target marijuana, among other substances, in their prevention efforts. For example, the Southwest Border HIDTA–San Diego/Imperial County works closely with more than a dozen other organizations on prevention initiatives, including youth service organizations and a U.S. Border Patrol program that educates children about drug use. One of this HIDTA's primary coalition partners is California for Drug Free Youth, Inc., a DFC grantee that shares an office location with the HIDTA. The Oregon HIDTA and Oregon Partnership, another DFC grantee, work together to provide resources to law enforcement officers to educate youth on the dangers of using drugs, as well as the risks associated with use that can lead to youth violence and criminal street gangs.

In addition, ONDCP coordinates the Public Lands Drug Control Committee (PLDCC), a Federal interagency group that focuses on eliminating marijuana production on our public lands. The PLDCC aligns policies and coordinates programs to support field-level marijuana eradication operations, investigations, and intelligence and information sharing. The PLDCC also focuses on minimizing the environmental impact caused by marijuana production on public lands. Outdoor marijuana cultivation creates a host of negative environmental effects. These grow sites affect wildlife, vegetation, water, soil, and other natural resources through the use of chemicals, fertilizers, terracing, and poaching. Marijuana cultivation results in the chemical contamination and alteration of watersheds; diversion of natural water sources; elimination of

[39] Colorado General Assembly. House Bill 13-1325. [2013]. Available: http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/746F2A0BF687A54987257B5E0076F3CD?open&file=1325_enr.pdf

[40] Washington Liquor Control Board. I-502 Full Text. State of Washington. [2012]. Available: http://www.liq.wa.gov/publications/Marijuana/I-502/i502.pdf

native vegetation; wildfire hazards; poaching of wildlife; and disposal of garbage, non-biodegradable materials, and human waste. The PLDCC is helping coordinate research into the scope and scale of this environmental impact, and is working with Federal, state, local, and tribal agencies and stakeholder organizations to minimize the effects on our public lands.

Conclusion

We continue to work with youth, parents, educators, and our Federal, state, local, tribal, and international partners to reduce marijuana use in America. Marijuana use strains our health care system, and jeopardizes the health and safety of the users themselves, their families, and our communities. Due to the considerable variation in state laws and constantly changing attitudes toward the drug, there is no silver bullet to reduce its use across the country. There are ways to prevent and reduce marijuana use in America, particularly among young people. Our ougoing work must combine prevention, early intervention, rational enforcement measures, and ongoing study of the drug and its consequences.

Thank you for the opportunity to testify here today and for your ongoing commitment to this issue.

Mr. MICA. Thank you. We will turn to questions.

I am going to yield first to Mr. Turner, who has another obligation.

Mr. TURNER. Mr. Chairman, I greatly appreciate that. I do have another objection. This gives me an opportunity to ask our question.

Mr. Botticelli, in your statement I was very taken by the sentence that says, "The Administration continues to oppose attempts to legalize marijuana and other drugs." So the natural question to you is has the Office of the National Drug Control Policy been asked to weigh in on marijuana legalization battles that are going on in the States? If yes, what advice have you given during those battles and do you plan to proactively weigh in on future legislative initiatives? If you continue to oppose it, what have you done?

Mr. BOTTICELLI. Our role in terms of legalization efforts has been to provide constituents at both the national, State level, and community level with accurate information as it relates particularly to the health consequences.

Mr. TURNER. How do you do that? What constituents? Do you post it on your website? Do you actively get in touch with the decision-makers? Do you engage in the dialogue that is occurring during these debates?

Mr. BOTTICELLI. We do it through our website by putting information on our website.

Mr. TURNER. Going to my next question, despite the implementation of what allegedly are legal dispensaries, the DEA has found illegal operations and has raided several marijuana dispensaries in Colorado. How confident are you that 100 percent of the drug trade in Colorado is free from the influence of drug cartels?

Mr. BOTTICELLI. Sir, unfortunately, I am the only representative at this hearing today, and I would ask that you defer those questions to either Department of Justice or DEA.

Mr. TURNER. We will do that. The only reason why I ask you this question is because when you stated in your written testimony what your role was, you said it was, we are established by Congress for the principal purpose of reducing, and I see the line here, drug-related crime and violence and drug-related health consequences, trafficking, and so I thought you would have a statement with respect to drug cartels.

Third question, what are you doing to ensure that marijuana will not be exported from legal States to illegal States? Again, seeing that from your written statement that is certainly part of what you were tasked with by Congress. What do you see there, sir?

Mr. BOTTICELLI. So, as you are aware, in the August Department of Justice memo, they set out a criteria for any State that is moving toward legalization in terms of States' responsibility in implementing legalization efforts in terms of marijuana. Clearly, one of those criteria that the Department of Justice is looking at is preventing the States' responsibility in preventing the transportation of marijuana in States where it is legal to where it is not. It is incumbent upon the States to ensure that that does not happen.

Our role, in terms of Office of National Drug Control Policy, is to really monitor not only the public safety, that criteria that they have laid out, but other public health and public safety criteria to

determine what is the impact of legalization in those States as it affects those criteria.

Mr. TURNER. Do you have concerns as to what you are seeing from their monitoring?

Mr. BOTTICELLI. At this point, we are still gathering data, and I think it is premature to speculate in terms of those criteria and what the impact is seeing.

Mr. TURNER. Well, again, looking back to what you described as your own congressional charter, obviously there is an expectation on the behalf of Congress that there would be an active role that you play. We look forward to your conclusions.

Mr. Chairman, thank you.

Mr. MICA. Thank you, Mr. Turner.

Mr. Connolly?

Mr. CONNOLLY. Thank you, Mr. Chairman. Again, I would yield to the distinguished ranking member of the committee if he wishes to.

Mr. CUMMINGS. Thank you very much. I want to thank the gentleman for yielding.

I want to discuss what a conviction for marijuana possession, no matter how small, means for most individuals across the Country. With a conviction, a person loses the right to vote, Federal financial aid and public housing assistance. Conviction erodes employment opportunities and future earning potential. And I can tell you that I live in a neighborhood where The Wire was filmed, so I see a lot of young men who have basically been sentenced to a life term of not being able to move as a normal citizen would in this society.

Deputy Director, let me ask you this. Isn't it true that convictions for even minor, non-violent drug possession have a significant negative effect on an individual, their families, community, and the Nation? Would you agree with that?

Mr. BOTTICELLI. I would, sir. And by way of context, when Director Kerlikowske took this position—Director Kerlikowske is the Director of Office of National Drug Control Policy—a former police chief in Buffalo and Seattle, took this position, he clearly articulated that we cannot arrest our way out of the problem; that what we need to do is really have a robust strategy reflecting in our strategy prevention, intervention, and treatment, and a series of criminal justice reforms that does everything we can to divert people away from the criminal justice problem. And I can tell you, I was in Massachusetts at the time as the director, and it really signaled to me an important shift in drug policy, away from a war on drugs approach and really looking at this as a public health related issue, particularly as it relates to the racial and ethnic disparities that we see as it relates to drug use.

Part of the role of our office is to also look at what are the impediments for those people in recovery, like me, who often do have criminal records and what does that impairment mean in terms of their ability to have a vibrant life in the community and seek meaningful employment and meaningful housing. So, to that end, we have been focusing on actions to diminish those barriers.

So clearly those issues are important to us. I think you will find that they are reflected in our strategy and making sure that we are not dealing with this just as a public safety issue, but how we

think about prevention, treatment, recovery support, and, again, looking at smart criminal justice reforms to make sure that we are not incarcerating people for low level non-violent offenders. I think, as you know, Department of Justice has been supporting many States' efforts around justice reinvestment and are clearly understanding, both from an economic perspective and a humane perspective, we can't continue to incarcerate our way out of this.

