



Education - Legislation - Advocacy

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Voice/Fax: (202) 318-8999

Senator Patrick J. Leahy, Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Michele M. Leonhart to be Administrator of the Drug Enforcement Administration

Via fax, email and postal mail

July 23, 2010

Dear Chairman Leahy,

Over the past fifteen years, the Drug Enforcement Administration (DEA) has waged a wasteful and pointless war against farmers and businesses who seek to grow and process industrial hemp, a plant which was grown by American farmers for centuries dating back to the founding of our nation.

Industrial hemp is the non-drug oilseed and fiber varieties of *Cannabis sativa* L. Because they contain 0.3% or less tetrahydrocannabinol (THC), industrial hemp varieties of *Cannabis* have no potential whatsoever to be used as a recreational drug.

Today more than thirty industrialized nations allow their farmers to grow industrial hemp and recognize that industrial hemp and marihuana are distinct. International law also recognizes this distinction by exempting hemp farming in the United Nations Single Convention on Narcotic Drugs, 1961 as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961. In fact, Article 28 states that:

"This Convention shall not apply to the cultivation of the cannabis plant exclusively for industrial purposes (fibre and seed) or horticultural purposes."

A number of states, including Maine, Maryland, North Dakota, Oregon, Vermont and West Virginia, have passed state laws allowing for hemp farming. A number of other states have passed resolutions urging the DEA to allow farmers to once again grow industrial hemp.

Despite these facts – and overwhelming public support – the DEA has refused to allow farmers to grow industrial hemp.

In addition, the DEA has failed to rule on several state-licensed North Dakota farmer applications – after more than forty-one months now. Farmers Wayne Hauge and Rep. David Monson of North Dakota both received state licenses to grow hemp and applied for DEA licenses on February 12, 2007. As of today, they have not received a decision from the agency.

Michele M. Leonhart, the nominee for Administrator and a lifetime DEA bureaucrat, severely lacks the vision to change policy on hemp farming for the better. From August of 2003 to the present, Leonhart has held the positions of Acting Deputy Administrator, Deputy Administrator and Acting Administrator and has been in a position to help craft and administer the DEA's strategy against the legitimate hemp industry. Under her leadership, the DEA's war on hemp farming has increased and expanded to include attacking manufacturers of hemp products by issuing rules to ban hemp foods. For these reasons and others, Vote Hemp strongly opposes the nomination of Michele Leonhart to be Administrator of the DEA.

The Obama administration has recently directed the DEA to respect state laws regarding the medical use of drug strains of *Cannabis*, yet farmers in the U.S. with state licenses to grow hemp remain at risk of DEA raids, possible jail time and forfeiture of their farms. Why? Because DEA fails to distinguish non-drug industrial hemp, the oilseed and fiber varieties of *Cannabis*, from the drug varieties of *Cannabis*. Hemp is, however, a legitimate, sustainable, profitable and **non-drug crop** that generates a \$400+ million retail industry in the U.S. today.

For the last four growing seasons, from 2007-2010, farmers in North Dakota have received licenses from the North Dakota Department of Agriculture to grow industrial hemp. However, despite the state's authorization to grow the crop, these farmers have not been able to grow hemp due to the DEA's refusal to issue federal licenses or to allow the states in general to regulate hemp farming on their own.

In January of 2007, North Dakota's Agriculture Commissioner Roger Johnson accepted the first application from a farmer for a state industrial hemp license. The license went to Representative David Monson, a farmer and state Assistant House Majority Leader, now Speaker of the House, ten years after the first hemp bill was passed and made law in the state. Commissioner Johnson hand-delivered license applications to the DEA on February 13, 2007 from Representative Monson and Wayne Hauge, a farmer from Ray, North Dakota, along with the farmers' **non-refundable \$2,300 annual registration fees**, hoping to help them get their DEA licenses in time for Spring planting. After several months of fruitless negotiations between the DEA and North Dakota state officials, the state legislature responded to the federal agency's obstructionism by overwhelmingly passing HB 1020. They added the language "A license required by this section is not conditioned on or subject to review or approval by the United States Drug Enforcement Agency" to the bill, which amended Section 4-41-02 of the North Dakota Century Code, the section containing the industrial hemp licensing and reporting requirements, and it was quickly signed into law by Governor John Hoeven.

Commissioner Johnson spent nearly a year trying to work out an agreement with the DEA, to no avail, and it is now clear that the DEA is never going to act in a reasonable way and acknowledge the practical differences between non-drug industrial hemp and drug varieties of *Cannabis*. It is also clear that the DEA will never accommodate North Dakota's plan to

commercialize hemp farming, despite the fact that the agency could easily allow the state to regulate hemp farming on its own, just as it now does with those states which regulate medical marihuana.

The misinformation about industrial hemp is prevalent in the public policy of the DEA as well. The agency has publicly claimed that it does not have the authority to change existing federal law and that it is “law enforcement, not lawmaker.” It is indeed interesting that the DEA pretends to be purely a law enforcement entity, when it is not. Like many federal agencies, the DEA has been granted broad authority by Congress to interpret the statutes in the United States Code, such as the Controlled Substances Act (CSA). This includes re-scheduling substances and promulgating detailed rules and regulations. It is obvious that the current rules are not set up for farmers to grow an agricultural crop that has no potential for use as a drug. The DEA could easily negotiate industrial hemp farming rules with North Dakota (or any state) under the Administrative Procedures Act, 5 USC § 563. Instead, the agency chooses to interfere in the legislative process by intentionally confusing legislators, reporters and the public with needless and misleading rhetoric. Under U.S. administrative law, “an agency may establish a negotiated rulemaking committee to negotiate and develop a proposed rule, if the head of the agency determines that the use of the negotiated rulemaking procedure is in the public interest” (5 USC § 563a). Nominee Leonhart has had ample opportunity to make just such a determination regarding hemp farming, but instead she has chosen to continue and escalate the DEA’s war on hemp farmers and manufacturers.

The last commercial hemp crops in the U.S. were grown in Wisconsin in 1957. The primary reason that industrial hemp has not been grown in this country since then is because of its misclassification as a Schedule I drug in the CSA. The Marihuana Tax Act of 1937 had provisions for farmers to grow hemp by paying an annual occupational tax of \$1.00. The exemption for hemp products was contained in the definition of marihuana in the Act:

“The term ‘marihuana’ means all parts of the plant Cannabis sativa L. ... but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.”

The language of the exemption was carried over almost verbatim to the definition of marihuana in the CSA [21 USC § 802(16)], which superseded the 1937 Tax Act, but since there was no active hemp industry at the time, the provisions for hemp farming and processing were overlooked and not included in the new Act.

Christine A. Kolosov, in her Comment “Evaluating the Public Interest: Regulation of Industrial Hemp under the Controlled Substances Act” in the *UCLA Law Review*, notes that the DEA cannot legitimately deny or delay licenses to cultivate industrial hemp, particularly when states have adopted regulatory schemes like the one enacted in North Dakota. She goes on to argue that the DEA has failed to fulfill its obligations under 21 USC § 823(a) which explicitly states that “The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest.”

The DEA's failure to consider each of the six factors required under Section 823(a), along with its failure to act within a reasonable time, leads us to the unavoidable conclusion that Michele Leonhart would not be a good Administrator of the DEA. Vote Hemp therefore opposes her nomination and urges the committee members to vote against her confirmation.

