

**Testimony to the
Senate Banking, Housing, and Urban Affairs Committee**

Challenges for Cannabis and Banking: Outside Perspective

July 23rd, 2019

Garth Van Meter
Vice President of Government Affairs
Smart Approaches to Marijuana (SAM)

Chairman Crapo, Ranking Member Brown, Members of the Committee, thank you for inviting me to testify before you today. My name is Garth Van Meter, and I am the Vice President of Government Affairs for Smart Approaches to Marijuana, a non-partisan, non-profit organization dedicated to a public health approach to addiction and recovery. SAM was founded by former Congressman Patrick Kennedy, current editor of *The Atlantic* David Frum, and former senior drug policy advisor to three Administrations, Kevin Sabet. SAM believes no one should be locked up or have the rest of their life ruined just because they got caught with a joint, but we should also not create a new addiction-for-profit industry in the model of Big Tobacco. SAM partners with a wide variety of other organizations, including major medical societies, treatment and recovery advocates, law enforcement groups, AAA, Parent-Teacher Associations, and drug prevention groups to advocate for a public health approach to drug policy.

The Addiction Crisis

The fundamental question before us today is whether we want to promote and increase drug use during an addiction crisis or discourage drug use and help people find recovery and healing. By skipping ahead to a technicality over banking rules, the marijuana industry is hoping to gain many of the benefits of federal legalization without a debate over the public health effects. But make no mistake, a policy change around banking would have massive public policy and public health ramifications, so we are shirking our duties if we do not consider the full question. The SAFE Banking Act will allow the expansion of an industry pushing new, exponentially more powerful forms of marijuana before any of its health or other societal impacts are fully understood.

Banks currently want to have it both ways: they say they are not taking a position on legalization, but they want to profit from a fabulous new line of business: depositing federally illegal proceeds. I am amazed that no one has called them on it. It is an untenable position. If they want to benefit from the sales of 99% potency concentrates, pot candies and gummies, and high potency vapes that are marketed to young demographics through social media influencers using the Juul playbook, they should be consistent and argue to have those things legalized and advertised. But they are not doing that, because they know that their public reputation would take

a hit. So instead, they argue that they should participate in what is literally the definition of money laundering for federally illegal proceeds but be held harmless for the damage to public health and public safety.

The Potential Increase of Wide-Spread Investments in the Marijuana Industry

I want to examine two scenarios that could result from the passage of the SAFE Banking Act.

The first is the best-case scenario, and the intended effect of the bill: let's say only state licensed marijuana producers and stores participate in the federal banking system.

For expert testimony on the purpose of the SAFE Banking Act, I refer you to former Speaker John Boehner's marijuana investing seminarⁱ, in which you find these statements, "With traditional investments, only seventeen-and-a-half percent of the money comes from little fish like you and me. The other eighty-two-and-a-half percent is from the big players, the major investment firms, hedge funds, pension funds, established corporations. Banking restrictions are preventing almost all of those investment firms and funds from diving head first into cannabis. Well, they're dying to get in. I'm helping some of these bigger fish get ready to invest. There are hundreds of billions of dollars sitting on the sidelines."

The SAFE Banking Act could have been drafted to narrowly address point-of-sale transactions. Instead, the bill is written specifically to allow those "hundreds of billions of dollars sitting on sidelines" to invest. Does anyone think that public health is going to be the driving force behind these multinational corporations who have to report quarterly earnings? For a preview, we need only to look to Canada, where the CEO of a major marijuana corporation was ousted for a single quarter of poor sales, and Altria (formerly Philip Morris) has made a multibillion-dollar investment into the marijuana industry. We should also note that the former CEO of Purdue Pharma—who oversaw all of Oxycontin's deceptive marketing practices—saw his next big business opportunity in leading a marijuana company.

The Influx of Potent Products into the Market

It's also important that we not deal with this question in the abstract. When you see marijuana on TV, you see fields or warehouses of what everyone assumes is a harmless plant. It looks very innocuous. What they don't show you are the concentrates and extraction systems, because industrial scale extraction looks like something straight out of the television show *Breaking Bad*. Yet, concentrates are what they are heavily promoting on social media. For those who have never seen concentrates, I refer you to Appendix A of my testimony, where you can see examples. Marijuana is not just a plant any more. It has been highly processed into something that cannot be found in nature and has a devastating impact on the brain in terms of addiction and mental health. In particular, I refer you to the first page, where you can see a

marijuana concentrate called ‘shatter’ from Acreage Holdings, which is former Speaker Boehner's new gig. Notice the name of the marijuana strain: "Thin Mint Girl Scout Cookies." This is a screen shot of their webpage from two weeks ago, but it mysteriously vanished when we submitted this picture as a part of written testimony to the House Judiciary Committee.