Mr. CUMMINGS. Well, let me ask you this. How do you all interact, that is, ONDCP, with the Justice Department with regard to when you have some States saying recreational drugs, you can purchase them, and then most States saying you go to jail? I think that that is what, I think, this hearing was trying to get to. Where are we going with that? Because it is just seems so incredibly unfair that you would have a situation—and like I said, I see people that are affected by these laws every day. On the other hand, I am also concerned, very much so, and Mr. Mica, remember when he and I were involved in the criminal justice subcommittee, we both are very concerned about the effects of marijuana. So how do you all try to strike that balance?

Mr. BOTTICELLI. I would say, representative, that that is the entire position of our strategy, that it is not kind of war on drugs, arrest people, send them to jail on one hand and, quite honestly, legalize as the silver bullet to our problem; that we believe in a much more balanced and middle of the road approach that deals with this as a public health-related issue. And the primary way that we do that is by setting the Administration's national drug control strategy. Obviously, that is transmitted to Congress. And a big portion of that is really about smart criminal justice and innovative criminal justice reforms that look at not incarcerating people, not arresting people for low level violent use, but making sure that folks have access to a wide variety of public health interventions, too.

Mr. CUMMINGS. And I just want to make sure you are clear. It is just not the incarceration, you are right. I mean, when a person gets a record, a record, they are doomed for life. So it is not just the incarceration.

I see my time is up, Mr. Chairman. Thank you.

Mr. CONNOLLY. Would the chairman just allow me——

Mr. MICA. Go right ahead.

Mr. CONNOLLY. If the distinguished member would yield.

Mr. CUMMINGS. Of course.

Mr. CONNOLLY. You and I have worked together on problems involving the ability of people to cast a vote. To your very last point, Mr. Cummings, is it not true that among the things that affects them for life, it can also affect their ability to participate in the electoral system?

Mr. CUMMINGS. Reclaiming my time. Yes.

Mr. CONNOLLY. I thank the chair.

Mr. MICA. Okay.

Well, Mr. Botticelli, you are the deputy director of the Office of National Drug Control Policy. That office is under the White House, right? Now, when the President said I don't think, referring to marijuana as more dangerous than alcohol, what was your reaction?

Mr. BOTTICELLI. I think the Administration's policy has been consistent as it relates to——

Mr. MICA. But he is the chief executive and the office that you are in was set up under the White House to report to the President. You just got through saying that it is dangerous, we continue to spend resources to try to stop children and others. You also said since the beginning of 2007 to most recent statistics we have seen an increase in adolescent use and abuse. Then the President said it is important that we go forward, and he was speaking with legalization, because it is important for a society not to have a situation where a large portion of people have at one time broken the law and only a select few are punished. I mean, this is in conflict with what you were using taxpayer dollars to try to avoid. You just got through also testifying 314,000 in treatment for marijuana, which is only surpassed by alcohol abuse, is that correct?

Mr. BOTTICELLI. That is correct.

Mr. MICA. So we have more use, which is there anybody here that wants to legalize this for adolescents? I don't think so. But we are getting more hooked, and the President comes out with this statement. I am afraid, too, we have gone from just say no and then we had I didn't inhale, and now it is just say maybe or just go ahead, and it does concern me because our youth are the most impressionable.

I was asking my staff, because I remember turning to a political consultant, a little bit controversial, but one of the best in the business, Dick Morris, and I had worked on some campaigns with him and I said, Dick Morris, I believe, lost his brother to drug substance abuse and Dick was convinced that the way to change public opinion was with ads and you can change public opinions in that regard. That is where we launched some of our ads. We originally were trying to get the media, which is about as slack as you can get in putting up ads, even though we control the airwaves and they are supposed to be free. But then I think the deal we cut with Clinton was to have half paid and half donated time. Are we still doing those ads? I mean, to influence public opinion in young people, you have ads and now we have emails, we have Twitter and texting and a whole host of social media. Are we paying taxpayer money to use those techniques, which are supposed to be the most effective, to try to curtail—again, I think we would start with adolescents. Adults are one thing, but adolescents. Are we doing that?

Mr. BOTTICELLI. Our office has been administering the Above the Influence campaign, which uses a wide variety of largely social media techniques——

Mr. MICA. Have we dropped going after marijuana?

Mr. BOTTICELLI. So——

Mr. MICA. Have we dropped going after marijuana? Do we have any ads? We have done a great job on tobacco, particularly, in the last few years, but what about marijuana?

Mr. BOTTICELLI. So I have been doing prevention work for a long time and for a wide variety of areas. In Massachusetts, tobacco control was under my authority, as well as substance use. And I think what we know in terms of prevention science is that often we have to focus on providing youth with resiliency skills to resist a wide variety of substances.

Mr. MICA. But you are not answering my question. Is the United States of America, under the Office of National Drug Control Policy, do we have any programs that you are aware of that are advertising to change the behavior of adolescents in regard to marijuana today?

Mr. BOTTICELLI. Yes, we are.

Mr. MICA. We are. Specific? Maybe you can provide us with some copies. I would like to see what we are doing, because the law is going in a different way in some of the States. I mean, we haven't even gotten into the conflict using law enforcement resources. Mr. Turner just talked about them coming in raiding, Federal authorities, in States which have now taken measures and other people have taken advantage of. But I am concerned, again, the trend with young people. I am not sure where we are going to go with this whole thing. I have my own opinions. I was talking with Mr. Connolly, he has his. There is the medical marijuana use issue; there is a recreational use; there is the legalization use. But I think we have the most schizophrenic policy I have ever seen as far as dealing with a social issue and, again, with laws that are in conflict with public spending, which is in great conflict.

Mr. BOTTICELLI. So one of the things that I can say both in terms of the public information campaign that we have been running, as well as our Drug Free Communities programs that both have had independent evaluations and they are a success, with our drug free coalitions and through independent evaluation of our Above the Influence campaign, that we have been able to make significant progress; that we have evidence of effectiveness of a wide variety of our prevention programs. And I agree, I think many of those strategies were adapted from tobacco campaign programs in terms of how you provide those messages to youth. Our work——

Mr. MICA. Well, again, we have had some successes, but I don't know exactly how much money we have been spending. We are going to find that out for the record; you are going to provide it to the committee. It doesn't sound like we have had much success. You just testified actually increase in some of those categories. Got large number in treatment. Then sort of the icing on the cake is, by the way, our new health care will cover it, so don't worry, you are covered for treatment. Once you get to treatment, you are pretty bad off.

Let me ask you a question. Mr. Cummings and I chaired the subcommittee. Everyone we had come before us said that marijuana is a gateway drug; most people who go to the other harder drugs start up with marijuana. Is that still the case or has that changed? Are they going straight to other drugs now?

Mr. BOTTICELLI. So let me respond to a number of questions that you have raised here. So, first and foremost, if you look at a wide variety of drug use indicators in the United States, we have made significant progress in many areas. We have seen reductions in youth use of alcohol; we have seen reductions in cocaine; we have seen recent reductions in prescription drug use. So I think we have seen that where we—and those are direct areas of focus for our national drug control policy.

Mr. MICA. I met with local police officers last week for breakfast and they told me two things. They said it is not getting any better.

It looks like some of the deaths have dropped, but they said that is only because they have better treatment, they are catching them, but actually the incidents are up, and they shift from drugs. It is now, because of this there isn't much risk, it is socially acceptable, go to marijuana, but the adult population, too, is shifting back to methamphetamines and prescription drugs, as you know, has spiraled, misuse of them has spiraled out of control.

