

OPENING STATEMENT OF SENATOR CHARLES E. GRASSLEY
SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL
"MARIJUANA CULTIVATION ON U.S. PUBLIC LANDS"

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Madam Chairman, thank you for holding this important hearing to address the proliferation of marijuana being grown on public land in U.S. parks and preserves. Last year alone the Drug Enforcement Administration destroyed over 10 million marijuana plants and the National Forest Service destroyed over 3 and half million plants nationally. The efforts of law enforcement to destroy these plants have come at great cost of resources and manpower.

Law enforcement officials report that these marijuana growers are becoming more aggressive in protecting their drug supplies. The National Forest Service reports that 9 suspects have been killed this year in firefights with law enforcement. Innocent people are also victims of these growers. Recently, two men including a city councilman and former Mayor of Fort Bragg, California were shot to death while checking on property near a marijuana grow site. These men apparently got too close for comfort for these marijuana growers and unfortunately were killed as a result.

Clearly, the aggressive effort to grow and protect marijuana in U.S. parks is a symptom of a much larger problem. The demand for marijuana in this country is unacceptably high. According to the most recent National Survey on Drug Use and Health, marijuana is the most commonly used illegal drug in the country. According to this survey, over 17 million Americans aged 12 or older are current users of marijuana. This is a sharp increase from three years ago when 14 million people reported using marijuana. The rate of youth marijuana use has also increased significantly since 2008 increasing to 7.4% of 12 to 17 year olds from 6.7%. This survey also estimates that over 8,000 people per day used marijuana for the first time last year. In my home state of Iowa, the Governor's Office of Drug Control Policy reports in their 2012 Drug Control Strategy that Marijuana continues to be the most abused illegal drug in Iowa. According to this report, nearly two thirds of all children in substance abuse treatment are there for marijuana use. It is reported that these are the highest rates of marijuana-using treatment clients in recent Iowa history.

How did we get to this point? The National Survey on Drug Use and Health stated that while their findings are disappointing, they were not unexpected. The Survey reported that data from the past three years have shown that young people's attitudes about drugs and their risks have been "softening." This means that kids are more and more coming to the conclusion that drug use really isn't as bad as it's made out to be. Decreases in the perceived harm of drugs among youth usually indicate that the increases in youth drug use will get worse before they get better. The Monitoring the Future Survey, which is conducted by the University of Michigan and surveys school age kids drug use from 8th grade to 12th grade, also indicates that young people's perceptions on drug use, especially the harms associated with marijuana use, are rapidly moving in a negative direction. The survey states, "Increases in youth drug use...are disappointing, and mixed messages about drug legalization - particularly of marijuana - may be contributing to the trend. Such messages only hinder the efforts of parents who are trying to prevent their kids from

using drugs.” Dr. Volkow, the director of the National Institute on Drug Abuse, also agrees that the debate over legalizing marijuana is contributing to the rising youth drug abuse rates. Dr. Volkow states, “We should examine the extent to which the debate over medical marijuana and marijuana legalization for adults is affecting teens’ perceptions of risk.”

Law Enforcement officials also suspect that efforts to legalize marijuana for any purpose is having an impact on the increasing marijuana grow sites. According to a recent article in the *Fresno Bee*, local law enforcement officials are often finding medical marijuana recommendation letters from physicians posted at perimeters of big marijuana grow sites. The article states that narcotics detectives believe drug traffickers are in charge of the grow sites and are abusing California’s medical marijuana law to grow large quantities of marijuana. Detectives say that growers pay friends and relatives to visit marijuana-friendly doctors to get these recommendation letters in order to grow large amounts of marijuana.

I’m concerned that the Obama Administration has contributed to this problem. In October 2009, the Department of Justice issued a memorandum to all U.S. Attorneys regarding the prosecution of individuals who use or sell marijuana for medical purposes in states that allow it. This policy stated that U.S. Attorneys should not expend resources to prosecute individuals who were complying with state laws regarding selling, possession, and use of marijuana for medical purposes. These state laws are in direct conflict with long existing federal laws. The memorandum also stated that this policy will not alter the Department’s authority to enforce federal law.

This confusing policy attempted to have it both ways. The DOJ was telling U.S. Attorneys that they should not prosecute people in states that allow medical marijuana, but the policy did not prevent them from doing so. This policy was a departure from the longstanding DOJ position to prosecute individuals who violate federal law notwithstanding state law. This policy was ill advised, misguided, and internally inconsistent. It also sent the wrong message that this administration was deciding which laws it would prefer to enforce rather than upholding and aggressively enforcing all existing laws.

As a result, this memorandum lead to confusion among U.S. Attorneys causing some to decline prosecuting marijuana cases while others still aggressively pursued them. However, it is safe to say that if you are a marijuana grower and you never have to pay a price for your crimes you are not likely to stop your practices. In fact, this memorandum likely threw gasoline on an already white hot burning fire. I’ll be interested to learn more about the memorandum’s impact on local law enforcement from Sheriff Mims.

The Obama Administration must have understood the destructiveness of their 2009 memorandum. This past June, Deputy Attorney General James Cole issued another memorandum on marijuana prosecutions seeking to provide clarity for U.S. Attorneys on the 2009 Ogden memorandum. This new memorandum almost completely walks back the 2009 policy while acknowledging the fact that there has been a large movement into commercial cultivation, sale, and distribution of marijuana for medical purposes in states that allow it. This memorandum states that the 2009 memorandum was never intended to shield those who are growing large quantities of marijuana, some projected to make millions from selling thousands of plants, even if they are in compliance with state law. The memorandum concludes that the

people who are growing and selling marijuana are in violation of the Controlled Substances Act and are subject to federal enforcement action including prosecution.

Since this memorandum has been issued, numerous marijuana dispensaries have faced aggressive DEA enforcement action. Despite these positive actions, the Obama Administration's earlier confusing policy helped create a bigger problem for the DEA and local law enforcement to handle. Hopefully this damage will be fixed in time, but the costs will undoubtedly be much higher than it should be, and begs the question as to what the Department was thinking when it issued the 2009 Ogden Memorandum.

Madam Chairman, you and I have worked closely together on many issues especially when it comes to illegal drugs. I really appreciate your efforts in joining me to ensure these dangerous drugs are removed from our society. I look forward to hearing the testimony from the witnesses and to the opportunity to question them about ways we can strengthen our efforts to stop this disturbing practice. Thank you.