Sincerely,

A handwritten signature in black ink, appearing to be 'Eric Steenstra', with a long horizontal stroke extending to the right.

Eric Steenstra
President

Vote Hemp is a national, single-issue, non-profit organization dedicated to the acceptance of and a free market for industrial hemp, low-THC oilseed and fiber varieties of Cannabis, and to changes in current law to allow U.S. farmers to once again grow the crop. Our ultimate goal is to see hemp grown on a commercial scale in the U.S. in support of a large local processing and value-added infrastructure.

NATIONAL NARCOTIC OFFICERS' ASSOCIATIONS' COALITION

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October 1, 2010

The Honorable Patrick Leahy
Chairman
The Honorable Jeff Sessions
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Harry Reid
Majority Leader
The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

Dear Leader Reid, Leader McConnell, Chairman Leahy and Ranking Member Sessions,

The Drug Enforcement Administration has been operating without a Senate-confirmed leader since 2007. Deputy Administrator and Acting Administrator Michele Leonhart has proven to be an incredibly capable and effective leader of DEA for the past three years, but asking her to do two difficult jobs simultaneously for three years is too much -- especially in light of the clear and present threat to U.S. national security posed by drug trafficking organizations on our Southwest border. It is time for the Senate to confirm Ms. Leonhart as Administrator of DEA.

On behalf of the 44 state associations and more than 60,000 law enforcement officers represented by the National Narcotic Officers' Associations' Coalition (NNOAC), I strongly encourage the Senate to confirm Michele Leonhart when Congress returns in November.

In late September Senator Richard Lugar, one of the Senate's foremost national security and foreign affairs leaders, stated that "Transnational drug trafficking organizations operating from Mexico represent the most immediate national security threat faced by the United States in the Western Hemisphere." This extraordinary statement -- which we in narcotic enforcement have believed to be true for years -- is more reason to have Ms. Leonhart confirmed to lead the U.S. government's primary enforcement and intelligence efforts to counter the threat.

DEA has always been a strong partner with state and local narcotic enforcement officers. Acting Administrator Leonhart has ensured that DEA supports state and local agencies whenever possible. We value our partnership with the outstanding men and women of DEA and we strongly believe that Ms. Leonhart is the right leader to continue that partnership.

NATIONAL NARCOTIC OFFICERS' ASSOCIATIONS COALITION

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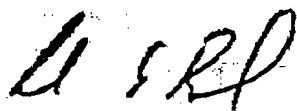
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Wisconsin Narcotic Officers' Assn.

We applaud President Obama for nominating Michele Leonhart and appreciate the Attorney General's active support for her confirmation. We are hopeful that the "Acting" can be removed from her title as soon as possible in November with Senate confirmation.

Thank you for your consideration and your continued support for state and local law enforcement.

Sincerely,



Ronald E. Brooks
President, NNOAC

cc: President Barack Obama
cc: Attorney General Eric Holder



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November 15, 2010

The Honorable Patrick J. Leahy, Chairman
The Honorable Jeff Sessions, Ranking Member
Senate Judiciary Committee
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Sessions:

As the National President of the 26,000 members of the Federal Law Enforcement Officers Association (FLEOA), I am writing to you in support of President Obama's nominations of Stacia A. Hylton as the next Director of the Marshals Service, and Michele Leonhart as the next Administrator of the Drug Enforcement Administration. As we are confronted by an escalating rate in violent crime and drug trafficking, it is essential that both the Marshals Service and the Drug Enforcement Administration have confirmed leaders.

Regarding each candidate's credentials, both possess the essential qualification to lead their respective agencies: outstanding institutional knowledge and leadership experience. As crime doesn't take pause, we need directors who can immediately assume their position and serve as effective leaders. Both candidates have already demonstrated their leadership capabilities as career federal law enforcement officers, and I'm optimistic they will excel if confirmed.

Please don't hesitate to contact me directly should you have any questions regarding our position for either candidate.

Respectfully,

J. Adler

J. Adler

National President



LAW ENFORCEMENT AGAINST PROHIBITION

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Maryland State Police (ret.)

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Foundation, Washington, DC
Judge Robert Sweet
US District Court Judge, New York
Chief Francis Wilkinson
Former Chief Constable, Gwent Police
Force, Wales, UK

Senator Patrick Leahy, Chairman
Senate Committee on the Judiciary
Tuesday, November 16, 2010

Statement of
Major Neill Franklin
on behalf of
LAW ENFORCEMENT AGAINST PROHIBITION (LEAP)
in opposition to the nomination of
Ms. Michele Leonhart

Mr. Chairman and distinguished Members of the Committee, thank you for the opportunity to present the views of Law Enforcement Against Prohibition (LEAP) in opposition to the nomination of Michele Leonhart for the position of Director of the U.S. Drug Enforcement Administration (DEA).

After a 33-year career as a police officer, I became the executive director of LEAP, an association of current and former law enforcement officers, prosecutors, judges, and criminal justice professionals at every level of government who are speaking out about the failure of our drug policy.

Our members are deeply concerned about drug abuse and illicit drug market violence, and we have spent our careers fighting the drug war. Several of our members, including Russ Jones of Texas, Matthew Fogg of Washington, D.C., and Richard Amos of Florida, served as DEA agents or on DEA task forces. And as a police officer with the Maryland State Police and the Baltimore Police Department, I too made my share of drug arrests in addition to commanding multi-jurisdictional drug task forces.

We oppose Ms. Leonhart's nomination because her statements and actions demonstrate questionable judgment. Ms. Leonhart held a press conference regarding Mexican drug prohibition violence last year. Since 2006, more than 28,000 people have died in Mexico as a result of the illegal drug market violence. At the press conference, Ms. Leonhart indicated that such violence was a good sign. "Our view is that the violence we have been seeing is a signpost of the success our very courageous Mexican counterparts are having," she said. "The cartels are acting out like caged animals, because they are caged animals."

The tens of thousands of civilian deaths, which have continued to skyrocket since Ms. Leonhart's statement, should not be measured as a sign of success. Former Mexican president Vicente Fox and at least three additional former Latin American presidents have pointed out the failure of the US-led war on drugs and called for drastic change. The situation in Mexico is grave and escalating rapidly, putting US citizens in danger. Before the spillover violence gets any worse, the DEA needs a director who can engage world leaders in this debate and come to a solution.

Ms. Leonhart's judgment in allocating resources is questionable. Since her appointment by President Bush, she has overseen more than 200 federal raids in California and other medical marijuana states. When Ms. Leonhart became interim director, these raids continued even after the issuance of the October 19, 2009 Department of Justice memo which recommended federal officials shift resources away from targeting those individuals and organizations operating in compliance with state laws related to medical marijuana.

As a police officer, I made arrests of drug users because I was held accountable for enforcing the law whether I agreed with it or not. Ms. Leonhart should be held similarly accountable for her actions which were inconsistent with guidance from the Department of Justice, as well as President Obama's clear intentions based on his popular campaign pledges. Under her supervision, a DEA agent raiding a marijuana grower who was operating with the support of the sheriff in Mendocino County, CA, said, "I don't care what the sheriff says." This attitude is counterproductive. Given the grave problems associated with illegal drug market violence, we feel that conducting raids on individuals and caretakers acting in compliance with state and local law may not be the best use of the DEA's limited resources.