Mr. BOTTICELLI. But your point in terms of the increase in terms of marijuana use I think is particularly important, and if you talk to Dr. Nora Volkow, who is the Director of the National Institute on Drug Abuse, kind of the preeminent researcher in this area,—you know, we support most of the world's major research as it relates to drug and drug-related issues—she will tell you that prevention science tells us that when people see things as less risky, think of yourself and your own behavior, that you are more likely to do it. One of the reasons why we have had success with tobacco is kids see it as risky. And, unfortunately, kids no longer see, the vast majority of kids no longer see marijuana as risky. So it is no surprise that——

Mr. MICA. Right after the President's statement, too, when he said it is no different than alcohol. I am only reciting what others have said. The DEA chief, one of their chiefs said he viewed last Wednesday, I guess it was called the legalization of marijuana at the State level reckless and irresponsible, warning that the movement to decriminalize the sale of pot in the United States will have serious consequences. Do you agree or disagree with that?

Mr. BOTTICELLI. Again, the Administration's position has not changed as it relates to——

Mr. MICA. So you agree with what he says?

Mr. BOTTICELLI. The President has indicated that this is a public health challenge and that we need to deal with it as a public health challenge.

Mr. MICA. Well, again, the President—I mean, I didn't start this; the President made his comments, and now you have different agencies, including yourself under the President, saying something different than what we are hearing in some quarters.

With that, let me go to Mr. Connolly, because you yielded.

Mr. CONNOLLY. Thank you, Mr. Chairman.

Welcome, Mr. Botticelli.

Mr. BOTTICELLI. Thank you.

Mr. CONNOLLY. Let me just say I have enjoyed your paintings for many years. Thank you very much.

Mr. BOTTICELLI. I wish I could say that.

Mr. CONNOLLY. We are honored. I know. I couldn't resist. Are you from Massachusetts, by the way, originally?

Mr. BOTTICELLI. I am from Massachusetts.

Mr. CONNOLLY. Where?

Mr. BOTTICELLI. I lived outside of Boston, in Malden, Massachusetts.

Mr. CONNOLLY. I am from Brighton and Allston.

Mr. BOTTICELLI. Oh, you are?

Mr. CONNOLLY. And I can talk like that if I have to.

Mr. BOTTICELLI. My first apartment was on Camh Avenue.

Mr. CONNOLLY. All right. Well, glad to have you here.

To this point about the President's statement, I mean, holding in abeyance whether he should or shouldn't have made it or what he intended from it, how many people die from marijuana overdoses every year?

Mr. BOTTICELLI. I don't know that. I know it is very rare for someone to die.

Mr. CONNOLLY. Very rare.

Mr. BOTTICELLI. Yes.

Mr. CONNOLLY. Now, just contrast that. Prescription drugs, prescription drugs, unintentional deaths from prescription drugs, one American dies every 19 minutes. Nothing comparable in marijuana, is that correct?

Mr. BOTTICELLI. Correct.

Mr. CONNOLLY. Alcohol. Hundreds of thousands of people die every year from alcohol-related deaths. Automobiles, liver disease, esophageal cancers, blood poisoning from too much toxicity from alcohol, is that not correct?

Mr. BOTTICELLI. Let me——

Mr. CONNOLLY. No, Mr. Botticelli, is that correct?

Mr. BOTTICELLI. I think the way that you have to look at this is that the totality of harm that is associated with a substance, and to basically say that because marijuana doesn't have the lethality and the overdose potential that heroin or alcohol does diminishes, I think, the significant health consequences that are associated with the drug.

Mr. CONNOLLY. Well, I guess I am sticking with the President, the head of your administration, who was making a different point, and he was making a point that is empirically true, that isn't a normative statement that marijuana is good or bad, but he was contrasting it with alcohol, and empirically he is correct, is he not?

Mr. BOTTICELLI. I think the point here is that the Administration's position has not changed——

Mr. CONNOLLY. Mr. Botticelli, I am not asking you that question.

Mr. BOTTICELLI.—and that when you look at alcohol and substance abuse, marijuana, that we have to look at this as a public health related issue. So I have to say this morning——

Mr. CONNOLLY. Mr. Botticelli, excuse me, no. I am asking the questions here, Mr. Botticelli, and I am asking you, I am directing you to answer them. If you want to add your opinion, fine, but is it not a scientific fact that there is nothing comparable with marijuana? And I am not saying it is good or bad, but when we look at deaths and illnesses, alcohol, other hard drugs are certainly, even prescription drugs, are a threat to public health in a way that, just isolated, marijuana is not? Isn't that a scientific fact? Or do you dispute that fact?

Mr. BOTTICELLI. No, no, I don't dispute that fact.

Mr. CONNOLLY. Okay.

Mr. BOTTICELLI. But may I continue?

Mr. CONNOLLY. Well, just a second.

Mr. BOTTICELLI. I think——

Mr. CONNOLLY. I hear brickbrats being thrown at the President as if he did something reckless, and my view is he was trying to put this into perspective, because there are States that have decided to go down a different path, and my friends on the other side

of the aisle are all for States' rights when it comes to guns or gay marriage or other things, but apparently in this case States have no business getting in the drug business.

Let me ask you this question. It looks to me like public opinion has shifted profoundly. Twenty States and the District of Columbia now allow marijuana to be used for medical purposes and two States, by law, in referendum, just voted to legalize, regulate, and tax the recreational use of marijuana. That is almost half the Country. And then you look at Portland. In 1969, when the war on drugs began under Richard Nixon, only 12 percent of the population supported legalizing marijuana. That same percentage today is 52 percent. That is a huge change in public opinion.

Given all of the efforts again, as the chairman said, Just Say No under Nancy Reagan, and all kinds of PSAs on television and radio and newspaper in trying to make sure that we highlighted how dangerous drug use of any kind could be, why do you think public opinion has shifted so dramatically on the issue of marijuana?

Mr. BOTTICELLI. Again, from my standpoint, and I will speak candidly, that I am not sure the public is getting a fair and accurate view, particularly as it relates to the public health consequences of marijuana. I think that it has been portrayed as benign substance. I don't think that they fully understand or have gotten information to really understand the magnitude of the issue. So I think that that is part of the issue. And we have seen this with other substances, we have seen this with prescription drug abuse, that when people see something that is legal, when they see that it is often prescribed by a physician, people see it as benign and not harmful. So it is not a surprise for me to see that change in public perception.

Mr. CONNOLLY. All right, let me pick up on the point you are making. First of all, this whole issue of is it a gateway drug, is there empirical evidence that in fact it is a gateway drug? Can we empirically correlate the use of marijuana to then moving on to other more dangerous substances?

Mr. BOTTICELLI. So we know that the earlier that someone, and particularly in adolescence, uses marijuana, the more likely they are to develop a dependence and go on to more significant issues. And if you look at those folks who have an opiate disorder, prescription drugs or heroin, they will often tell you and you will often see that they started with early tobacco, early alcohol, and early marijuana use.

Mr. CONNOLLY. But, Mr. Botticelli, that is a logical fallacy. Yes, that is true, but that begs the question of the fact that millions of Americans, Mr. Blumenauer I think cited 50 million, have used marijuana and they didn't go on to all those other drugs. So we have to segregate the addictive personality from the recreational, occasional user. And, again, I mean nothing normative by this. I already said in my opening statement I am a child of the 1960s. I am extremely leery of legalizing any drugs; I have seen the damage. But I want us to be basing—the fact of the matter is the war on drugs doesn't look like they work very well in public opinion, in demand, you know, whereas other campaigns, such as tobacco, that are voluntary actually have worked. So maybe we could learn something from that, as opposed to incarcerating especially minor-

ity populations in this Country; and that doesn't seem to have worked either, it doesn't seem to have reduced demand.