I also want to address kid-friendly edibles. Under state regulations, the pot gummies on page 2 of Appendix A are not considered kid-friendly. You see, under the marijuana industry's logic, kids are only attracted to gummies in the shape of animals or cartoon characters, not to brightly colored, sugar-coated gummies in the shape of vegetables, geometric shapes, or pot leaves. Washington State got so frustrated with the number of children ending up in emergency rooms from accidental ingestion of pot candies that they were going to ban them completely... but it only lasted a week, and the marijuana industry released their new plan to self-regulate with brightly colored geometric shapes and pot leaves only.

So, that is the best-case scenario, if everything goes according to plan.

The Potential Increase of Cartel Activity

But there is a much darker possibility, and it doesn't require a stretch of the imagination because it is already happening. International cartels have infiltrated legalized states and have used the cover of legalization to conduct massive grow operations, often in upscale, suburban neighborhoods.ⁱⁱ The SAFE Banking Act provides a scalable new avenue for these cartels to infiltrate the banking system in a much more systematic way.

For example, I refer you to a letter dated July 19, 2019 from former DEA Administrators and ONDCP Directors who describe a threat that parallels the multibillion-dollar Black Market Peso Exchange, and testimony from Colorado law officer Ernest Martinez that lays out an example of how this would work. These documents can be found in Appendix B of my testimony.

To quote from the letter:

“Because cash made from the sale of marijuana looks the same regardless of what it was used to pay for, it will be extremely difficult for banks to know whether large bundles of cash presented for deposit were made from the sale of marijuana rather than from the sale of heroin, fentanyl, or methamphetamine.

“In short, the SAFE Banking Act could inadvertently allow cartels to bring into banks duffel bags of cash made from the sale of those illicit drugs that are killing tens of thousands of Americans every year.”

And to quote from Lt. Martinez's testimony:

“...approving the SAFE Banking Act would open more opportunities for money laundering and black-market investors. As one possible example, a cartel would drop off backpacks of cash to a dispensary for deposit, possibly in excess of \$10,000 per transaction, which would be a huge advantage over current constraints. The dispensary would deposit the money in their bank account, and then bill a shell company for “security services,” “cleaning services,” or some other plausible service that would never be performed. Now the money has been returned to cartel control and can be transferred electronically.”

Furthermore, Lt. Martinez’s testimony explains why even eliminating cash will never stop pot shops from being targeted for robbery: in the majority of cases, the burglars are there to steal marijuana, not cash. The marijuana is more easily accessed and is extremely valuable in its own right. A marijuana store is more akin to a jewelry store than a convenience store. A recent illustration comes from thieves who backed a pickup truck into a Michigan pot shop, stole all of the marijuana, and then left. They came back 20 minutes later to steal the ATM as an afterthought.ⁱⁱⁱ

What This Bill Is Not About

Cannabidiol (CBD) and hemp were federally descheduled through the 2018 Farm Bill, and the FDA is currently conducting a rule-making to ensure public health and safety are taken into account. When USDA issues their expedited rule for hemp growing, hemp growers who operate in accordance with the rule will be fully legal and have full access to banking services. CBD has been demonstrated through FDA clinical trials to have a medicinal benefit for certain childhood seizures.

By contrast, marijuana producers are growing and manufacturing incredibly high potency products that are orders of magnitude stronger than anything available in the Woodstock days. What we think of as marijuana from those days was only 1-3% THC and contained a relatively high proportion of CBD, which acted as a neuroprotective agent. Today's marijuana concentrates can have up to 95% THC and no CBD. A recent study found that high potency marijuana has a five fold higher risk of psychosis.^{iv}

We often hear that supposedly "47 states have legalized some form of cannabis" and we have to do something to accommodate those states.

First of all, many of those states only created programs for compassionate distribution of non-intoxicating CBD, which was also federally legalized when produced from hemp in the 2018 Farm Bill. It is disingenuous to lump in those states when they now have a pathway to full compliance with federal law. I disagree that we should be fully legalizing high potency marijuana, but if the other witnesses want to do it, they should follow the path of the Farm Bill and have that debate.

