

**Statement of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Judiciary Committee,  
Hearing on “Conflicts Between State and Federal Marijuana Laws”  
September 10, 2013**

Last November, the people of Colorado and Washington voted to legalize the possession and use of small amounts of marijuana, and to regulate how marijuana is produced and distributed in their states. These new laws are just the latest examples of the growing tension between Federal and state marijuana laws, and they underscore the persistent uncertainty about how such conflicts will be resolved.

Should the Federal government arrest and prosecute marijuana users in states where they might be in full compliance with state law? Or should the Federal government take a completely hands-off approach and let drug laws and policy develop on a state-by-state basis? Or is there some middle ground approach that considers both the national interests and the fundamental principles of federalism, including the rights of voters to decide what is best for their own individual state? Today this Committee holds the first congressional hearing on these issues since the new laws passed in Colorado and Washington, and it presents an important opportunity to hear from some of the people who are directly involved in grappling with these complex questions.

Although much of the focus of today’s hearing will be on what is happening in Colorado and Washington, the questions and issues we discuss today have implications for the rest of the country. Marijuana use in this country is nothing new, but the way that individual states are dealing with marijuana continues to evolve. Some states, like Vermont, have decided to allow the use of marijuana by patients with debilitating medical conditions. As a result, Vermonters who suffer from diseases like multiple sclerosis, cancer, and AIDS now are able to use medical marijuana to treat their conditions. In addition, some states, including Vermont, have simply decriminalized marijuana, imposing civil fines on marijuana users rather than criminal penalties.

To date, and as shown on this map, a total of 21 states have legalized marijuana for medical purposes, and 16 of those states have also decriminalized the possession of small amounts of marijuana. However, all of these changes in state marijuana laws have taken place against the same backdrop: the possession of *any* amount of marijuana remains a criminal offense under Federal law.

What role, then, should the Federal government play in those states where marijuana use is legal? In order to answer this question, I believe it is important to first identify those areas where there is broad agreement and common ground. For example, the Federal government and those states that have legalized marijuana in some way all agree on the necessity of preventing the distribution of marijuana to minors. Likewise, there is agreement about the need to prevent criminal enterprises from profiting from marijuana sales; the goal of reducing violent crime; and the dangers associated with drugged driving. These are all vitally important public safety concerns. I appreciate all who are acting to address these concerns – particularly those in Federal, state, and local law enforcement who work tirelessly to keep our communities safe.

I hope we can also agree that we must not be satisfied with the status quo. No one can question that the black market for illegal marijuana in this country endangers public safety. The black market contributes to violence along the Southwest border and continues to thrive despite the billions of dollars that have already been spent on enforcement efforts at the Federal, state, and local levels. It is also clear that the absolute criminalization of personal marijuana use has contributed to our Nation's soaring prison population, and has disproportionately affected people of color. In this context, it is no surprise that states are considering new, calibrated solutions that reach beyond the traditional criminal justice system.

Last December, in the wake of the decisions by the voters in Colorado and Washington, I asked the Administration for its response to these measures. Although it took some time, I am encouraged by the policy guidance that the Deputy Attorney General recently provided to Federal prosecutors. I do not believe that Federal agents and prosecutors should be devoting scarce investigative resources to pursuing low-level users of marijuana who are in compliance with state law. As the President said last year, there are bigger fish to fry – and I am glad that the Justice Department plans to commit its limited resources to addressing more significant threats. I appreciate that Deputy Attorney General Cole is here to answer questions regarding the new guidance.

I also look forward to hearing from the witnesses from Colorado and Washington who can both explain the decision in their states legalize personal marijuana use, and the implementation of those decisions. I hope today's hearing will also shine a light on how a series of Federal laws pose significant obstacles to effective state implementation and regulation of marijuana – including existing Federal laws and regulations in areas such as banking and taxation. We must have a smarter approach to marijuana policy and that can only be achieved through close cooperation and mutual respect between the Federal government and the states.

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