Mr. BOTTICELLI. Representative Connolly, so I think just focusing on marijuana as a gateway drug obviates the total harms associated with substance. We know many people who use alcohol and get into problems, and they don't have an addictive disorder. But that doesn't mean that there is not harms associated with use. And the same is true with marijuana. We know about one in nine people who use marijuana go on to develop a dependency. But we also know that there are health consequences associated with marijuana use in general, and particularly with adolescents and young adults. So, again, National Institute of Drug Abuse has shown that youth brain is in development up until 25 years of age and that regular substance use, including marijuana use, can have significant long-term effects. We are not talking about folks who gateway to other drugs, but we are talking about just marijuana use in general.

So I think you really have to look at not just those people who go on to develop addictive disorders. Yes, we need to be concerned about that. But you really have to look at the totality of harm. Think about the number of people who use marijuana and get in fatal car accidents. They may not have an addictive disorder, but clearly their marijuana use has had significant health consequences.

Mr. CONNOLLY. My time is long up and I thank the chair for his indulgence. I would just say, though, the problem with that logic is it takes us exactly where we are today. So it fills up our prisons, even when it is really a small amount of possession, and where the effect is we treat somebody no different than if they committed a violent crime. And those inequities in our prison system are the consequence of treating marijuana exactly the way you just described it.

Mr. BOTTICELLI. I think under this Administration we have really tried to move away from that war on drugs and arresting and incarcerating. So this is where we believe that there is a balanced approach here; not legalization that has some of the attendant public health consequences to it and not a war on drugs approach, but really looking at dealing with this as a public health-related issue and utilizing criminal justice reforms to make sure that we are not arresting and incarcerating. So our policy and our position really focuses on that middle ground in terms of both innovative criminal justice reforms and dealing with this as a public health-related issue.

Mr. MICA. Arresting and incarcerating. I wish Mr. Cummings had stayed, but let me yield to the gentleman from Illinois, Mr. Davis.

Mr. DAVIS. Thank you very much.

Mr. Director, I think you partially answered the question, because as we continue this discussion, could you refresh for me just what the purpose and mission of the Office on Drug Control Policy is?

Mr. BOTTICELLI. Sure. So again we were established by Congress in 1988 with the authority of really setting the Administration's national drug control strategy. We produce that strategy, we send

it to Congress every year, and it really is a blueprint, an interagency blueprint for how, one, the Administration is going to handle drug-related issue and really looking at this whole of Government approach to how we are dealing. So each agency has a role to play, as well as looking at their budgets and making sure that they are aligning their budgets with those drug control strategies. So it sets the Administration's drug control policy, it looks at strategic priorities, it looks at interagency cooperation and interagency action as it relates to how they are going to implement those drug control strategies.

Mr. DAVIS. Do you make recommendations to agencies and to Congress and to the public in general?

Mr. BOTTICELLI. The expressed purpose of our strategy is really to look at how the Federal Government is going to respond and what is our policy related and how other agencies align their work with those policies.

Mr. DAVIS. We have just heard a great deal of discussion relative to disparities among population groups relative to arrests and the judicial process. Would the agency have any position on any of that, or would it have any recommendations, based upon what we have just heard, about disparities and arrests and the judicial process?

Mr. BOTTICELLI. Sure. You know, when you look at our strategy, and this was set in the original 2009 Obama Administration strategy, again, it really focuses on a wide variety of criminal justice reforms to look at that, about how we make sure that we are diverting people from the criminal justice system. You know, one of the things that we have been really promoting, again with the Bureau of Justice assistance, is the expansion of drug courts in the United States. So we now have 2700 drug courts in the United States that are diverting people away from incarceration and giving them treatment along with accountability of those issues. You know, we have been also, again, focusing on things like diminishing the barriers for people to get jobs. We have also been focusing on smart probation efforts. So we have been trying to implement a wide variety of innovative criminal justice programs that really look at moving people away from the criminal justice system.

I think the other piece, too, is looking at these public health strategies of prevention and early intervention. The goal of those is not only intervene early, but really minimize the chances that people are going to intersect with the criminal justice system. You know, often we have not dealt with these issues early, so we want to make sure that we are preventing those issues from happening. So that has been part of our policy position in terms of how do we come up with alternatives to incarceration particularly for folks with substance use disorders.

Mr. DAVIS. Would you see legalization perhaps as an asset in terms of the reduction of need for drug courts?

Mr. BOTTICELLI. Again, I don't see that, we don't see that as an effect when we look at legalization. Again, I think there are concerns around legalization, is that we will see an increase in problematic use and we might need more drug courts if we move down the legalization pathway to do that. So I don't think that it diminishes the need for those kinds of services, and it might have actu-

ally an opposite effect in terms of greater impact and greater need, both within our treatment system and within some of our criminal justice programs like drug courts.

Mr. DAVIS. Thank you very much.

I yield back, Mr. Chairman.

Mr. MICA. Thank you.

Let me yield now to Mr. Blumenauer.

Mr. BLUMENAUER. Thank you again, Mr. Chairman. I really appreciate this and I have found the conversation here to be very useful, and I think you are highlighting the wide range of issues that are on people's minds. I hope there is an opportunity to continue it.

Mr. Botticelli, how many marijuana overdose deaths were there in the most recent year you have available?

Mr. BOTTICELLI. To my knowledge, I don't know if there have been instances of specific overdose-related deaths.

Mr. BLUMENAUER. But you talked about marijuana deaths, so I want to be clear. I am not trying to trap you.

Mr. BOTTICELLI. No, no.

Mr. BLUMENAUER. How many marijuana deaths have there been in the last five years?

Mr. BOTTICELLI. So if you are referring to overdoses, I am not sure of those numbers. If you are referring to fatality——

Mr. BLUMENAUER. Okay, then stop. Then I would like to have you supply us with how many overdose deaths there were, because I have heard from experts whose judgment I respect that they don't know of any. So that would be really important for you to provide at least to me, if not to the committee.

What is more dangerous and addictive, methamphetamines and cocaine or marijuana?

Mr. BOTTICELLI. So I don't think anyone would dispute the fact that there is relative toxicity related to those drugs.

Mr. BLUMENAUER. What I asked——

Mr. BOTTICELLI. But I am afraid——

Mr. BLUMENAUER.—what is more dangerous and what is more addictive, cocaine and meth or marijuana. Pretty simple.

Mr. BOTTICELLI. I think that conversation minimizes the harm——

Mr. BLUMENAUER. No, I am not trying to minimize the harm. I want to know which is more dangerous and addictive.

Mr. BOTTICELLI. You know, again, I go back——

Mr. BLUMENAUER. You don't know?

Mr. BOTTICELLI.—as a public health person, you know, one of the things that we look at is not what is the relative risk of one drug against another.

Mr. BLUMENAUER. Okay. Let me just say that I think that your equivocation right there, being unable to answer something clearly and definitively, when there is unquestioned evidence to the contrary, is why young people don't believe the propaganda, why they think it is benign. If a professional like you cannot answer clearly that meth is more dangerous than marijuana, which every kid on the street knows, which every parent knows, if you can't answer that, maybe that is why we are failing to educate people about the dangers. I don't want kids smoking marijuana; I agree with the

chairman. But if the deputy director of the Office of Drug Policy can't answer that question, how do you expect high school kids to take you seriously?

Mr. BOTTICELLI. So, representative, I didn't mean to be disrespectful and I didn't mean to indicate that there is not different degrees of toxicity associated with different drugs.

Mr. BLUMENAUER. I asked what was more dangerous. You couldn't answer it.

Mr. BOTTICELLI. No.

Mr. BLUMENAUER. I just want to say that you, sir, represent is what is part of the problem.

Let me go a little further. Let's talk about——

Mr. BOTTICELLI. Sir, that is exactly not what I am saying.

Mr. BLUMENAUER.—what kills more people, tobacco or marijuana.

Mr. BOTTICELLI. You know, there has been a fair amount of tobacco-associated deaths. My challenge and the reason that I am hesitating about answering the questions as it relates to relative risk is I think many times that conversation gets distorted that there is no risk, that there is——

Mr. BLUMENAUER. I am not trying to trap you.