Other states, like New York, Minnesota, Ohio, West Virginia, Pennsylvania, Utah, and Louisiana, have more cautious medical marijuana programs, not allowing it to be smoked, and could conduct research programs that could be converted into legitimate FDA clinical trials with early access programs for suffering people. There is a right way to research and prescribe medicines, and the path is through the FDA.

On the other extreme are states like California, where anyone can qualify for a medical marijuana card under the thinnest of pretexts, and it essentially functions as recreational marijuana for anyone willing to go through minor inconvenience of a pot doctor's recommendation via a 5-minute Skype session.

And then there are the 10 states that have legalized commercial retail sales for recreational marijuana. These states are doing an abysmal job of regulating the drug, with rampant black markets, out of state diversion, the highest rates of youth use in the nation, skyrocketing use for 18-24 year olds (when the brain is still developing), and as much as a doubling in fatalities due to marijuana impaired driving.^v We should not be expanding that failed experiment to other states.

Indeed, New York, New Jersey, Vermont, Connecticut, New Hampshire, Rhode Island, Delaware, Minnesota, North Dakota, and New Mexico all turned back major pushes to legalize and commercialize recreational marijuana as lawmakers and the public saw the disturbing public health impact of marijuana in legalized states.

Whose Problem Are We Solving?

Today's modern marijuana industry is structured around catering to heavy users. Daily and near daily users consume 87% of the marijuana in the state of Colorado.^{vi} If you want to be successful in the marijuana business, that's who you have to sell to, and those users have built up a high tolerance and high dependence. LivWell and other businesses have to meet the demand they have created if they want to stay in business versus their competitors. If they don't aggressively market the highest potency products available, someone else will and they will lose market share. Therefore, the business model becomes the highest potency for the cheapest price, and no state has successfully implemented a potency cap. Advancing a business model of creating new instances of substance use disorder during an addiction crisis is grossly irresponsible as a matter of public policy.

We at SAM deal every day with families who have lost loved ones to addiction, and marijuana is a major part if not the defining feature of all of their stories. Contrary to the claims of the marijuana industry and legalization advocates, legalization is not resulting in a reduction in opioid deaths. These claims have been thoroughly debunked in recent studies in the Proceedings of the National Academies of Sciences.^{vii} Instead, in a study of 34,000 individuals,

marijuana users were discovered to be more than two times as likely to abuse prescription opioids or initiate non-prescription use of opioids.^{viii}

There is still an opportunity for the other witnesses in the banking industry at this table to wash their hands of the marijuana industry and say, "we want no part of this coming nightmare." But, if they proceed, at least it will be with the full knowledge of what they are investing in: preying on the vulnerable through the marketing of high potency and kid-friendly products, and producing new cases of substance use disorder and serious mental illness.

We can see where this is leading in our neighbor to the north, where Altria, formerly Philip Morris, the manufacturer of Marlboro cigarettes, has made a multi-billion dollar investment into the marijuana industry, paired with an even bigger investment in vaping giant Juul. These investments will have business synergy, as the latest data shows a 63% increase in youth vaping of marijuana in Juul-like devices.^{ix} It took us over 100 years to reverse the public health impacts of the tobacco industry, who continually cast doubt on public health advocates with industry-funded bunk science. We have an opportunity today not to repeat those mistakes.

ⁱ <https://www.youtube.com/watch?v=CZXGiRcXLJo>

ⁱⁱ <https://www.nbcnews.com/news/us-news/foreign-cartels-embrace-home-grown-marijuana-pot-legal-states-n875666> ; <https://www.pbs.org/newshour/show/how-colorados-marijuana-legalization-strengthened-the-drugs-black-market>

ⁱⁱⁱ <http://www.fox2detroit.com/news/local-news/thieves-crash-truck-into-detroit-marijuana-dispensary-steal-pot-atm>

^{iv} Di Forti, et al. The contribution of cannabis use to variation in the incidence of psychotic disorder across Europe (EU-GEI): a multicentre case-control study. *Lancet Psychiatry*. March 19, 2019. DOI: [https://doi.org/10.1016/S2215-0366\(19\)30048-3](https://doi.org/10.1016/S2215-0366(19)30048-3)

^v <https://learnaboutsam.org/wp-content/uploads/2019/06/2019-Lessons-Final.pdf>

^{vi} Colorado Department of Revenue: Market Size and Demand for Marijuana in Colorado (2017).

