

STEVE COHEN

9TH DISTRICT, TENNESSEE

1005 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515

TELEPHONE: (202) 225-3265
FAX: (202) 225-5663

CLIFFORD DAVIS/ODELL HORTON
FEDERAL BUILDING
167 NORTH MAIN STREET
SUITE 369
MEMPHIS, TN 38103

TELEPHONE: (901) 544-4131
FAX: (901) 544-4329

www.cohen.house.gov

Congress of the United States
House of Representatives
Washington, DC 20515-4209

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEES:
COURTS, COMMERCIAL AND
ADMINISTRATIVE LAW—RANKING MEMBER
CRIME, TERRORISM, AND
HOMELAND SECURITY

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE

SUBCOMMITTEES:
AVIATION
HIGHWAYS AND TRANSIT
WATER RESOURCES AND ENVIRONMENT

September 12, 2011

R. Gil Kerlikowske
Director
Office of National Drug Control Policy
750 Seventeenth Street, NW
Washington, DC 20503

Dear Director Kerlikowske:

Thank you for your solicitation of thoughts and ideas for the *2012 National Drug Control Strategy (Strategy)*. Although the 2011 *Strategy* took an important step forward in many respects, I have some concerns about the continuing direction of this country's approach to drug policy, particularly with respect to simple possession of marijuana and the medical use of marijuana. I appreciate the opportunity to share with you my views.

As the Global Commission on Drug Policy, which included such notable figures as Paul Volcker, Kofi Annan, and George Schultz, recently concluded in its report, we must "[e]nd the criminalization, marginalization and stigmatization of people who use drugs but who do no harm to others." Over the course of 40 years of the so-called "War on Drugs" we have learned that spending trillions of dollars and incarcerating millions of people for victimless crimes is the wrong approach. The continued focus of federal and state governments on the criminalization of simple possession of marijuana has resulted in increased prison populations, devastating racial disparities and a lost generation of people with no education and no job prospects because of an arrest that haunts them for the rest of their lives.

To be clear, I am not suggesting that drug abuse and drug addiction are not terrible problems that we must confront. Heroin, methamphetamine, cocaine, crack, and other similar drugs are highly addictive, cause physical damage, and often lead addicts to criminal activity to fulfill their habit. This is where we should concentrate our law enforcement activities. We should also ensure that we do not treat addiction to these drugs solely as criminal matters but also as a health care issue. We must do all that we can to see that those who need treatment for substance abuse receive it. I also believe we must continue to crack down on drug traffickers and I strongly advocated adding Shelby County to the Gulf Coast High Intensity Drug Trafficking Area. But our national policy concerning the personal use of marijuana and the use of marijuana for medicinal purposes is misguided.

Marijuana does not belong on Schedule I of the Controlled Substances Act (CSA) alongside such hard drugs as cocaine, heroin, and methamphetamine. There is no evidence that marijuana has the same addictive qualities or damaging consequences as these harder drugs and it should not be treated as such. Similarly, the so-called "Gateway Drug" theory has been thoroughly discredited with respect to marijuana. Marijuana ought to be placed at the lowest end of the CSA in accordance with its true risks.

As you prepare the 2012 *Strategy*, I also urge you to consider the cost to law enforcement incurred by pursuing non-violent drug offenders. For example, some estimates place the total criminal justice costs of marijuana arrests for state and local governments at as much as \$7.6 billion per year. With more than 850,000 people arrested for a marijuana violation in 2009, we are spending nearly \$10,000 per arrest, which is a huge waste of scarce resources.

Besides the drain on state and federal budgets, the criminalization of marijuana has led to disastrous racial disparities in the criminal justice system. Last year, the *New York Times* reported that African-American New Yorkers were seven times more likely to be arrested for marijuana possession than whites. Latinos were four times more likely to be arrested. According to the article, those whites that were arrested were much more likely to get a slap on the wrist, while racial minorities were more likely to spend a night in jail. These racial disparities serve to undermine confidence in the fairness of the criminal justice system and lead to manifest unfairness.

Furthermore, the consequences of having a drug conviction on one's record are severe and self-defeating. Employment, education, and housing opportunities can all be denied on the basis of a conviction in your past. This dooms people whose only crime is possession of a small amount of marijuana to second-class citizenship. I urge you to advocate for public policies like expungement of non-violent drug offenses that would mitigate the collateral consequences of a conviction for marijuana possession.

I was particularly disappointed that the 2011 *Strategy* dismissed the medical benefits of marijuana and I hope you will reconsider this assessment in 2012. We should not deny the thousands of Americans who rely on marijuana to treat the effects of AIDS, cancer, glaucoma, multiple sclerosis, and other illnesses the benefits that marijuana provides. In 2009, the American Medical Association adopted a resolution calling for the government to review its classification of marijuana to promote additional research into its medical benefits and I urge you to advocate for such a review.

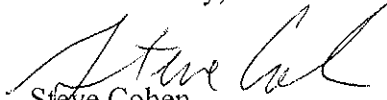
This is an issue of compassion, as medical marijuana provides a little relief and dignity to people who are dying. I have personally witnessed a close friend who was suffering in the last days of pancreatic cancer benefit tremendously from smoking marijuana. It increased his appetite, eased his pain, and allowed him to smile. It allowed him to deal with death with a little more dignity.

Medical marijuana is also an issue of state's rights. 16 states and the District of Columbia have legalized marijuana for medical use. They have established strong regulatory structures that have enabled thousands of people to take advantage of marijuana's medicinal benefits. In states where medical marijuana is legal, it makes more sense to encourage patients to make use of the legal, regulated regime for purchasing medical marijuana than to force them into an underground criminal market. I strongly recommend that this Administration allow states that have chosen to legalize medical marijuana to enact strong regulations without fear of prosecution. This would be a much wiser use of limited resources and will lead to much better policy. Especially if we believe that, as Justice Brandeis said, states are the "laboratories of democracy," we should not interfere with the will of the people to enact these compassionate laws.

I appreciate the efforts you have made to enact reasonable reforms to our national drug policy, but I believe there are many more steps that can be taken. Thank you for reaching out and asking for suggestions in preparing the 2012 *Strategy*. I stand ready to assist you in any way that I can.

As always, I remain,

Most sincerely,


Steve Cohen
Member of Congress