

HOLD: For Release on October 15, 2010 at Press Conference

**PRESS STATEMENT OF FORMER DEA ADMINISTRATORS ROBERT C. BONNER
AND PETER BENSINGER**

Media Contacts:

Robert C. Bonner (213) 229-7321

Peter Bensinger (312) 726-8620

**FORMER DEA HEADS MAKE PUBLIC LETTER OF U.S. ATTORNEY GENERAL
REGARDING THE U.S. JUSTICE DEPARTMENT'S POSITION ON PROP 19**

Robert C. Bonner and Peter Bensinger, former heads of the U.S. Drug Enforcement Administration (DEA), are making public today a letter of U.S. Attorney General Eric Holder responding to the concerns expressed by all nine former Administrators of the DEA to the Attorney General regarding Proposition 19, the proposed initiative on the ballot in California in November. A copy of Attorney General Holder's letter, dated October 13, 2010, to the nine former heads of the DEA is attached. Also attached is the letter from all the former heads of DEA to Attorney General Holder, dated August 24, 2010.

Robert C. Bonner stated:

"Attorney General Holder's letter to the former heads of the DEA is strong and could not be clearer. The U.S. Department of Justice opposes Proposition 19, and if it passes, the Department of Justice will 'vigorously enforce' in California the federal law which makes it a crime to cultivate, distribute and sell marijuana. Attorney General Holder's letter is proof that the United States Constitution and federal law still counts".

Peter Bensinger stated:

"Attorney General Holder is to be congratulated on making the Justice Department's position clear and for removing any doubt as to what the Department of Justice's position would be if Proposition 19 passed. This is important to protect the families, children, communities and businesses not only in California, but in other states and foreign countries who may be wondering where the US Government stands. The Attorney General's message is clear: 'the Department of Justice is firmly committed to enforcing the [federal] Controlled Substances Act . . . and prosecuting those who manufacture, distribute , or possess any illegal drugs-including marijuana... ' This is truly a significant moment in stopping marijuana, which is illegal, from becoming an acceptable drug in America."

Bonner added: "There has been a great deal of confusion regarding what would happen if Proposition 19 passed. *First*, there is the belief by some that Prop 19 only

legalizes personal use or possession for personal use of marijuana. It does a lot more than that. Prop 19 would legalize under California law the commercial production, distribution and sale of marijuana. Mere possession of marijuana for personal use was decriminalized in California more than 30 years ago. It has not been a crime to possess marijuana for personal use in California since 1972. It is only a citable infraction, much like a traffic ticket. We don't need Prop 19 to decriminalize marijuana possession for personal use; that's already been done.

"*Second*, there is the myth that if Prop 19 passes the federal government will not enforce federal laws that prohibit the cultivation, distribution and sale of marijuana. But Attorney General Holder's letter makes plain that this is not the case. The federal laws making it unlawful to cultivate, distribute and sell marijuana will be "vigorously enforced". The fact is that Prop 19, if it were to pass, would be in conflict with federal law, and under the Supremacy Clause of the U.S. Constitution (that says that federal laws prevail over and trump conflicting state laws), Prop 19 would be null and void.

"The *third* myth is that Prop 19 will raise taxes for the State of California and/or for cash-strapped municipalities of our state. Nothing could be further from the truth. Since federal law makes it a serious crime to sell and distribute marijuana, I am confident that nobody is going to be reporting and paying taxes to California cities or the State. They would be admitting to committing a federal felony if they did."

Peter Bensinger added: "The message of Attorney General Holder makes it clear, California communities will be able to avoid the incredible damage to health and safety that would result from this initiative, there will not be any tax benefit to the state, there will not be drug dealers operating openly on our streets and protected growing areas. This will prevent an invasion of out of state buyers of marijuana, and drug cartels are on notice that selling marijuana is not above the law. We will not have states going off on their own to try to subvert action taken by the United States Congress."

Mr. Bonner was the head of the Drug Enforcement Administration from 1990 through 1993. He also was the United States Attorney (1984-88) and a U.S. District Judge for the Central District of California, as well as Commissioner of U.S. Customs and Border Protection (2001-05) Mr. Bensinger headed the Drug Enforcement Administration from 1976 until 1981. Mr. Bonner and Mr. Bensinger both served under Republican and Democratic presidents; Bonner under Presidents Bush #1 and Clinton, and Bensinger under Presidents Ford and Carter.

Attachments:

U.S. Attorney General Eric Holder's letter dated October 13, 2010 to all former Administrators of the DEA

Letter of all former Administrators of the DEA to Attorney General Holder dated August 24, 2010



Office of the Attorney General

Washington, D. C. 20530

October 13, 2010

Dear Former Administrators of the Drug Enforcement Administration:

Thank you for your continuing commitment to curbing substance abuse and to addressing its devastating effects on many of our communities. Your letter expressing concern about the potential impact of the *Regulate, Control and Tax Cannabis Act of 2010*, now pending in California as Proposition 19, is an unprecedented bipartisan statement that reflects the national significance of this issue.

Let me state clearly that the Department of Justice strongly opposes Proposition 19. If passed, this legislation will greatly complicate federal drug enforcement efforts to the detriment of our citizens. Regardless of the passage of this or similar legislation, the Department of Justice will remain firmly committed to enforcing the Controlled Substances Act ("CSA") in all states. Prosecution of those who manufacture, distribute, or possess any illegal drugs – including marijuana – and the disruption of drug trafficking organizations is a core priority of the Department. Accordingly, we will vigorously enforce the CSA against those individuals and organizations that possess, manufacture, or distribute marijuana for recreational use, even if such activities are permitted under state law.

As you know, we have longstanding partnerships with local and state law enforcement agencies. These partnerships help us to assess drug trafficking problems and design joint initiatives to reduce or eliminate the production, manufacture, transportation, distribution, and chronic use of illegal drugs, as well as related offenses such as money laundering. The broad language of Proposition 19 that would prohibit state and local law enforcement from seizing marijuana that is in compliance with state law would provide a significant impediment to these joint efforts by law enforcement to target drug traffickers who frequently distribute marijuana alongside cocaine and other controlled substances. We must ensure that our communities are safe for all citizens and, if passed, Proposition 19 would significantly undermine that critical objective.

I assure you that the Department is considering all available legal and policy options in the event Proposition 19 is enacted. We appreciate your August 24, 2010, submission and will give serious consideration to the information and authority you provide.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric H. Holder, Jr.", written in a cursive style.

Eric H. Holder, Jr.
Attorney General

*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

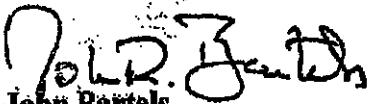
Dear Attorney General Holder,

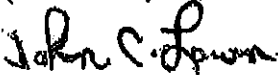
We are former Administrators of the U.S. Drug Enforcement Administration who are writing you to express our grave concern about Proposition 19 in California, also known as *Regulate, Control and Tax Cannabis Act of 2010*, which if passed will legalize the production, possession and sale of marijuana 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.

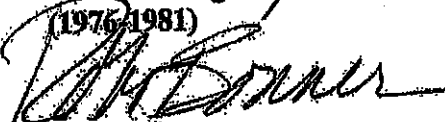
We would be pleased to meet with you on this matter should you desire to discuss this further. Each of us, covering almost four decades, strongly supported the language and intent of the *Controlled Substances Act*. Upon becoming Administrators of the Drug Enforcement Administration, we took an oath 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.

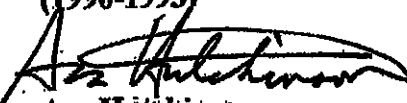

John Bartels
(1973-1975)


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.