The DEA needs a director whose decisions are guided by the best interests of our citizens. Despite calls by the American Medical Association, Ms. Leonhart has failed to respond to a petition calling for hearings to review the scheduling of marijuana. Despite the DEA's own administrative law judge's ruling that the University of Massachusetts should be able to cultivate marijuana for FDA-approved research, Ms. Leonhart has blocked such research. We encourage the nomination of a director who supports engaging in dialogue and the use of research to shape the best possible policies.

Ultimately, we feel Ms. Leonhart is not ready for the job of DEA director and qualified candidates are available. In your confirmation hearings, the members of the Judiciary Committee should ask the difficult questions which will determine how she would intend to handle the changing nature of US drug laws. Voters across the country have created a gap between federal policy and state law that is steadily widening. In fifteen states, plus Washington D.C., the medical use of marijuana has been recognized. Several other states may choose to legalize marijuana in the next few years. The director of the DEA must be able to appropriately bridge this divide without wasting resources or causing unnecessary harm.

In the meantime, the criminal justice professionals of Law Enforcement Against Prohibition urge a no vote on Ms. Leonhart's confirmation as DEA director.



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Attention: Senator Patrick Leahy
Chairman, Senate Judiciary Committee
Re: Confirmation hearing for Michele Leonhart
Date: November 16, 2010

VIA FAX:

Senator Leahy: 202-224-9516

Please consider posing the following question to Ms. Leonhart at tomorrow's hearing – or circulate it to others prior to the hearing for their consideration.

Thank you,

Steve Fox
Director of Government Relations

QUESTION:

Earlier this year, under your leadership, the DEA demonstrated a lack of respect for a Mendocino County, California ordinance regulating medical marijuana cultivation by raiding the very first grower to register with the sheriff. Joy Greenfield, 69, had paid more than \$1,000 for a permit to cultivate 99 plants in a collective garden that had been inspected and approved by the local sheriff. Informed that Ms. Greenfield had the support of the sheriff, the DEA agent in charge responded by saying, "I don't care what the sheriff says." Not surprisingly, given Department of Justice guidance in such cases, charges have not been filed against Ms. Greenfield. Yet agents under your charge destroyed the medicine she was growing and seized cash and her computer.

Given the Department of Justice memo of October 2009, instructing U.S. Attorneys not to prosecute individuals acting in compliance with state medical marijuana laws, it is hard to understand the logic behind raids like this. **Would you be willing to put in place new procedures, under which your agents would consult with local authorities prior to a raid to determine whether the target is acting in compliance with state law? And if such target were acting in compliance with state law, do you believe that conducting a raid is consistent with the Department of Justice memo of last year?**

Related articles:

<http://www.pressdemocrat.com/article/20100709/ARTICLES/100709470/1350?Title=Marijuana-advocacy-group-decries-Covelo-pot-raid>

http://www.alternet.org/drugs/147506/feds_raid_legal_marijuana_farm,_destroy_crops/



...working to reform marijuana laws...

National Organization for the Reform of Marijuana Laws

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Nov 16, 2010

Sen. Patrick Leahy
Senate Judiciary Committee
Washington, DC 20510

Dear Sen. Leahy:

This Wednesday, members of the Senate Judiciary Committee will be considering Michele Leonhart for the position of director of the United States Drug Enforcement Administration (DEA). We have serious concerns regarding Ms. Leonhart's nomination.

As Interim DEA director, Ms. Leonhart has overseen dozens of federal raids on medical marijuana providers, producers, and laboratory facilities that engage in the testing of cannabis potency and quality. These actions took place in states that have enacted laws allowing for the production and distribution of marijuana for medical purposes, and they are inconsistent with an October 19, 2009 Department of Justice memo recommending federal officials no longer "*focus ... resources ... on individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana.*"

It is now 14 years since California voters recognized the medical value of marijuana by amending state law; fifteen other states and the District of Columbia have since acted likewise. Yet under Ms. Leonhart's leadership the DEA has failed to take a single step toward revising its practices in accordance with these changes to state law and administrative policy.

Furthermore, **Ms. Leonhart has actively blocked scientific research that seeks to better identify and quantify marijuana's medicinal properties and efficacy.** These actions contradict this administration's pledge to let science rather than ideology guide public policy.

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In particular, **Ms. Leonhart has neglected to reply to an eight-year-old petition that calls for administrative hearings regarding the rescheduling marijuana for medical use.** Such hearings were called for in 2009 by the American Medical Association, which resolved “that marijuana’s status as a federal Schedule I controlled substance be reviewed with the goal of facilitating the conduct of clinical research and development of cannabinoid-based medicines.” Moreover, in January 2009, Ms. Leonhart refused to issue a license to the University of Massachusetts for the purpose of cultivating marijuana for FDA-approved research, despite a DEA administrative law judge’s ruling that it would be “in the public interest” to grant this request. This single act has prohibited any privately funded medical marijuana research from taking place in the United States.

Finally, **Ms. Leonhart has exhibited questionable judgment when speaking to the subject of escalating drug war violence in Mexico.** In 2009, she described this border violence (which is responsible for over 31,000 deaths since December 2006) as a sign of the “success” of her agency’s anti-drug strategies.

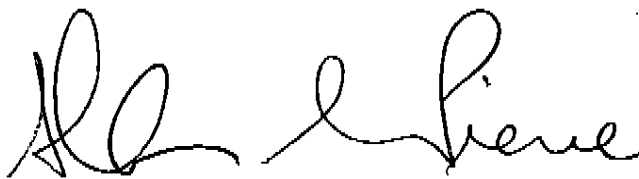
“Our view is that the violence we have been seeing is a signpost of the success our very courageous Mexican counterparts are having,” Leonhart said. “The cartels are acting out like caged animals, because they are caged animals.” This view is out of step with the reality and the gravity of the growing problem on our southern border.

In short, NORML believes that Ms. Leonhart’s actions and ambitions are incompatible with state law, public opinion, and with the policies of this administration. **At a minimum, NORML requests that Senators ask Ms. Leonhart specific questions regarding her past record and her intentions moving forward.** These questions ought to include:

- * What are your plans for bridging the growing divide between state and federal law concerning the use of marijuana for medical purposes?
- * How has the DEA changed its policies and practices to ensure compliance with the 2009 Department of Justice memo calling on federal law enforcement to no longer target individuals who are in compliance with the medical marijuana laws of their states?
- * When will the DEA respond to a 2002 petition to hold hearings on the rescheduling of marijuana, as were called for by the American Medical Association?

Failure of the Senate to engage in a probing dialogue with Ms. Leonhart regarding these matters will continue to give the appearance that Congress and this administration are willing to place politics above science. This administration has specifically pledged to end this practice. It can begin doing so by demanding that careful consideration be given to Michele Leonhart's nomination.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen F. St Pierre". The signature is fluid and cursive, with the first name "Allen" and last name "St Pierre" clearly distinguishable.