Mr. BOTTICELLI. No, no, no. But this is why, representative, I don't want to be disrespectful.

Mr. BLUMENAUER. Let me suggest that your inability to answer me whether tobacco or marijuana is more dangerous, again, is part of the problem.

Mr. Connolly documented very clearly that we have been able to drop dramatically tobacco use, and it kills more people than marijuana, if you don't know that. But we have been able to drop that without locking people up, without arresting. I think this Administration has seen three to four million people arrested for marijuana since it has been in office, and yet we have been able to drop tobacco use without being coercive. We have been using fact-based advertising and we have focused our efforts on things that matter rather than things that don't work. And I respectfully suggest that you and the Department take a step back if you are concerned that somehow people think marijuana is benign, but part of the reason is that drug professionals can't communicate in ways that the rest of America does.

I appreciate your being here and I welcome any written follow-up to my questions. I am not trying to trap you, but I am very discouraged by your inability to answer questions.

Mr. BOTTICELLI. So let me tell you this morning I spent the bulk of my morning with a number of parents from across the Country who are doing everything they can do to prevent drug use, and particularly prescription drug use, and many of them whose kids have died of it in overdose; and I asked them what more can the Federal Government be doing in terms of preventing substance use and preventing the tragedies, and they told me they cannot understand why States are moving to medical marijuana and legal marijuana. They cannot understand it because they understand from a very acute level the message that legalization sends them. So this is not from a bureaucrat in Washington; these are from parents who struggle on a daily basis and have been devastated by addiction in

their kids, and they understand in a very dramatic and real way that legalizing marijuana sends the absolute wrong message to our youth.

Mr. MICA. I thank the gentleman.

We will recognize Mr. Cohen from Tennessee.

Mr. COHEN. Thank you, Mr. Chair.

With all due respect, you should be listening to scientists. I understand the parents who are grieved because their child of an overdose. They didn't overdose on marijuana. And you are listening to them rather than the scientists? Mr. Botticelli, it may go back to A Few Good Men the movie, Jack Nicholson; you can't handle the truth. The truth is the drug war failed. Your direction on marijuana is a failure. Get to dealing and savings kids from heroin overdoses. My young 22-year-old friend died of a heroin overdose. Yes, he smoked marijuana, probably the first thing he did; but that is not why he smoked heroin, or shot it up. Maybe he did it because he heard people like you saying they are all bad and they are all terrible, and you can't deal with the truth and tell them, well, maybe marijuana doesn't kill you; heroin does and meth does. They are different. And until you deal with the truth, the kids aren't going to believe you at all.

Now, you talked about alcohol, and you may have gotten to this. Sclerosis of the liver, pretty serious thing. Violence against spouses and women. People don't smoke marijuana and beat up their wives and girlfriends. They get drunk, sometimes they beat up their wives and girlfriends. And I know you have your statistics. I would debate your statistics. And if you get into your statistics about the amount of people who had marijuana in their system who were arrested or had fatal accidents, I would submit they probably had other drugs in their system, like cocaine or crack, in addition to the marijuana, or they had alcohol and marijuana wasn't the cause. Because what I understand is people who smoke marijuana, mostly they drive slower and they look out for the cops; they don't drive fast and wild like people do on alcohol and cause deaths.

Maybe the reason that so many more people are smoking marijuana now is because they are not listening, and maybe they are doing the other drugs, too. But it also shows that the drug war has been a failure. It has been a serious failure.

Harry Anslinger started—you know who Harry Anslinger is, don't you?

Mr. BOTTICELLI. I do not, unfortunately.

Mr. COHEN. Well, you should, because he is your great-grandfather. He started this war in the 1930s and he was tuned out too, and he did it to get—the American public had problems, and sometimes I think we still have them, with Hispanics and Mexicans coming into this Country, and it was a war on Hispanics and African-Americans. And that is when they made marijuana illegal, was in the 1930s, and it was all directed at those people. And Latinos are just as much discriminated against as African-Americans in disparate arrests. It still continues to this day. It is 85 years since Anslinger started this. And the fact that we spend so much time arresting people is sinful.

You talked about the overall effects of marijuana. Again, you can't name one person who has died from an overdose of marijuana, can you?

Mr. BOTTICELLI. Not to my knowledge, sir.

Mr. COHEN. Right. And you say the cumulative effects. Do you know people, possibly, or heard of people who smoked marijuana who are corporate giants, run banks, run major corporations? Do you know about these people?

Mr. BOTTICELLI. Yes, sir, but I also know equal number of people, I know a substantial number of people who also have gone on to develop significant disorders who have smoked marijuana. Again, one in nine people who try marijuana develop a dependency, and we know that particularly those kids who use it earlier in their adolescence——

Mr. COHEN. Kids shouldn't use it. Kids shouldn't use it ever. And at age 18 people shouldn't be arrested for it. Maybe it should be 21. But kids shouldn't use it. That is something we all agree on.

But the fact is we need to put our priorities toward heroin and meth. What percentage of your budget goes towards heroin addiction?

Mr. BOTTICELLI. Sir, I don't think we necessarily slice our budget, our demand reduction budget based on drugs. Again, our prevention efforts are focused on preventing drug use——

Mr. COHEN. Well, isn't that a mistake, when people die from heroin in great numbers, that the Vermont governor spends his entire state of the State on heroin use, and we don't distinguish and try to save people's lives? When you knock people over at the corner store, it is not to get money to buy a donut because you are high; it is to buy heroin because you are hooked. That causes people to die.

Mr. BOTTICELLI. Our office, in 2011, I think acknowledged the burgeoning prescription drug and opiate epidemic that we have in the United States. In 2011 we released a plan that looks at dealing with prescription drug abuse and opiate issues.

Mr. COHEN. Let me ask you. My time is about to run out, and it may have. Let me ask you one thing. I corresponded, back in 2011, with, I guess, your predecessor, Kerlikowske?

Mr. BOTTICELLI. Kerlikowske. He is actually the current director now.

Mr. COHEN. Is he? He said back then that there was no particular—they haven't found any medical use. To date, however, the FDA and the Institute of Medicine have not found smoked marijuana to be a safe or effective medicine for any condition, nor has any medical association came out in favor of smoked marijuana for widespread medical use.

I think that medical associations have, but are you not aware of the fact that people use smoked marijuana to get them through cancer treatment nausea?

Mr. BOTTICELLI. I do, sir, and it has never been our office's position to arrest people who have been using medical marijuana. I think it is important for us, and again it is unfortunate that the FDA is not here, that it is the FDA process that ultimately determines the scientific efficacy of a drug.

Mr. COHEN. But couldn't you try to influence it? Shouldn't that be part of your job? I had a buddy who was a Seal. He died of pancreatic cancer. He smoked marijuana at the end. His mother said it was the only thing that makes Earl smile or eat. That was pretty good.

Mr. BOTTICELLI. So our role in this is to rely on the FDA scientific process to determine. That is our influencing role, is to rely on the science.

You know, I would also say, and I find it unfortunate and I think I would ask the chairman to invite Dr. Nora Volkow, who is the Director of the National Institute on Drug Abuse, because that is where our policy and our sciences derive from. We are a science-based office and a policy-based office, and I think if you listen to Dr. Volkow, who is not involved in the political discussion around substance use and marijuana, she will lay out for you the scientific evidence that——

Mr. COHEN. Well, let me ask you this. You are prohibited by law from using any funds to study marijuana legalization, for medicinal purposes or any other reason. You are the only office in the Federal Government that is restricted in that way and you are required to oppose any rescheduling of Schedule I substances like marijuana that have been approved for medical purposes. Aren't you troubled by these constraints and don't you think that your expertise should be allowed to be used and study science and contribute to a positive classification of drugs?