^{vii} Shover et. al., Association between medical cannabis laws and opioid overdose mortality has reversed over time. *PNAS*, Jun 10, 2019. <https://doi.org/10.1073/pnas.1903434116>

^{viii} <https://www.drugabuse.gov/news-events/news-releases/2017/09/marijuana-use-associated-increased-risk-prescription-opioid-misuse-use-disorders>

^{ix} Johnston, L. D., Miech, R. A., Bachman, J. G., Schulenberg, J. E., & Patrick, M. E. (2018). *Monitoring the Future National Survey Results on Drug Use 1975-2018. Overview, Key Findings on Adolescent Drug Use*. Ann Arbor: Institute for Social Research, University of Michigan.

Smart Approaches to Marijuana (SAM) – Appendix A



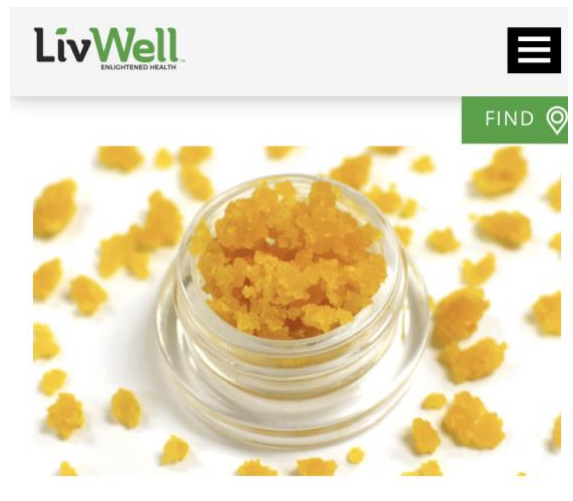
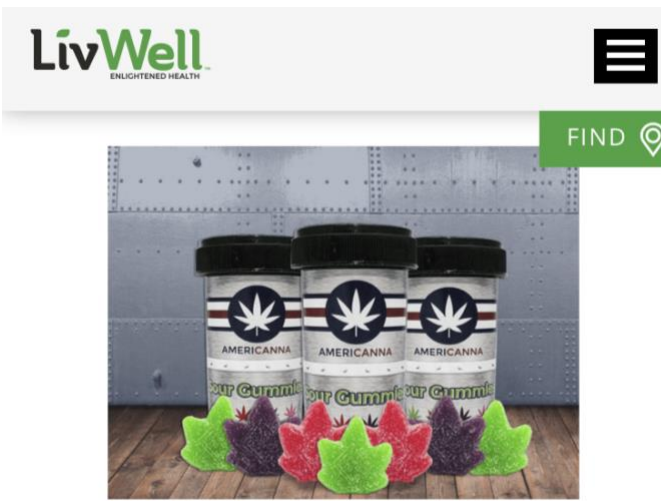
Former Speaker John Boehner is on the board of Acreage Holdings and stands to profit \$20 million from the passage of the STATES Act, according to an analysis by the Financial Times.

<https://www.ft.com/content/7ed13d-aa-61e4-11e9-a27a-fdd51850994c>

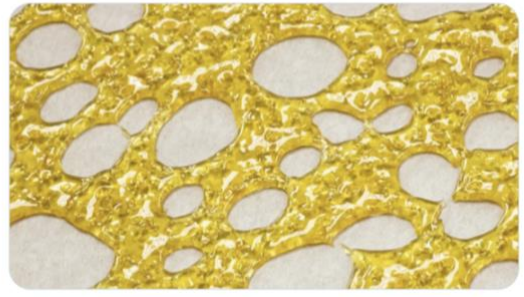


- Note the name of the strain: “Thin Mint Girl Scout Cookies.”
- Live Resin Shatter is a product marketed by Acreage Holdings, among other high potency marijuana concentrates.
- Note similar social-media advertising style to that which got vaping giant Juul in trouble.