Allen F. St Pierre
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NORML/NORML Foundation

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Testimony of Americans for Safe Access
RE: Nomination Hearing, Michele M. Leonhart, Administrator of
Drug Enforcement, Department of Justice
Senate Committee on the Judiciary
Wednesday, November 17, 2010

OPPOSE

Americans for Safe Access (ASA) is the nation's leading non-profit advocacy organization dedicated to advancing safe and legal access to cannabis solely for therapeutic use and research. To advance our mission, ASA employs a multi-faceted strategy that includes public education, impact litigation, grassroots advocacy, and direct lobbying. We work with all levels of government to support policies that create and improve access to medical cannabis for patients and their care providers. ASA has over 30,000 active members with chapters and affiliates in more than 40 states.

On behalf of our members, especially in the states that have adopted Compassionate Use Laws, ASA has prepared this memo to detail some of our concerns about the nomination of Michele Leonhart to head the Drug Enforcement Administration (DEA). During the past 15 years of her service with the DEA, Ms. Leonhart has participated in a gradual and uninterrupted enforcement campaign specifically designed to undermine the effective implementation of state medical cannabis programs. Despite these heavy-handed tactics, fourteen states and the District of Columbia have adopted laws to control and regulate the use and distribution of cannabis to qualified individuals in accordance with state and local laws. More than a quarter of the total population of the United States lives in a state that has adopted a medical marijuana laws.

Negotiating the growing divide between state and federal medical marijuana laws will be among the domestic policy challenges facing the next DEA Administrator. In October of 2009, the Obama Administration's Deputy Attorney General issued a memorandum (DAG Memo) to U.S. Attorneys discouraging the use of federal resources to prosecute individuals who are in "clear and unambiguous" compliance with their state compassionate use law.¹ Unfortunately, ASA has tracked more than 30 federal enforcement raids in California, Colorado, Hawaii, and Nevada, since the DAG Memo was issued.

The DEA should do more to reconcile the conflict between state and federal laws, but ASA questions whether Ms. Leonhart possesses the leadership necessary to facilitate this change. The Senate Judiciary Committee should examine her record and use the hearing process to determine whether she is committed to a process of engagement with Congress and state officials to develop a comprehensive medical marijuana strategy that respects state law and facilitates safe access to marijuana for therapeutic use and research.

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Career Highlights

Ms. Leonhart has a long record of service with the Drug Enforcement Administration. This record includes specific involvement with an aggressive campaign to undermine the implementation of these duly-enacted state laws. Shortly after California voters adopted Proposition 215: The Compassionate Use Act, a ballot measure that received 55% support, Ms. Leonhart was appointed as the Special Agent in Charge (SAC) of the DEA's San Francisco Field Division then the Los Angeles Division where she executed a hand-full of enforcement raids on bona-fide medical marijuana patients in northern California who were using marijuana in strict accordance with state law.

In 2004, Ms. Leonhart was confirmed as the President George W. Bush's choice for Deputy Administrator. As an integral part of the DEA management team, Ms. Leonhart was responsible for the dramatic and unprecedented level of enforcement actions. Under her leadership, the DEA conducted more than 200 raids on medical cannabis patients and caregivers, primarily in California. Many of these raids employed "shock and awe" tactics involving coordinated simultaneous paramilitary assaults on multiple locations with heavily armed agents. These raids have been widely criticized by media, state and local officials, and Members of Congress.

In 2007, shortly after Ms. Leonhart was appointed the Acting Administrator, ASA began tracking new tactics designed to interrupt state programs. The DEA in collaboration with US Attorneys initiated a campaign of intimidation aimed at property owners in California. Hundreds of landlords throughout the state were sent official letters threatening them with criminal prosecution and civil asset forfeiture if they continued to lease commercial property to medical marijuana patient collectives.

As the acting administrator, Ms. Leonhart ignored the opinion and recommendation of the DEA's own administrative law judge and singlehandedly blocked legitimate research efforts designed to meet accepted scientific standards while denying a growing scientific consensus about the medical benefits of marijuana. Worse still, Ms. Leonhart has failed to adequately manage DEA's response to a longstanding petition to reschedule marijuana which was submitted to the agency in 2002.

Background and Context

Clinical research demonstrates that marijuana can safely and effectively alleviate chronic and neuropathic pain, control spasticity in multiple sclerosis, stimulate appetite in wasting syndrome, relieve intraocular pressure in glaucoma, and reduce the nausea associated with chemotherapy.ⁱⁱ By and large, the use of cannabis in these clinical trials has been associated with a few mild side-effects, and it is worth noting that an acute lethal overdose of cannabis has never been reported. In fact, it was the finding of a DEA administrative law judge that cannabis is one of the safest therapeutic substances known.ⁱⁱⁱ

There are at least two clear results from this emerging data. First, an ever increasing number of physicians are exercising their constitutional right to recommend the use of cannabis to their

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patients. It is estimated that as many as 7,000 physicians have provided oral or written recommendations for the use of cannabis to some 400,000 qualified individuals. Secondly, an increasing number of states are exercising their power to adopt laws that permit the limited use of cannabis for medical purposes.

Since 1996, fourteen states^{iv} and the District of Columbia have adopted medical marijuana compassionate use laws. Roughly 90 million Americans or just over one-quarter of the total population of the United States lives in a state that authorizes qualified persons registered with the state to use or provide marijuana for medical purposes. These laws offer protection from arrest and prosecution by state authorities, but considerable disparities exist among these state laws.

For example, California's Compassionate Use Act (Proposition 215) leaves determination about the appropriate therapeutic use of cannabis to the professional judgment of board-certified physicians, while other states narrowly restrict the use of cannabis to a specific list of medical conditions. Some state laws provide civil protections for qualified individuals, but in many states individuals who use cannabis for therapeutic purposes suffer pervasive discrimination in healthcare benefits, employment, child custody, housing, health care, public accommodation, and the like. A few states have established production and distribution systems to ensure qualified individuals have access to medical cannabis from licensed distributors, but the majority of states force qualified individuals to acquire or cultivate their own cannabis themselves, or with the assistance of a designated caregiver.

In many states, medical cannabis dispensing collectives or centers have emerged as a community-based response that provides a secure, consistent place for qualified persons to acquire medical cannabis. These facilities are usually regulated by state or local governments and provide a controlled environment for safe distribution. California, Colorado, Oregon, Michigan, Maine, New Mexico, Rhode Island, New Jersey, and the District of Columbia are each working to effectively regulate the distribution of medical cannabis for those individuals qualified to use cannabis.

Some state programs are proving more efficient than others. In many states, doctors and patients remain confused or fearful about the nature and extent of the law, and are particularly concerned with federal enforcement. In other states, local authorities (often bolstered by federal task forces) have resisted the changes in state law and the resulting actions of qualified patients and their designated caregivers. The news media has covered these changes and conflicts with a mix of responsibility and hyperbole, but in none of these states has the sky fallen or public health been compromised. Generally, the medical cannabis "experiment" has been successful when and where it has been properly implemented by state and local governments.

Nonetheless, the possession, production, and distribution of cannabis, even for therapeutic purposes, remain prohibited under federal law. As a result, no matter how scrupulous their compliance with state law and local ordinance, qualified individuals and their providers remain vulnerable to federal enforcement raids, arrest, and prosecution.