Mr. BOTTICELLI. So I am not familiar. Congress put that language in our reauthorization and I don't know the background of that.

Mr. COHEN. Would you support legislation to allow you to participate and to voice your opinion and to use science as a basis for your determination?

Mr. BOTTICELLI. Well, what I would do is support that Federal agencies have the ability to do that, so through——

Mr. COHEN. Yours is prohibited by law. Should that restriction not be lifted?

Mr. BOTTICELLI. Again, I think we would have to have subsequent conversation in terms of——

Mr. COHEN. You mean you think you should be muzzled?

Mr. BOTTICELLI. I think that it is important that our office not involve itself in terms of given legislation or given activities, and I believe that that was the genesis for that language, that the office not involve itself in——

Mr. COHEN. But the totality of the drug world you need to participate. And if you realized that medical marijuana, as 20 States have found, can help people with cancer, with nausea, with maybe glaucoma—Montel Williams apparently has some benefits from it, lots of people do—that you should be able to participate and set our drug policy straight. Your job should be to have a sane drug policy, not to be muzzled and handcuffed.

Mr. BOTTICELLI. From, again, my standpoint, I am happy to engage in a fuller conversation, is that that has not handcuffed other offices and other Federal agencies who are tasked with that work.

Mr. COHEN. In 1971 Congress created a commission that was headed by Governor Schaefer of Pennsylvania to study to study

Federal marijuana policy. That commission came out in favor of decriminalization, but it wasn't put in place. That was 1971. Would you support a new commission to study Federal marijuana policy?

Mr. BOTTICELLI. So I haven't seen that legislation. I would be happy to have further conversation.

Mr. COHEN. It is a concept.

Mr. BOTTICELLI. Again, I think I would be happy to have a conversation in terms of what that might look like.

Mr. COHEN. Thank you, sir, and I yield back the balance of my time.

Mr. MICA. Well, I thank the gentleman. We will have additional questions; some members weren't able to attend today and we didn't get to some responses from the witnesses that we would like to have for the record, so, without objection, we will leave the record open for a period of two weeks. We will also be submitting to you, Mr. Botticelli, some questions we will ask for a written response.

Again, I think this is our first hearing. We may have a series. You have suggested additional witnesses and we are going to try to work with the minority, too, and witnesses that they request. I think this is a very serious issue and it shows a great conflict between Federal, State, local laws, and huge amounts of money that we are spending at the Federal level raises a host of issues about enforcement, about education and prevention programs, and other worthwhile efforts that we have to try to keep substance abuse under control.

So, with that, again, I appreciate your coming out today, being part of this hearing. There being no further business before the Subcommittee on Government Operations, this hearing is adjourned. Thank you.

Mr. BOTTICELLI. Thank you, Mr. Chairman.

[Whereupon, at 3:54 p.m., the subcommittee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

Earl Blumenauer Wants Obama To Drop Marijuana From Dangerous Drug List

[illegible]

Print Article

WASHINGTON -- With federal law enforcement officials moving to make it easier for marijuana businesses to operate in states where they are legal, one member of Congress is calling on President Barack Obama to take the next logical step and remove pot from the federal government's list of tightly restricted drugs.

Marijuana is listed on Schedule I, along with heroin and LSD, under the Controlled Substances Act of 1970. The Drug Enforcement Administration says that such drugs have "no currently accepted medical use and a high potential for abuse" and that they are "the most dangerous drugs of all the drug schedules with potentially severe psychological or physical dependence."

But Rep. Earl Blumenauer (D-Ore.), a longtime advocate for loosening restrictions on marijuana, thinks that definition clearly doesn't apply to weed, which can now be medically prescribed in many states. He's begun circulating a letter to the president among other members of Congress, seeking signers who will ask that marijuana be stricken from the controlled substances categories or at least moved to a less restrictive schedule.

"Schedule I recognizes no medical use, disregarding both medical evidence and the laws of nearly half of the states that have legalized medical marijuana," the letter says.

According to Blumenauer's spokesman, the congressman had been thinking about such a request for a while, but was sparked to pursue it after Obama told The New Yorker magazine that he thought pot was less destructive than booze. "You said that you don't believe marijuana is any more dangerous than alcohol: a fully legalized substance, and believe it to be less dangerous 'in terms of its impact on the individual consumer.' This is true," says the letter. "Marijuana, however, remains listed in the federal Controlled Substances Act at Schedule I, the strictest classification, along with heroin and LSD. This is a higher listing than cocaine and methamphetamine, Schedule II substances that you gave as examples of harder drugs. This makes no sense."

Blumenauer will gain a better sense of how many of his colleagues want to sign on to the effort when Congress returns next week, but it will likely require more than a token level of support to sway Obama. In spite of the president's comments, White House press secretary Jay Carney told reporters last week that Obama remains opposed to decriminalizing pot.

The administration has the authority to determine which substances are and are noton the controlled schedules. Congress can also pass laws to change those lists.

Here is Blumenauer's full letter:

We were encouraged by your recent comments in your interview with David Remnick in the January 27, 2014 issue of the New Yorker, about the shifting public opinion on the legalization of marijuana. We request that you take action to help alleviate the harms to society caused by the federal Schedule I classification of marijuana.

Lives and resources are wasted on enforcing harsh, unrealistic, and unfair marijuana laws. Nearly two-thirds of a million people every year are arrested for marijuana possession. We spend billions every year enforcing marijuana laws, which disproportionately impact minorities. According to the ACLU, black Americans are nearly four times more likely than whites to be arrested for marijuana possession, despite comparable marijuana usage rates.

You said that you don't believe marijuana is any more dangerous than alcohol: a fully legalized substance, and believe it to be less dangerous "in terms of its impact on the individual consumer." This is true. Marijuana, however, remains listed in the federal Controlled Substances Act at Schedule I, the strictest classification, along with heroin and LSD. This is a higher listing than cocaine and methamphetamine, Schedule II substances that you gave as examples of harder drugs. This makes no sense.

Classifying marijuana as Schedule I at the federal level perpetuates an unjust and irrational system. Schedule I recognizes no medical use, disregarding both medical evidence and the laws of nearly half of the states that have legalized medical marijuana. A Schedule I or II classification also means that marijuana businesses in states where adult or medical use are legal cannot deduct business expenses from their taxes or take tax credits due to Section 280E of the federal tax code.

We request that you instruct Attorney General Holder to delist or classify marijuana in a more appropriate way, at the very least eliminating it from Schedule I or II. Furthermore, one would hope that your Administration officials publicly reflect your views on this matter. Statements such as the one from DEA chief of operations James L. Capra that the legalization of marijuana at the state level is "reckless and irresponsible" serve no purposes other than to inflame passions and misinform the public.

Thank you for your continued thoughtfulness about this important issue. We believe the current system wastes resources and destroys lives, in turn damaging families and communities. Taking action on this issue is long overdue.

Michael McAuliff covers Congress and politics for The Huffington Post. Talk to him on Facebook.

RESPONSES TO
QUESTIONS SUBMITTED FOR THE RECORD TO
MICHAEL BOTTICELLI
ACTING DIRECTOR
OFFICE OF NATIONAL DRUG CONTROL POLICY

FOLLOWING FEBRUARY 4, 2014, HEARING ENTITLED,
"MIXED SIGNALS: THE ADMINISTRATION'S POLICY ON MARIJUANA"
SUBCOMMITTEE ON GOVERNMENT OPERATIONS
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES

Chairman John Mica

1. **Please provide a complete list of federal programs that use advertising to alert adolescents to the dangers of marijuana and reduce the use of marijuana by adolescents.**

ANSWER: While a variety of drug abuse prevention programming and efforts exist across the Federal Government, we are not aware of any current, paid Federal advertising campaigns that explicitly focus on marijuana and target adolescents.