For more examples, please visit <http://bigpotexposed.com>



LivWellCannabis @LivWellCanna... · 1d ✓
What's your favorite was to dab
[#shatter?](#) [#howilivwell](#)



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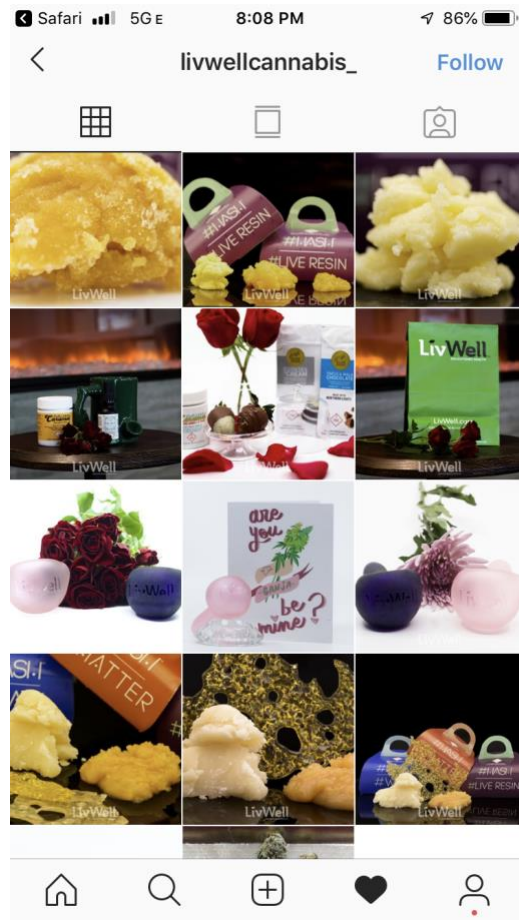
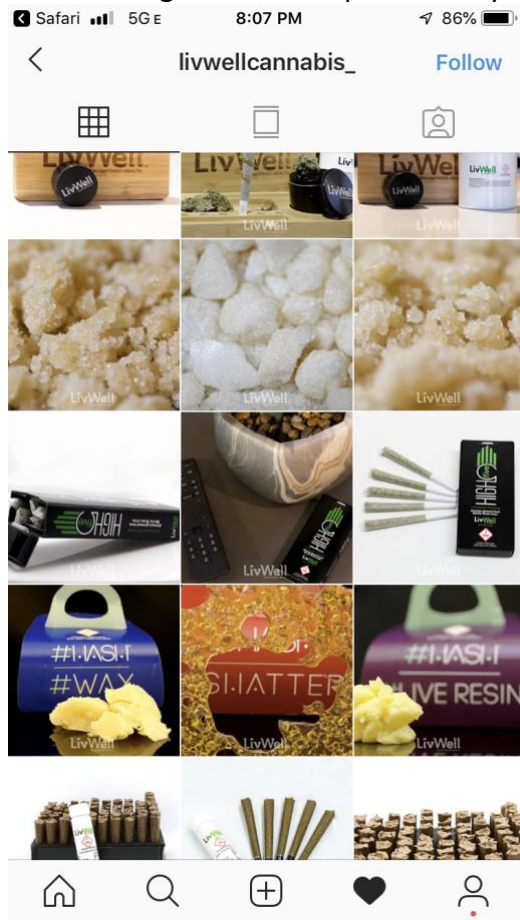
What Are Cannabis Concentrates?

Cannabis concentrates are produced by extracting the cannabinoids and terpenes from cannabis flower in a process that typically employs a solvent, such as butane, propane, or CO2.

The highly potent oil that results from this extraction can then be further refined and processed into a wide variety of products, including wax, shatter, hash, live resin, distillates, oils, and more.

- Marijuana concentrates can have a potency up to 95% THC (the active compound that gets you high).
- By comparison, Woodstock weed was 1-3% THC.
- Marijuana also now comes in many kid-friendly forms like candies and gummies.

LivWell Instagram account prominently features concentrates:



More on concentrates:

LivWell ☰

FIND 📍

Highly Potent Products

As the name suggests, concentrates are highly concentrated forms of cannabinoids, with potencies reaching as high as 95% THC. The effects of concentrates are felt almost immediately after inhalation. Due to the high potency of concentrate products, it is highly recommended consumers start with a low dose and take it slow.

The Wide World of Cannabis Concentrates

Cannabis concentrates come in a wide variety of forms, from wax and shatter to live resin and distillate. Discover your favorite type of concentrate.

With so many different concentrate brands and products to choose from, it can be difficult deciding where to start. Let our highly-educated budtenders guide you as you explore our curated selection of concentrate products.

LivWell ☰

FIND 📍

#HASH #SHATTER

EXTRACTED TO PERFECTION IN OUR VERY OWN LIVWELL LAB.