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History of Failed Federal Interference and Obstruction

When California voters adopted their compassionate use law in 1996, Ms. Leonhart was at-the-ready when federal officials threatened to revoke the prescribing privileges of any physician who provided a recommendation to their patients for medical use. In response, a group of doctors led by HIV/AIDS specialist Dr. Marcus Conant filed for an injunction in federal court, contending that such a policy violated their freedom of speech. The court agreed, and the government was enjoined from penalizing physicians who recommend the medical use of cannabis. Specifically, the court ruled that physicians have a First Amendment right to make recommendations, but may not aid or abet patients in actually obtaining cannabis.^v On appeal, the Ninth Circuit Court of Appeals held that federal authorities could not punish, or threaten to punish, a physician merely for recommending cannabis to his or her patients.^{vi}

Instead of then working with the states to harmonize state and federal laws, Ms. Leonhart initiated a campaign of intimidation designed to disrupt the operation of valid state and local laws. In 2001, within weeks of the tragedy of September 11, the Department of Justice in conjunction with the DEA launched a series of paramilitary-style enforcement raids on individuals and collectives authorized by the state to use or provide medical cannabis^{vii}. Even where local officials and governments were seeking in good faith to regulate access to cannabis, the federal government chose instead to interfere—prosecuting and imprisoning individuals, and seizing their property.

As the raids continued, two women in California filed suit in federal court to prevent further enforcement raids on individuals acting in accordance with their state medical cannabis law. They won an injunction from the Ninth Circuit Court of Appeals, but in 2005, the U.S. Supreme Court reversed that decision in *Gonzales v. Raich*^{viii}, ruling that federal law enforcement officials can prosecute medical marijuana patients regardless of their compliance with state medical marijuana laws.^{ix}

Following the Supreme Court's decision in *Raich*^x, federal agencies intensified their enforcement actions. Between 2007 and 2008, national advocates recorded an unprecedented number of enforcement raids against individuals authorized by state law to use or dispense medical cannabis, and the Department of Justice has prosecuted dozens of these individuals.^{xi}

Despite pointed questions from members of the U.S. House Judiciary Committee^{xii} and requests from local policymakers^{xiii} to halt enforcement raids in deference to local authorities, Ms. Leonhart chose to expand the DEA's efforts to undermine implementation of state law. In 2008, she collaborated with U.S. Attorneys throughout California to threaten hundreds of property owners with prosecution and asset forfeiture if they continued to lease commercial space to medical cannabis dispensing collectives. Specifically, the letters ordered property owners to attend meetings at which the U.S. Attorney delivered an ultimatum: evict the collectives or face imminent federal prosecution and asset forfeiture.

Federal enforcement activity has not been restricted to California, despite public perceptions to the contrary. Federal law enforcement agents raided the offices of a medical cannabis advocacy group in Washington State that was supplying hundreds of authorized individuals with starter

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seedlings.^{xiv} The DEA also threatened New Mexico state officials with federal prosecution if they proceeded to implement a state-run medical cannabis distribution program.^{xv} And, in an unprecedented effort to interfere with state law, a federal grand jury subpoenaed the confidential medical records of individuals enrolled in the Oregon Medical Marijuana Program. (A federal court later voided the subpoena.)^{xvi}

However, these heightened federal enforcement efforts and prosecutions have not deterred the distribution of medical cannabis in California or other states. On the contrary, more state and local governments are adopting regulations to control and regulate medical cannabis dispensing collectives in an effort to ensure safe, consistent access and fully comply with state law.

In the absence of leadership by Congress or administrative agencies, state and local regulations are the key to preventing abuse of state medical cannabis laws and protecting eligible individuals, their care providers, and the local community. Federal enforcement tactics, such as threatening property owners with asset forfeiture and paramilitary raids that place citizens in harm's way, undermine state and local authority and jeopardize the integrity of state law.

New Direction, Same Enforcement

During the 2008 Presidential Campaign medical cannabis patients and activists secured promises from the entire field of Democratic Presidential hopefuls.^{xvii} In fact, then-Senator Obama provided statements at numerous Town Hall Meetings and other speaking engagements that he "would not have the Justice Department prosecuting and raiding medical marijuana users. It's not a good use of our resources."^{xviii}

Nonetheless, within days of President Obama's inauguration, the DEA, still under the direction of Michele Leonhart, executed a raid on a medical cannabis dispensing collective in California.^{xix} Advocates and state policymakers were outraged and demanded an explanation of the broken campaign promise. Within weeks, more DEA raids occurred and the media jumped on the story^{xx}, enough to prompt a question about the new President's policy from the White House Press Corps and the following response from a White House spokesman:

"The president believes that federal resources should not be used to circumvent state laws, and as he continues to appoint senior leadership to fill out the ranks of the federal government, he expects them to review their policies with that in mind."^{xxi}

Five days after later, the DEA conducted another raid in Ft. Bragg, California.^{xxii} Again, advocates, policymakers, and members of the media demanded answers, and in his first press conference, U.S. Attorney General Eric Holder was questioned directly about the raid activity. Attorney General Holder stated that President Obama's campaign promises were "now American policy."^{xxiii} However, in August and September, the DEA conducted or participated in dozens of raids across the state of California.^{xxiv}

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On October 29, 2009, Deputy Attorney General David Ogden issued a memorandum to U.S. Attorneys entitled "Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana" to provide "guidance on resource allocation and federal priorities..."^{xxv} Specifically, the memo discourages the use of federal enforcement resources to investigate individuals who are in "clear and unambiguous compliance with state law" regarding medical cannabis. The memo also notes that the commission of crimes not related to medical cannabis should not to be ignored.

The memo's tacit recognition that cannabis has legitimate medical applications and that allowance should be made for patients whose physicians have advised them to use it marks a significant policy departure from previous administrations. Although the memo does not have the force of law, it did appear to ease the conflict between the federal law enforcement officials and state-authorized individuals who use or provide cannabis for therapeutic use.

In the months that followed, ASA noted a decline in federal enforcement action that undermines state and local law. But to the extent that anyone assumed that the federal government "will not" continue enforcement in medical cannabis states, that was a false sense of security. Another series of DEA raids in Colorado and California were conducted in the weeks surrounding the Obama Administration's decision to nominate Michele Leonhart to head the agency.^{xxvi}

In total, ASA has confirmed more than 30 DEA enforcement raids in California, Nevada, Colorado, and Hawaii, since the DAG Memo was issued. More than 20 patients and providers have been arrested and the federal government is currently prosecuting more than a dozen individuals presumed to have been acting in strict compliance with state law.

Reconciling the Conflict

These continued enforcement actions illustrate the problem with the Obama Administration's "easement" policy: the law itself is unchanged and the policy is inconsistently enforced. Worse still, federal policy provides no legal protection to individuals authorized to use or provide cannabis in accordance with state law. Even the most seriously ill individuals are prevented from presenting evidence in federal court about their medical conditions, their doctors' advice, or their compliance with state law—all but guaranteeing conviction.

Yet the intent of the memo appears clear. If you are in compliance with your state's medical cannabis laws, federal resources should not be used to disrupt your activity or to send you to prison. Since compassionate use laws vary among the states, ASA believes that whether an individual is compliant with his or her state's particular law is best determined by local officials and, if necessary, the state courts. Federal preemption of a state's legislative intent, judicial review and interpretation, and local regulation surely falls outside the scope of "an efficient use of limited federal resources," the stated rationale for the DOJ's new policy on medical cannabis cases.

