

Subject: Liability of Public Officials authorizing Marijuana Pot Shops
From: "Gordon Epperly" <enter7740@14th-amendment.com>
Sent: 1/11/2015 12:17:19 PM
To: BoroughAssembly@juneau.org; wwmas@muni.org
"Alaska Office of Attorney.General"
CC: <attorney.general@alaska.gov>; "Alaska Legislature"
<gov.alllegislators@alaska.gov>
Attachments: Obama's Drug War - After Medical Marijuana Mess.pdf

REMEMBER
*If you forward this, please remove email
addresses before you send it on, and use the
BCC area when sending to several people at once.
Be Kind to Your Email Friends*



An Open Message

January 11, 2015

Honorable Members of the City and Borough Assemblies

As many of you are aware, the "People" of "Alaska" have enacted into law a "Marijuana Ballot Initiative" and you will be on the front lines of adopting "Ordinances" and issuing forth "Permits" and "Licenses" and other "Documents" to establish "Marijuana Pot Shops" within your "Cities."

As reported in the attached "Magazine Article," the "Marijuana" plant has been classified as a "Schedule I" drug under the "United States Controlled Substance Acts" (CSA) by the "United States Drug Enforcement Agency" (DEA). The "DEA" has declared within the "Federal Register" (Federal Register, Volume 76, No. 131 dated July 8, 2011) that there are no medical uses for "Marijuana" and "Marijuana" has been found to be a dangerous drug that shall not be used for any purpose. Violators of the "CSA" laws may be subjected to substantial "Fines" and incarceration in "Federal Prison." The "Marijuana Laws" as adopted by the "States"

have no effect upon "Federal Laws" and the "Marijuana Laws" of the "States" may not be used as a defense in a "Federal Court."

Any "Official" or "Employee" of a "City" or "Borough" who issues forth "Ordinances," "Permits," "Licenses," or any other "Documents" that encourages the violation of "CSA" such as the "use," "distribution," or "sale" of "Marijuana" may be charged with the criminal act of "aiding and abetting" in the commission of an "offense" against the "United States":

18 U.S. Code § 2 – Principals

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

After viewing an "Anchorage Televised Newscast," we saw a woman who was evicted by a "Landlord" for operating a "Marijuana Pot Shop" on the Landlord's property and it was reported that this woman was also in trouble with the "Alaska Division of Elections" for violating the "Election Laws" in supporting the passage of the "Alaska Marijuana Ballot Initiative." From this "Televised Newscast," the audience was left with the impression that "Officials" of the "City of Anchorage" had full knowledge of the existence of this "Marijuana Pot Shop" and other "Pot Shops" throughout the "City" and they took no action of reporting those "felonies" to a "Judge" or any other "Official" of the government of "The United States of America" as required by "Federal Law." When those "City Officials" failed or refused to report those "felonies" to proper authorities of the "United States," they committed the crime of "Misprision of Felony":

18 U.S. Code § 4 - Misprision of felony

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

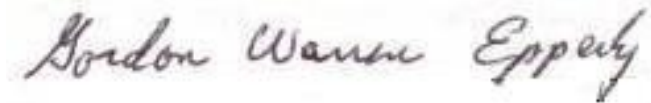
The "Controlled Substance Acts" (CSA) of the "United States" was brought into existence by the exclusive "Power" of the "U.S. Congress" to regulate "Interstate Commerce" under the authority of "U.S. Constitution, Article I, Section 8, Clause 3," a "Power" that may not be exercised by any "State" of the "Union." It is not the "duty" or "obligation" of any "State" or its "Municipal Corporations" to execute and enforce the laws of "CSA" for that authority is with the "United States Justice Department." Before an "Official" or "Employee" of a "City" or "Borough" does a foolish thing, they should be in contact with the "Anchorage Office" of the "United States Attorney" whose telephone number is: **(907) 271-5071**.

As "U.S. Attorney, Karen L. Loeffler" took an "Oath" to faithfully perform the duties of the "Office" of "U.S. Attorney" and notwithstanding any "Memos" of "U.S. Deputy Attorney Generals" to the contrary, I have no doubt that "Karen" will be enforcing **all** "Laws" of "The United States of America." There are no provisions in the "U.S. Constitution" or any "Acts" of the "U.S. Congress" that grants the "United States Justice Department" the "Discretionary Authority" to pick and choose what "Laws" of the "U.S. Congress" will be executed and enforced.

A copy of this message is being forwarded to the "Members" of the "Alaska State Legislature" with true and correct copies of this "Message" and attached "Magazine Article" to be "USPS Certified Mailed" (No. **7007 0710 0003 2974 6766**) to "U.S. Attorney, Karen L. Loeffler." This "Message" and the attached "Magazine Article" will be posted on the "Internet" for public viewing at:

<http://www.usa-the-republic.com/marijuana.html>

Respectfully Submitted

A handwritten signature in cursive script that reads "Gordon Warren Epperly". The ink is dark and the signature is centered on the page.