The Office of National Drug Control Policy (ONDCP) does run *Above the Influence* (ATI), an advertising campaign targeting teens that supports preventing teen drug and alcohol use through messaging "by teens, for teens". ATI is an aspirational campaign, to encourage teens' strength in rising above the negative influences in their lives, including but not limited to drugs and alcohol. In mid-2012, ONDCP began transitioning the ATI brand to The Partnership for Drug-Free Kids, formerly The Partnership at Drugfree.org.

In addition, the National Institute on Drug Abuse (NIDA) hosts National Drug Facts Week (NDFW), an annual health observance week for teens that aims to shatter the myths about drugs and drug abuse, to include information about marijuana. Through community-based events and activities on the Web and on TV, NIDA works to encourage teens to get factual answers from scientific experts about drugs and drug abuse. The week is promoted on the NIDA website and through Federal partners, national groups, and communities across the country. In 2014, there were more than 1,000 events held around the United States. The initiative is supported with a small amount of contract money but primarily relies on community-based partnerships.

2. **Please provide a list of federal expenditures on advertising about marijuana, including federal programs, federal grants, and any other source of federal expenditures on advertising, for fiscal years 2010-2013.**

ANSWER: Although, the ONDCP *Above the Influence* (ATI) media campaign did not specifically reference the consequences of marijuana use from 2010-2013, appropriated funding for ATI during that the period includes:

FY 2010: $45,000,000

FY 2011: $34,930,000

FY 2012: $0

FY 2013: $0

3. Please provide several examples of federally funded advertisements.

ANSWER: Please find enclosed a disc that contains samples of Federally-funded *Above the Influence* advertising. The following ads are included on the disc:

- Made by Geena
- We Rise Together
- I Do Me
- Stagehands (red cups)

4. How effective is advertising on reducing consumption of illicit substances? Please provide any available studies that show the effectiveness of advertising on reducing the consumption of illicit substances.

ANSWER: Please find attached the following three peer-reviewed academic journal articles which reference the success of the *Above the Influence* campaign in reducing teen use of illicit substances:

- Scheier et al., "An Empirical Assessment of the 'Above the Influence' Advertising Campaign" *Journal of Drug Education*, Vol. 4, 2011
- Slater et al., "Assessing Media Campaigns Linking Marijuana Non-Use with Autonomy and Aspirations", *Prevention Science*, January 2011
- Carpenter, C.S. and Pechmann, C., "Exposure to the 'Above the Influence' Anti-Drug Advertisements and Adolescent Marijuana Use, 2006-2008" *American Journal of Public Health*, March 2011.

5. Is President Obama's statement that marijuana is less dangerous than alcohol correct?

ANSWER: Unlike alcohol, death due to acute cannabis poisoning is exceedingly rare. This does not mean, however, that marijuana use is benign. Research has shown that marijuana use can have serious adverse consequences for physical and mental health, cognitive abilities, social life, and career status.[1] Research suggests heavy marijuana use initiated in the teen years may be associated with impaired intelligence in adulthood even after quitting.[2] We also know that

[1] Gruber AJ, Pope HG, Hudson JI, Yurgelun-Todd D. Attributes of long-term heavy cannabis users: A case control study. Psychological Med 33(8):1415–1422, 2003. Available: http://www.ncbi.nlm.nih.gov/pubmed/14672250
[2] Meier MH, Caspi A, Ambler A, Harrington H, Houts R, Keefe RS, McDonald K, Ward A, Poulton R, TE.

millions of Americans are abusing or dependent on marijuana,[3] and the drug is involved in hundreds of thousands of emergency department visits per year.[4]

6. Is President Obama's statement that marijuana is less dangerous than alcohol dangerous? Is it possible that his statement will decrease the perception of harm and encourage more use?

ANSWER: Marijuana use is not benign. We know that in 2011, marijuana was involved in nearly 456,000 emergency department (ED) visits nationwide, representing approximately 36 percent of all ED visits involving illicit drugs.[5] In 2012, approximately 314,000 Americans 12 or older reported receiving treatment for marijuana use in the past year, more than any other illicit drug and trailing only alcohol and pain relievers.[6]

The dangers of death and serious bodily injury associated with marijuana use may be even more pronounced when it comes to the growing trend of producing and consuming marijuana concentrates with extremely high percentages of THC. These marijuana concentrates, which can contain percentages of THC as high 50-90 percent, are smoked directly or mixed into food products, many of which are sold at marijuana "dispensaries."

7. Are you concerned about the Department of Justice's recent issuance of guidelines to help marijuana companies use federal banks? Are you concerned that legitimizing the sale of marijuana within a federal framework will result in increased use?

ANSWER: As noted in the Department of Justice's (DOJ) February 14th guidance, and consistent with previous guidance, DOJ remains committed to enforcing the *Controlled Substances Act* consistent with Congress' determination that marijuana is a dangerous drug that serves as a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. DOJ is committed to using its investigative and prosecutorial resources to address the most significant marijuana-related cases in an effective and consistent way.

(2012) Persistent cannabis users show neuropsychological decline from childhood to midlife. Proc Natl Acad Sci U S A 109:E2657-2664.

[3] Substance Abuse and Mental Health Services Administration. Results from the 2012 National Survey on Drug Use and Health: Summary of National Findings. Department of Health and Human Services. [September 2013]. Available: http://www.samhsa.gov/data/NSDUH/2012SummNatFindDetTables/NationalFindings/NSDUHresults2012.htm#fig7.2

[4] Substance Abuse and Mental Health Services Administration. Results from the 2012 National Survey on Drug Use and Health: Detailed Tables. Department of Health and Human Services. [September 2013]. Available: http://www.samhsa.gov/data/NSDUH/2012SummNatFindDetTables/DetTabs/NSDUH-DetTabsSect5peTabs1to56-2012.htm#Tab5.42A

[5] Substance Abuse and Mental Health Services Administration. *Drug Abuse Warning Network, 2011: National Estimates of Drug-Related Emergency Department Visits.* Department of Health and Human Services. [May 2013]. Available: http://www.samhsa.gov/data/2k13/DAWN2k11ED/DAWN2k11ED.htm#3.1

[6] Substance Abuse and Mental Health Services Administration. Results from the 2012 National Survey on Drug Use and Health: Detailed Tables. Department of Health and Human Services. [September 2013]. Available: http://www.samhsa.gov/data/NSDUH/2012SummNatFindDetTables/DetTabs/NSDUH-DetTabsSect5peTabs1to56-2012.htm#Tab5.42A

As stated in the February guidance:

> *As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the [Controlled Substances Act], the money laundering and unlicensed money transmitter statutes, or the [Bank Secrecy Act], including the obligation of financial institutions to conduct customer due diligence.*

8. Do you believe that the Department of Justice's August 29, 2013 memo increases or decreases the perception that marijuana is harmful?

ANSWER: By its own terms, the DOJ memo issued on August 29, 2013 to Federal prosecutors regarding marijuana enforcement, reinforces that "Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels." The memo stated that DOJ will focus its limited investigative and prosecutorial resources on eight Federal enforcement priorities that include:

1) Preventing the distribution of marijuana to minors.
2) Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels.
3) Preventing the diversion of marijuana from states where it is legal under state law to other states.
4) Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity.
5) Preventing violence and the use of firearms in the cultivation and distribution of marijuana.
6) Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use.
7) Preventing growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands.
8) Preventing marijuana possession or use on federal property.

The guidance is consistent with longstanding policy that while the prosecution of drug traffickers remains an important priority, targeting individual marijuana users is not the best allocation of Federal law enforcement resources. The guidance makes clear that DOJ expects states that enact laws authorizing marijuana –related conduct to implement strong and effective regulatory and enforcement systems to fully protect against public health and safety harms and to protect youth.