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Regardless of whether you agree or disagree with state law, the status quo is not sustainable and requires change. The next DEA Administrator will be challenged with negotiating the growing divide between state and federal law, and the situation will grow worse as more states adopt regulations to control the cultivation and distribution of marijuana for medical purposes. The science and policy concerning the use of marijuana for medical purposes should no longer be confused or obscured by the separate debate concerning the legalization of marijuana for recreational use. It is important that the next Administrator possess the leadership necessary to facilitate change and the commitment to work with all parties create a national strategy to support safe and legal access to marijuana solely for therapeutic use and research.

**Areas of Inquiry for Ms. Michele Leonhart,
Administrator, Drug Enforcement Administration
U.S. Senate Committee on the Judiciary
for Wednesday, November 17, 2010**

Negotiating the growing divide between state and federal medical marijuana laws will be among the domestic challenges facing the next DEA Administrator. As the Deputy Director, Ms. Leonhart supervised an unprecedented level of paramilitary-style enforcement raids specifically designed to undermine the effective implementation of state medical cannabis programs. Despite these heavy-handed tactics, fourteen states and the District of Columbia have adopted laws to control and regulate the use and distribution of cannabis to individuals in accordance with state and local laws. More than a quarter of the total population of the United States currently lives in a state that has adopted medical marijuana laws.

1. What are your plans for working to bridge the growing divide between state and federal law concerning the use of marijuana for medical purposes? At what point in this conflict do you think the Administration should commit to working with Congress and legislators in these states to develop a strategy on medical marijuana that embraces state and local law, acknowledges emerging science, and accepts the experiences of patients and physicians concerning the use of cannabis for medical purposes?
2. Medical marijuana advocates like Americans For Safe Access, who track federal raid activity on licensed medical marijuana facilities, have confirmed a decline in raid enforcement activity since the dissemination of the U.S. Department of Justice's October 2009 Memo concerning "Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana." Can you explain how the DEA changed its policies and practices to ensure compliance with these new guidelines?
3. Since the Department of Justice issued its memo stating that federal resources should not be used to target individuals in compliance with their state's medical cannabis laws, more than 30 federal enforcement raids have continued to be executed in Colorado, California, Hawaii, and Nevada. These raids have targeted not just medical cannabis patients but also independent

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laboratories tasked with ensuring that the medical cannabis being distributed through state programs is unadulterated and safe for consumption. Can you please clarify how these raids make "efficient and rational use of the Department's limited investigative and enforcement resources?"

4. The Compassionate Use Laws vary among the different states that have adopted medical marijuana policies. With that in mind, are the facts about whether an individual is in "clear and unambiguous" compliance with their state's law a determination best made by Federal authorities or, perhaps, better left to the judicial and regulatory processes established by each state? Why not remand ongoing and pending cases to the individual states to prosecute violations of state and local law?

5. In 2002, a petition to reschedule marijuana was submitted to DEA per the provisions outlined in the Controlled Substances Act (CSA). In 2004, the DEA forwarded that petition to HHS for a scientific and medical evaluation. What is the status of this petition? Has HHS completed its evaluation? It's been nearly a decade; why the delay and when can advocates expect DEA to reach its final determination on this petition?

ⁱ *Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana*, David Ogden, Deputy Attorney General, Oct. 19, 2009. <http://www.justice.gov/opa/documents/medical-marijuana.pdf>.

ⁱⁱ Center for Medicinal Cannabis Research. (2010). *Report to the Legislature and Governor of the State of California presenting findings pursuant to SB847 which created the CMCR and provided state funding*. San Diego, CA. http://www.cmcr.ucsd.edu/CMCR_REPORT_FEB17.pdf

ⁱⁱⁱ US Department of Justice, Drug Enforcement Agency, "In the Matter of Marijuana Rescheduling Petition," Docket #86-22]. Sep. 1988.

^{iv} The 14 states include: Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Washington, and Washington, DC

^v *Conant v. McCaffrey*, 172 F.R.D. 681 (N.D. Cal. 1997).

http://www.safeaccessnow.org/downloads/Conant_Ruling.pdf.

^{vi} *Conant v. Walters*, 309 F.3d 629 (2002). <http://safeaccessnow.org/downloads/conantvwalters.pdf>.

^{vii} On Sep. 28, 2001, DEA agents raided the home and office of California physician Dr Mollie Fry and her husband, attorney Dale Schafer. Agents seized the confidential medical records of her 6000 patients. Fry and Schafer were tried and convicted for growing 100+ plants over three years and sentenced to 5 years mandatory minimum in federal prison. *San Francisco Chronicle*: <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2001/11/13/MN190086.DTL>. On Oct. 25, 2001, DEA agents raided the Los Angeles Cannabis Resource Center, which provided services to nearly 1,000 seriously ill people, the majority of whom were living with HIV/AIDS or cancer. The LACRC operated out of a building in West Hollywood that the city had helped buy; the building was seized by the federal government through civil asset forfeiture. *Los Angeles Times*: <http://tinyurl.com/2adld7w>.

^{viii} *Gonzales v. Raich*, 125 S. Ct. 2195 (2005).

^{ix} The holding did not, however, invalidate states' medical marijuana laws under the doctrine of preemption. States remain free to provide protection from criminal sanction and access to medical marijuana for critically ill citizens.

^x *Gonzales v. Raich*, 125 S Ct. 2195 (2005)

^{xi} "Photo Essay: Hollywood Medical Marijuana DEA Raid." Zach Behrens, LAist. Photos by Shay Sowden. July 27, 2007. http://laist.com/2007/07/27/medical_marijuana_dea_raids.php; "Feds Raid L.A. Medical Marijuana Clinics." Keach Hagey, CBS News. July 26, 2007. <http://www.cbsnews.com/stories/2007/07/26/national/main3098913.shtml>; "Feds Raid 11 Medical Marijuana Clinics." Dan Collins, CBS News. Jan. 18, 2007. <http://www.cbsnews.com/stories/2007/01/18/national/main2369758.shtml>; "DEA Raids 10 Los Angeles Medical Marijuana Clinics." Associated Press via Fox News. July 26, 2007. <http://www.foxnews.com/story/0,2933,290852,00.html>.

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- ^{xv} "Governor Bill Richardson Urges Bush Administration to End Heartless Medical Marijuana Policy," Press release, New Mexico Governor Bill Richardson. Aug. 17, 2007. http://www.governor.state.nm.us/press/2007/august/081707_02.pdf.
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- ^{xxi} Id.
- ^{xx} "DEA Raid Has Pot Clubs Worried," Ryan Grim, *Huffington Post*. Feb. 16, 2010. http://www.huffingtonpost.com/2010/02/16/dea-raid-has-pot-clubs-worried_n_464598.html.
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- ^{xxvi} "Owner who bragged of large medical-pot operation jailed in DEA raid," John Ingold, *Denver Post*. Feb. 13, 2010. http://www.denverpost.com/ci_14393797. "Medical-pot advocates riled over federal raid of Denver lab," John Ingold, *Denver Post*. Jan. 29, 2010. http://www.denverpost.com/news/ci_14290771. "Medical marijuana in basement lands man in jail," Jace Larson, KUSA. Feb. 23, 2010. <http://www.9news.com/news/article.aspx?storyid=132606&catid=339>

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CHUCK CANTERBURY
NATIONAL PRESIDENT

JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

17 November 2010

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Jefferson B. Sessions III
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman and Senator Sessions,

I am writing on behalf of the members of the Fraternal Order of Police to advise you of our strong support for Michele M. Leonhart to be the next Administrator of the Drug Enforcement Administration (DEA).