\$20G

Concentrates for the discerning cannabis enthusiast. our highly-trained extraction technicians employ scientific and innovative techniques in order to deliver

Message

Smart Approaches to Marijuana (SAM) – Appendix B

- **Letter from Former ONDCP Directors (“Drug Czars”) and former DEA Administrators expressing concern about cartel infiltration of the banking system through the SAFE Banking Act**
- **Written testimony from Denver, CO law officer Ernest Martinez discussing how thieves target marijuana stores for product, not for cash, and how cartels might abuse the SAFE Banking Act**

July 19, 2019

The Honorable Mike Crapo
Chairman
U.S. Senate Committee on Banking, Housing,
& Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Sherrod Brown
Ranking Member
U.S. Senate Committee on Banking, Housing,
& Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Crapo and Ranking Member Brown,

We write as former Directors of the Office of National Drug Control Policy and former Administrators of the Drug Enforcement Administration to warn about the unintended consequences of the SAFE Banking Act to legalize the banking of federally illegal proceeds from the sale of marijuana.

Some Members of your Committee may be familiar with the Black Market Peso Exchange that has been in operation for several decades. This scheme has enabled international drug cartels to launder billions of U.S. dollars through international monetary exchanges and has ensnared many banks and mainstream U.S. companies.

The lesson that the Black Market Peso Exchange teaches us is that cartels will go to enormous lengths and use sophisticated and complex methods to move cash into banks—since laundering money is the life-blood of criminal organizations. It is therefore a virtual certainty that cartels will seek to exploit the SAFE Banking act if it provides them with an easier and more cost-effective means to launder their money.

Because cash made from the sale of marijuana looks the same regardless of what it was used to pay for, it will be extremely difficult for banks to know whether large bundles of cash presented for deposit were made from the sale of marijuana rather than from the sale of heroin, fentanyl, or methamphetamine.

In short, the SAFE Banking Act could inadvertently allow cartels to bring into banks duffel bags of cash made from the sale of those illicit drugs that are killing tens of thousands of Americans every year.

Consider the current landscape of offering banking services to cash-intensive marijuana businesses. Even if customers are offered the opportunity to pay in credit, many customers will choose to pay cash to avoid being tracked within the state seed-to-sale tracking system.

While banks know how much cash to expect from other cash-intensive businesses like dry cleaners or convenience stores, it will be very difficult to figure out when a marijuana dispensary is participating in a money laundering scheme. The scale of the marijuana industry is already such that there are huge opportunities for these dispensaries to be the destination for cartel cash. Indeed, we have already seen many cases of cartels using the cover of legalization to operate

illicit marijuana grows and black market activity. Two recent examples within the past year involved organized efforts to expel Mexican drug cartels growing marijuana in Northern Californiaⁱ—including a request to use the California National Guardⁱⁱ, and the May 2019 bust of the largest international drug trafficking organization in Colorado law enforcement history, with over 80,000 plants in over 250 locations and 4.5 tons of finished marijuana productsⁱⁱⁱ.

We urge the Senate Banking Committee to reject the SAFE Banking Act and other legislation that would give these cartels more cover and more access to the U.S. financial system.

Sincerely,

Mr. R. Gil Kerlikowske
Former Director
May 7, 2009 to March 6, 2014
Office of National Drug Control Policy

Ms. Michele M. Leonhart
Former Administrator
November 10, 2007 to May 14, 2015
Drug Enforcement Administration

Mr. John P. Walters
Former Director
December 7, 2001 to January 20, 2009
Office of National Drug Control Policy

Ms. Karen P. Tandy
Former Administrator
July 31, 2003 to November 9, 2007
Drug Enforcement Administration

General Barry R. McCaffrey, USA (Ret.)
Former Director
February 29, 1996 to January 20, 2001
Office of National Drug Control Policy

Mr. John C. Lawn
Former Administrator
July 26, 1985 and March 23, 1990
Drug Enforcement Administration

Mr. Lee P. Brown
Former Director
July 19, 1993 to January 1996
Office of National Drug Control Policy

Mr. Peter B. Bensinger
Former Administrator
February 23, 1976 to July 10, 1981
Drug Enforcement Administration

Mr. Robert Martinez
Former Director
March 28, 1991 to January 20, 1993
Office of National Drug Control Policy

Mr. William J. Bennett
Former Director
March 13, 1989 to December 13, 1990
Office of National Drug Control Policy

