

***From the former Administrators of the Drug Enforcement Administration
July 1, 1973 to November 10, 2007***

August 24, 2010

The Honorable Attorney General Eric Holder
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

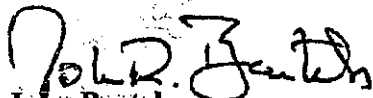
Dear Attorney General Holder,

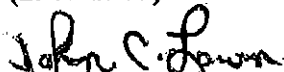
We are former Administrators of the U.S. Drug Enforcement Administration who are writing you to express our grave concern about Proposition 19 in California, also known as *Regulate, Control and Tax Cannabis Act of 2010*, which if passed will legalize the production, possession and sale of marijuana in direct conflict with the *Controlled Substances Act (CSA)* and federal law. Under these circumstances, as you know, such a state law will violate the Supremacy Clause of the U.S. Constitution and will be void. Indeed, the *CSA* itself clearly states that federal law preempts state law when there is a positive conflict between the two jurisdictions.¹ The California proposition is not a close call; it will be a clear conflict with established federal law and in fact will also violate our government's treaty obligations ratified by Congress.² We further invite your attention to the President's 2010 National Drug Control Strategy which unequivocally opposes the legalization of marijuana:


"Keeping drugs illegal reduces their availability and lessens willingness to use them. That is why this Administration firmly opposes the legalization of marijuana or any other illicit drug. Legalizing drugs would increase accessibility and encourage promotion and acceptance of use. Diagnostic, laboratory, clinical and epidemiological studies clearly indicate that marijuana use is associated with dependence, respiratory and mental illness, poor motor performance, and cognitive impairment, among other negative effects, and legalization would only exacerbate these problems."³


Lastly, we note that the Department of Justice acted quickly to assert the Constitution's *Supremacy Clause* in its recent suit to declare null and void certain provisions of an immigration bill passed by the state of Arizona.⁴ We would expect the Department of Justice to act just as swiftly and for the same reason to uphold the Supremacy Clause of the U.S. Constitution and the preemption provision of the *CSA* to prevent Proposition 19 from becoming law. While the California ballot initiative has not yet been approved by the voters, as was the case in Arizona, it would be in the public interest to be aware of the law and where the Department of Justice would stand if this proposition passed. We urge you to speak out on this issue. Proposition 19 suggests that marijuana sales will be taxed and revenue collected by the state. It is unlikely that any taxes will be paid, for doing so would admit criminal violation of federal law and expose the seller to federal prosecution. If the Department of Justice remains silent, the consequences will be lack of awareness of the federal preemption clause dealing with drug control, indication of a willingness to abrogate treaty obligations, costly and unnecessary litigation, and the unfortunate message that this silence conveys to the public, to our law enforcement counterparts, both overseas and in this country, and finally to the strategy set out by the President in the National Drug Control Strategy of 2010.

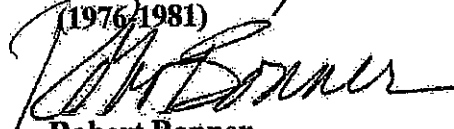
We would be pleased to meet with you on this matter should you desire to discuss this further. Each of us, covering almost four decades, strongly supported the language and intent of the *Controlled Substances Act*. Upon becoming Administrators of the Drug Enforcement Administration, we took an oath of office to uphold and defend the Constitution; and while we may no longer be in public service, our personal commitment to this goal and to the responsibility to uphold the law remains undiminished. It is in this spirit that we offer our guidance on this issue and respectfully request your attention and intervention on California's Proposition 19.

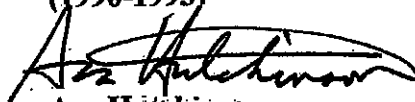

John Bartels
(1973-1975)


Jack Lawn
(1985-1990)


Donnie Marshall
(2000-2001)


Peter Bensinger
(1976-1981)


Robert Bonner
(1990-1993)


Asa Hutchinson
(2001-2003)


Francis Mullen
(1981-1985)


Tom Constantine
(1994-1999)


Karen Tandy
(2003-2007)

The above individuals served as Administrators of the United States Drug Enforcement Administration, from July 1, 1973 to November 10, 2007.

cc: R. Gil Kerlikowske, Director of the Office of National Drug Control Policy

¹ 21 U.S.C. §903, Pub. L. 91-513, title II, Sec. 708, Oct. 27, 1970, 84 Stat. 1284.

² Article 4(c), Single Convention on Narcotic Drugs (1961); see also Convention on Psychotropic Substances (1971).

³ 2010 National Drug Control Strategy. ONDCP, Washington, D.C., p.8.

⁴ Complaint filed in *U.S.A v. The State of Arizona, et al.*, U.S. District Court, District of Arizona, July 6, 2010.