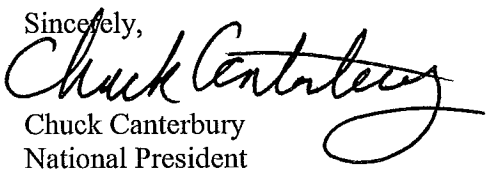
Michele Leonhart is a career law enforcement officer. She began her career as a Baltimore City Police Officer in 1978, represented by one of the largest and most highly regarded local lodges of the FOP. She left Baltimore City for the DEA and has spent virtually her entire career with this agency. She joined the Special Executive Service (SES) in 1996, leading Special Agent Recruitment efforts at DEA Headquarters. From 1997-98, she served as the Special Agent in Charge of DEA's San Francisco Field Division, and then, in 1998, became the Special Agent in Charge of Los Angeles Field Division, a post she held until she was nominated to be the Deputy Administrator by then-President George W. Bush in 2003.

In March 2004, she was unanimously confirmed by the Senate as Deputy Administrator and was nominated to be the Administrator in 2008 by then-President Bush. President Barack H. Obama II renominated her for the same post in February of this year.

Mr. Chairman and Senator Sessions, this important law enforcement agency has been without a Senate-confirmed leader for three years. She is an eminently qualified nominee who has effectively run this agency since the resignation of former Administrator Tandy in November 2007. No one knows this agency and how to lead it better than Michele Leonhart and it is passed time—long passed time—that she be confirmed by the United States Senate.

Throughout her career at the DEA, she has been a friend to the FOP, a strong advocate for law enforcement and an effective leader in nation's war on illegal drugs. I believe that the President has made a fine choice in Michele M. Leonhart to be the next Administrator of the Drug Enforcement Administration, and I urge you and your Committee to expeditiously confirm her nomination. If I can be of any further assistance in this matter, please do not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,


Chuck Canterbury
National President

—BUILDING ON A PROUD TRADITION—

Senator Leahy:

We ask this be included in the record.

Your attention is deeply appreciated.

Jerry Epstein
President
Drug Policy Forum of Texas

The Drug Policy Forum of Texas encourages questions of Michelle Leonhart regarding the DEA commitment to communicating scientific facts to the public.

Because the DEA has no mandate regarding alcohol but frequently mentions alcohol in its communications we ask that they help alert the youth of our nation that five out of six cases of drug abuse and dependence involve alcohol use disorders (AUD)[1] and that the path to both alcohol and other substance use disorders (SUD) is normally marked by heavy alcohol use between the ages of 12 and 17 [2] with problems peaking around age 21.

It would also help the public if they had a firmer basis for comparison. Thus when "drugs and alcohol" are mentioned as problems it would be best to explain the degree to which each of the two contributed to the specific problem and also to emphasize that alcohol is a dangerous drug by using the phrase "alcohol and other drugs" as is generally done by the organs of HHS.

Similarly, the word "gateway" is imbedded in the public conscience, particularly in relation to a causal link from marijuana to use of other illegal drugs, inconsistent with science, including the findings of IOM in 1999. [3] The fact that NSDUH estimates over 96 percent of marijuana users have never even tried heroin should become common knowledge.

We are deeply concerned about the failure to reschedule marijuana for medical use. A common sense assessment of "accepted medical use" has persuaded some 70 percent of the public to support medical use. The failure to do so threatens respect for the law (which also applies to the ban on growth of industrial hemp).

There are similar questions about the logic of scheduling Marinol, first in Schedule II and now moved to III, but not natural marijuana. Amid concerns over increased potency, we have approved Marinol which is about 10 times as potent, as natural marijuana (which need not be smoked where smoke is contra indicated). Moreover, Marinol does not contain any cannabidiol (CBD) which shows great medical promise. Comments by IOM in 1999 are pertinent. [3]

We believe the incoming director should display an openness and sense of immediacy in regard to these subjects. Your attention is deeply appreciated.

Jerry Epstein
President
Drug Policy Forum of Texas

[1] In 2009, an estimated 22.5 million persons aged 12 or older were classified with substance dependence or abuse in the past year (8.9 percent of the population aged 12 or older). Of these, 3.2 million were classified with dependence on or abuse of both alcohol and illicit drugs, 3.9 million were dependent on or abused illicit drugs but not alcohol, and 15.4 million were dependent on or abused alcohol but not illicit drugs.

[2] Approximately 66 percent of youths who drank alcohol heavily within the past month were also past month users of illicit drugs. [only 4 percent of youths who had not used alcohol]

NSDUH 2009 : "Among the 17.1 million heavy drinkers aged 12 or older, 33.2 percent were current illicit drug users. Persons who were not current alcohol users ... 3.7 percent."

Age and use statistics indicate that young people typically first experiment with tobacco, alcohol, inhalants, and marijuana. The age of initiation for each of these substances is lower than for any other illicit substance. According to the latest data from NHSDA, the mean age at first use of tobacco is 15.4; alcohol, 16.3; inhalants, 16.4; and marijuana, 17.0. This higher onset age for marijuana is consistent with research showing that most youth who initiate marijuana use previously have used tobacco, alcohol, or both, and that some have used inhalants.

[3] "It is well recognized that Marinol's oral route of administration

hampers its effectiveness because of slow absorption and patients' desire for more control over dosing." (IOM pp. 205, 206)

"We acknowledge that there is no clear alternative for people suffering from chronic conditions that might be relieved by smoking marijuana ..." (IOM p.8)

"The critical issue is not whether marijuana or cannabinoid drugs might be superior to the new drugs, but whether some group of patients might obtain added or better relief from marijuana or cannabinoid drugs." (IOM p. 153)

"For patients such as those with AIDS or who are undergoing chemotherapy and who suffer simultaneously from severe pain, nausea, and appetite loss, cannabinoid drugs might offer broad-spectrum relief not found in any other single medication." (IOM p. 177)

"The acute side effects of marijuana use are within the risks tolerated for many medications." (IOM p. 126)

"... mood enhancement, anxiety reduction, and mild sedation can be desirable qualities in medications — particularly for patients suffering pain and anxiety. Thus, although the psychological effects of marijuana are merely side effects in the treatment of some symptoms, they might contribute directly to relief of other symptoms." (IOM p. 84)

NATIONAL NARCOTIC OFFICERS' ASSOCIATIONS' COALITION

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Richard M. Sloan - Executive Director

November 17, 2010

The Honorable Patrick Leahy

Chairman

The Honorable Jeff Sessions

Ranking Member

Committee on the Judiciary

United States Senate

Washington, DC 20510

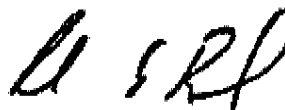
Dear Chairman Leahy and Ranking Member Sessions,

On behalf of the more than 60,000 law enforcement officers represented by the National Narcotic Officers' Associations' Coalition (NNOAC) I write to strongly commend the committee for moving forward with the nomination of Michele Leonhart to be Administrator of the Drug Enforcement Administration. Ms. Leonhart has ably led the DEA as Acting Administrator and Deputy Administrator for the past three years. From the state and local law enforcement perspective, her leadership has led to very productive partnerships. We couldn't have a better partner than Ms. Leonhart in the Administrator position and we are excited that she will finally have the "Acting" removed from her title.