Per the DOJ memo of August 29, 2013, the Federal Government retains full authority to enforce Federal laws and may do so even in the absence of any of the eight Federal enforcement priorities or where investigation and prosecution otherwise serves an important Federal interest.

9. How does legalization in the United States impact our relationship with our counterparts in the international drug abuse prevention community?

ANSWER: The United States is a recognized leader in developing and promoting evidence-based drug abuse prevention programs and provides millions of dollars of funding and technical assistance to countries to support their efforts to prevent and reduce drug abuse. In meetings with counterparts in the international community and international fora, the United States emphasizes that despite the actions of Colorado and Washington state, marijuana remains illegal under Federal law; reaffirms its strong support for the three United Nations drug conventions, which together provide a framework for the international community to address the global drug problem; and reinforces its commitment to reduce and prevent drug use, including marijuana. The United States will continue to support global efforts to reduce the global drug problem and champion, in particular, public health interventions to reduce the demand for drugs.

Congressman Earl Blumenauer

1. **How many people have died from overdosing from marijuana in the United States in the last five years?**

ANSWER: There were no reported overdose deaths in the United States attributed to marijuana use in the past five years. Marijuana is associated with other severe consequences, including mortality. In 2009, marijuana accounted for 25 percent of all positive drug tests for fatally injured drivers for whom drug-test results were known and for 43 percent among fatalities involving drivers 24 years of age and younger with known drug-test results.[7] We also know that in 2011, marijuana was involved in nearly 456,000 emergency department (ED) visits nationwide, representing approximately 36 percent of all ED visits involving illicit drugs.[8] And in 2012, approximately 314,000 Americans 12 or older reported receiving treatment for marijuana use in the past year, more than any other illicit drug and trailing only alcohol and pain relievers.[9]

2. **What is more dangerous and addictive, methamphetamine and cocaine, or marijuana? Please provide any scientific evidence showing that marijuana is more addictive or harmful than cocaine or methamphetamine.**

ANSWER: The classification of marijuana in schedule I of the Controlled Substance Act (CSA) is consistent with the overall structure of the CSA. Controlled substances that have a currently accepted medical use in treatment in the United States (i.e., controlled drugs that have been approved by the Food and Drug Administration) are placed in schedules II through V. 21 U.S.C. 812(b)(2)-(5). Controlled substances that have no currently accepted medical use in treatment in the United States (non-FDA-approved controlled drugs) are placed in schedule I. 21 U.S.C. 812(b)(1).

At present, there are more than 150 different schedule I controlled substances. 21 C.F.R. 1308.11. Among these controlled substances, there are variations in the relative abuse potential and dependence liability (addictiveness). For example, LSD may be less addictive than heroin, but both warrant schedule I classification because they lack a currently accepted medical use in treatment in the United States. Both methamphetamine and cocaine are schedule II substances because they have a currently accepted medical use in treatment in the United States. Thus, the placement of marijuana (or any of the other roughly 150 schedule I controlled substances) in

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[7] Office of National Drug Control Policy. (October 2011). Drug Testing and Drug-Involved Driving of Fatally Injured Drivers in the United States: 2005-2009. Available at: http://www.whitehouse.gov/sites/default/files/ondcp/issues-content/fars_report_october_2011.pdf

[8] Substance Abuse and Mental Health Services Administration. *Drug Abuse Warning Network, 2011: National Estimates of Drug-Related Emergency Department Visits.* Department of Health and Human Services. [May 2013]. Available at: http://www.samhsa.gov/data/2k13/DAWN2k11ED/DAWN2k11ED.htm#3.1

[9] Substance Abuse and Mental Health Services Administration. Results from the 2012 National Survey on Drug Use and Health: Detailed Tables. Department of Health and Human Services. [September 2013]. Available at: http://www.samhsa.gov/data/NSDUH/2012SummNatFindDetTables/DetTabs/NSDUH-DetTabsSect5peTabs1to56-2012.htm#Tab5.42A

schedule I does not automatically mean the substance is more addictive than substances in lower schedules.

3. **Why is marijuana a Schedule I substance, when cocaine and methamphetamine are Schedule II substances?**

ANSWER
Please see response to question 2.

4. **How much federal money is spent enforcing federal marijuana laws every year?**

ANSWER: Federal monies support Federal, state, and local agencies that address drug-related crime, including through investigation, prosecution, incarceration, and eradication. The mission of these agencies is not specific to marijuana, and there is no system available to parse out the cost of enforcing exclusively marijuana laws. In total, the Congress appropriated $9.3 billion in FY 2014 for Federal support of domestic law enforcement for illicit substances.

5. **In 2007, DEA Administrative Law Judge Mary Ellen Bittner found the existing supply of marijuana made available by NIDA for research to be inadequate, but DEA rejected that finding. Over one million people use marijuana in accordance with state law, and yet scientific research on the therapeutic benefits of marijuana is limited due to federal barriers. What steps are the Administration taking to ensure adequate access to marijuana and support scientific research?**

ANSWER: The Federal Government supports studies that meet accepted scientific standards; in addition, studies may successfully compete for research funding based on peer review and potential public health significance. There are DEA-registered researchers eligible to study marijuana, and currently there are Phase III clinical trials underway examining the medical utility of a spray containing a mixture of two active ingredients in marijuana (i.e., Sativex).

A number of Government-funded research projects involving marijuana or its component compounds have been completed or are currently in progress.[10] Studies include evaluation of abuse potential, physical/psychological effects, adverse effects, therapeutic potential, and detection. NIH-funded studies are now underway examining the possible therapeutic benefits of cannabinoid chemicals in the treatment of autoimmune diseases, inflammation, pain, psychiatric disorders, seizures, cancer, and substance use disorders.[11] Some of these studies include research with smoked marijuana on human subjects.

As you are aware, NIDA oversees the cultivation, production and distribution of research-grade marijuana on behalf of the United States Government, pursuant to the Single Convention on Narcotic Drugs (March 30, 1961, 18 UST 1407). Recently, NIDA notified the DEA that it required additional supplies of marijuana to be manufactured in 2014 to provide for current and

[10] National Institutes of Health - ClinicalTrials.gov. *Search Results for "marijuana."* Department of Health and Human Services. Available: http://clinicaltrials.gov/ct2/results?term=marijuana&Search=Search
[11] See http://www.drugabuse.gov/publications/drugfacts/marijuana-medicine

anticipated research efforts involving marijuana. Specifically, NIDA stated that 600 kilograms is necessary to be manufactured in 2014.

Subsequently, DEA published a Federal Register Notice on May 5, 2014, increasing the aggregate production quota for marijuana from 21,000 grams to 650,000 grams, in order to ensure that the cultivation of marijuana would meet NIDA's anticipated needs to supply researchers who are approved by the Federal Government to utilize marijuana in their research protocols with a continuous and uninterrupted supply of marijuana within the current grow cycle.

The response to Mica Question 3 makes reference to a disc containing samples of Federally-funded advertising. That disc is in the official record and has been archived at the Committee.

The articles mentioned in the response to Mica Question 4 can also be found in the official record, which has been archived at the Committee. These articles include the following:

1. Scheier, Grenard, and Holtz. An Empirical Assessment of the *Above the Influence* Advertising Campaign. Baywood Publishing Co., Inc., 2011.
2. Slater, Kelly, Lawrence, Stanley, and Comello. Assessing Media Campaigns Linking Marijuana Non-Use with Autonomy and Aspirations: "Be Under Your Own Influence" and ONDCP's "Above the Influence." Society for Prevention Research, 2011.
3. Carpenter and Pechmann. Exposure to the Above the Influence Antidrug Advertisements and Adolescent Marijuana Use in the United States, 2006-2008. American Public Health Association, 2011.

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