ⁱ <https://www.justice.gov/usao-edca/pr/us-attorney-joins-forces-federal-state-and-local-leaders-and-experts-combat-devastating>

ⁱⁱ <https://www.gov.ca.gov/wp-content/uploads/2019/02/2.11.19-Letter.pdf>

ⁱⁱⁱ <https://www.justice.gov/usao-co/pr/forty-two-individuals-arrested-one-largest-black-market-marijuana-takedowns-colorado>

Testimony of

Ernest Martinez

Director At Large of the National Narcotic Officers' Associations' Coalition (NNOAC)

July 19, 2019

My name is Ernest Martinez, and I serve as Director At Large of the National Narcotic Officers' Associations' Coalition (NNOAC). I have also been a Lieutenant in the Denver Police Department serving the citizens of Denver for over 33 years. I have served for 17 years as an undercover narcotics Detective and Detective-Sergeant, serving from Street-Level Enforcement Teams, (including the Denver-Aurora Crack Task Force), to the Elite Major Peddler Unit. I was the first task force supervisor with the Front Range Task Force of the Rocky Mountain HIDTA Enforcement Center, and was instrumental in its design and development. Prior to the Denver Police Department, I was a member of the Denver Sheriffs Department for 3 years as a Deputy Sheriff, with a total of 36 years wearing the badge for the City and County of Denver.

I am writing to submit testimony to the Committee on the SAFE Banking Act of 2019.

Section I (b) of the SAFE Banking Act states, “The purpose of the Act is to increase public safety by ensuring access to financial services to cannabis-related legitimate businesses and service providers and reducing the amount of cash at such businesses.”

Through my experience in Colorado law enforcement, I have found that the burglaries and robberies are not primarily due to the availability of large amounts of cash on hand but the amount of marijuana in the business. High-potency marijuana, and particularly concentrates, are extremely valuable for resale on the black market. Licensed marijuana businesses are required to notify the Colorado Marijuana Enforcement Division (MED) and local law enforcement any time there is a burglary or robbery. The majority of the reported cases are for loss of product. Surveillance cameras with DVR recorders cover all areas of the marijuana business and operate 24/7. Recordings are required to be kept for a minimum of 40 days. The SAFE Banking Act would not address the loss of product since any money is kept in a safe located in a locked and secure room and is often not accessed by burglars.

The justification for the SAFE Banking Act claims marijuana businesses do not have banking accessibility is misleading in my experience. Shannon Gray, marijuana communications specialist at the Colorado Department of Revenue stated in an article dated May 30, 2019, “We do hear from licensees that the majority of businesses have access to banking services.”¹ The article also noted that Safe Harbor Services, a wholly owned subsidiary of Partner Colorado Credit Union, has been helping credit unions and banks in about 10 states to create systems and procedures for managing cannabis accounts.

In addition, approving the SAFE Banking Act would open more opportunities for money laundering and black-market investors. As one possible example, a cartel would drop off backpacks of cash to a dispensary for deposit, possibly in excess of \$10,000 per transaction, which would be a huge advantage over current constraints. The dispensary would deposit the money in their bank account, and then bill a shell company for “security services,” “cleaning services,” or some other plausible service that would never be performed. Now the money has been returned to cartel control and can be transferred electronically.

If banking services are already being utilized in Colorado and several other states, and the threat of burglary and robbery is loss of product and not money, then there must be another reason marijuana businesses are pushing for the SAFE Banking Act. Indeed, this bill has a much wider purpose to allow out-of-state hedge funds to pump billions of dollars of investments into the marijuana industry. This is a very intentional step to the full federal legalization of marijuana and eventually other drugs. Denver has recently approved the “lowest level priority for enforcement” (for adult possession under an ounce) of Psilocybin (“Magic Mushrooms”). Oakland and other cities in California are following suit. Where does this stop? Where is the common sense?

As a long-time member of Colorado law enforcement, currently experiencing the drug induced psychosis of vulnerable populations in the Denver-metro area due to normalization of mind-altering substances, it is my opinion from all that I have seen, the number one priority should be that more research is accomplished regarding the effects of marijuana use, as well as

¹ <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/05/30/cannabis-banking-bill-may-falter-again-despite-state-support>

educating the public regarding the real issues with regards to the legalization of marijuana. The marijuana lobby does not want either.

Thank you.