From the time she began working as an agent with DEA in the 1980s Ms. Leonhart has been recognized for her professionalism, focus, and results-oriented leadership. She understands the needs and challenges of the agent in the field, she understands the importance of building partnerships to get things done, and she understands that drug trafficking and abuse are clear and present dangers to national security. Her perspective is extremely valuable as DEA's mission to protect the American people from the dangers of drug trafficking becomes even more urgent.

Thank you on behalf of the NNOAC for moving forward with Michele Leonhart's nomination. We look forward to working closely with her and the outstanding men and women of the DEA.

Sincerely,



Ronald E. Brooks
President

Alabama Narcotic
Officers' Assn.

Arizona Narcotic
Officers' Assn.

Arkansas Narcotic
Officers' Assn.

California Narcotic
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New Mexico
Narcotic Officers' Assn.

New York
Organization of Narcotic Enforcers

North Carolina
Narcotic Enforcement Officers' Assn.

Narcotic Assn. of Regional
Coordinating Officers of Ohio

Assn. of Oklahoma Narcotic Enforcers

Oregon Narcotics Enforcement Assn.

Pennsylvania Narcotic Officers' Assn.

Puerto Rico Narcotic Officers' Assn. (TPRR)

R.I.S.S. Projects

Tennessee Narcotic Officers' Assn.

Texas Narcotic Officers' Assn.

Utah Narcotic Officers' Assn.

Washington State Narcotics Investigators' Assn.

Wisconsin Narcotic Officers' Assn.

FAX 202-224-9516

TO: Senator Patrick Leahy, Chairman, Committee on the Judiciary

FROM: Health Professionals for Responsible Drug Scheduling

RE: 11/17/10 hearing on the nomination of Michele Leonhart as Drug Enforcement

Administration chief

Dear Senator Leahy,

My name is Dr. Sunil Aggarwal, and I am writing on behalf of a group of concerned health professionals to **oppose** the nomination of Ms. Leonhart as chief administrator of the Drug Enforcement Administration (DEA). Our 17-member group, Health Professionals for Responsible Drug Scheduling, is composed of the following health professionals: 7 M.D.s, 1 D.O., 2 N.D.s, 2 allopathic medical students (1 US-based, 1 Ireland-based), 1 osteopathic medical student, 2 pharmacy students, 1 R.N. This group of health professionals also has a number of additional lettered areas of specialization: PhD ((Medical)Geography), MPH (2), MPA (1), Doctoral Student (Environmental and Occupational Hygiene) (1), Certified Midwife (1), M.S. (Physiology) (1), D.Div. (1). We have one health scientist as well who has a PhD in Psychology who specializes in psychiatric epidemiology. Our group has 63 fans on facebook.

The group was formed to challenge irresponsible scheduling that officials at various levels of governance have maintained for naturally occurring drugs or substances and their cogeners on scientific and humanitarian grounds, drawing on the accumulated wealth of knowledge about these drugs and their uses gleaned from all fields of human and biomedical sciences and independent inquiry. The group seeks to identify schedule designations for substances which are judged to be unscientific and unjust in the face of such evidence and to advocate for and educate the public about their responsible rescheduling or de-scheduling by those legally empowered to do so. The group also envisions future scenarios of health and social development that would be possible with responsible drug scheduling.

In a democracy which strives to place "We the People" at the center, we do not deserve to have politically appointed government officials who actively violate the People's wishes. Not only has Ms. Leonhart done this on repeated occasions, she has undermined the dictates of just action and the imperatives of scientific understanding. Now that Arizona and the District of Columbia have become zones in which the electorate has chosen to allow health care providers the ability to use *cannabinoid botanicals* (the scientific term for thinking about cannabis as a medicinal agent, since it acknowledges the previously unknown widespread cannabinoid signaling system in human bodies, which it acts on) in the course of treatment and patient care, 28.57% of the population of the United States currently resides in a state or district that has accepted the medical use of marijuana (to use the slang Schedule I term for this plant) in treatment. Given this fact, how can it be said that cannabis "has no currently accepted medical use in treatment in the United States" or a "lack of accepted safety for use... under medical supervision" as it says, *verbatim*, in the Congressionally-authored scheduling criteria for class I, where cannabis has been placed for 40 years? Ms. Leonhart, despite the meaning of her surname 'Lion-hearted', which implies courage, has acted in cowardice and in dereliction of duty by maintaining the schedule I classification of cannabis in light of these facts. Attorney General Holder has designated his Congressionally-granted authority to re-schedule and de-schedule drugs to the head of the DEA, and the federal law states that these officials are required to frequently review the drug schedules and update them in light of emerging scientific and social understanding. By not choosing to recommend de-scheduling or rescheduling of cannabis, by not choosing to implement the rulings of prior DEA Administrative Law Judges who have, in

their legal decisions, called for the rescheduling of cannabis and the creation of multiple sources of supply for research, and by continuing to harass and intimidate those who are attempted to act in compliance with state medical cannabis laws, Ms. Leonhart has demonstrated that she represents neither the will of the People nor the basic dictates of democratic due process and thus should never have been nominated to head the DEA, nor should she be confirmed by the Senate to do so.

Whereas the American Medical Association and the American College of Physicians, the two largest groups of physicians in the United States, have called for a review of the Schedule I status of cannabis, Ms. Leonhart has instead only chosen to review the Schedule status of THC, recently calling for its transfer to Schedule III, since drug manufacturers have applications before the FDA to make “generic Marinol®” and in turn generate a handsome profit at the expense of the public who are disempowered by the threat of felony to produce this same medicinal agent themselves in its plant form. This was the logical extension of the DEA ruling in 2007, when Ms. Leonhart’s DEA agreed that THC and other cannabinoids can be directly extracted from the federal cannabis supply in Mississippi, developed as drugs by pharmaceutical companies, and marketed to the public. This is nothing more than sheer hypocrisy, cronyism, and deepening injustice, made possible by the continuing lie that cannabis has no accepted medical use in treatment in the United States... but somehow all of the compounds extracted from it do? And somehow, over thirty published clinical trials with the federal supply cannabis, including numerous randomized controlled ones, which overwhelmingly show empirically demonstrable medical utilities of cannabis for the treatment of severe nerve pain (neuropathic pain), appetite loss, and muscle spasm are simply ignored or conveniently forgotten? This is outrageous.

Members of the Committee, I implore you to end the politicization of the drugs issues. On your committee you have a physician member, Dr. Tom Coburn. Dr. Coburn personally knows me, Sunil Aggarwal, as I grew up in the same city that he hails from, Muskogee, Oklahoma. He even came to our high school to teach us sex-ed when I was a teenager. Dr. Coburn will attest to my reputation of being a hard-working, high achieving student. From what I have studied in an NIH-funded Medical Scientist Training Program and an NSF-funded Graduate Research Fellowship, at the top-ranked primary care medical school for over a decade, I can attest that cannabis and other schedule I classified substances DO indeed have bona fide medicinal uses, not to mention longstanding cultural uses in history. It is time to end the lies and let the scientific record guide our drug scheduling, not political posturing and drug ‘propaganda’.

Sunil Aggarwal, MD, PhD

Health Professionals for Responsible Drug Scheduling, Founder

[REDACTED]

[REDACTED]