Gordon Warren Epperly

Proof of Mailing
U.S. Attorney, Karen L. Loeffler
District of Alaska

Tracking Number: 70070710000329746766



On Time

Expected Delivery Day: Wednesday, January 14, 2015

Product & Tracking Information

Postal Product:

First-Class Mail®

Features:

Certified Mail™

DATE & TIME	STATUS OF ITEM	LOCATION
January 14, 2015 , 11:57 am	Delivered	ANCHORAGE, AK 99501

Your item was delivered at 11:57 am on January 14, 2015 in ANCHORAGE, AK 99501.

January 14, 2015 , 7:40 am	Arrived at Unit	ANCHORAGE, AK 99501
January 14, 2015 , 4:40 am	Departed USPS Facility	ANCHORAGE, AK 99501
January 13, 2015 , 9:42 pm	Arrived at USPS Origin Facility	ANCHORAGE, AK 99501
January 12, 2015 , 5:06 pm	Departed Post Office	JUNEAU, AK 99801
January 12, 2015 , 2:01 pm	Acceptance	JUNEAU, AK 99801

January 10, 2015

HUFF
POST POLITICS

Obama's Drug War: After Medical Marijuana Mess, Feds Face Big Decision On Pot

Posted: 01/26/2013 11:18 am EST Updated: 02/08/2013 1:09 pm EST



OAKLAND, Calif. -- In the summer of 2007, the owners of Harborside Health Center, then and now the most prominent medical marijuana dispensary in the U.S., were reflecting on their rapid rise. Steve DeAngelo had opened the center with his business partner in October 2006, on a day when federal agents raided three other clubs in the San Francisco Bay Area. "We had to decide in that moment whether or not we were really serious about this and whether we were willing to risk arrest for it," DeAngelo said. "And we decided we were going to open our doors. And we did, and we haven't looked back since. The only way I'll stop doing what I'm doing is if they drag me away in chains. And as soon as they let me out, I'll be back doing it again."

DeAngelo, looking at his desktop computer during an interview that summer, threw his hands up and shouted, "Yes!" Hillary Clinton, campaigning for president in New Hampshire, had just told a video-camera-wielding marijuana-policy activist that, if elected, she would end federal raids on pot clubs in California. That meant that all three leading Democratic candidates -- including the ultimate winner -- had vowed as president to leave DeAngelo and his business alone. Within a year of opening, the shop was bringing in \$1 million a month in sales.

President Barack Obama made good on his campaign promise shortly after taking office. "What the president said during the campaign, you'll be surprised to know, will be consistent with what we'll be doing in law enforcement," **Attorney General Eric Holder** said in March 2009. "What he said during the campaign is now American policy."

In October, the Department of Justice followed up with what became known as the "Ogden memo" -- a missive from **Deputy Attorney General David Ogden** telling federal law enforcers that they should not focus federal resources "on individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana."

Steph Sherer, the head of **Americans for Safe Access**, a California-based medical marijuana group, was thrilled when she saw the Ogden memo. The group quickly put out a press release touting it.

"We were so beside ourselves in so many ways that we were finally recognized by a government agency, that our press release was victorious," **Sherer** said. "What our nuance was, we said, 'Great, we have an administration that will have a dialogue with us, this is a major step forward.'"

Some members of the medical marijuana industry, however, took a less nuanced view. "Instead, the reaction [from cannabis industry people] was, 'OK, we're all in the clear, it's time to expand our businesses and bring in outside investors,'" **Sherer** said.

Encouraged by the Ogden memo and DeAngelo's public assertions of his million-dollar monthly revenue, medical pot shops flooded Montana, Washington, and other states. Legislatures in 18 states, plus the District of Columbia, have now approved marijuana for medical purposes. Twelve, including DC, have laws allowing dispensaries. Local officials in California's Mendocino County and in towns like Chico moved forward with plans to regulate medical marijuana as well. Before 2009, there were roughly 1,000 pot shops across the country. Today, there are 2,000 to 2,500, according to **Kris Hermes**, a spokesman for **Americans for Safe Access**.

"Nobody can argue that the number of medical marijuana shops in California and Colorado didn't grow at an exponential rate directly because of this" Ogden memo, said a former senior White House official who worked on drug policy and, like other former and current members of the Obama administration, requested anonymity in order to speak about internal debates.

The Ogden memo, however, was not the beginning of the end of the war on pot. Instead, it kicked off a new battle that still rages. Since the memo, **the Department of Justice has cracked down hard on medical marijuana, raiding hundreds of dispensaries, while the IRS and other federal law enforcement officials have gone after banks and landlords who do business with them.** Four years after promising not to make medical marijuana a priority, **the government continues to target it aggressively.**

The war has played out not just between federal authorities and the pot industry, but between competing factions within the federal government, as well as between local and state officials and the more aggressive federal prosecutors and drug warriors. As officials in Washington fought over whether and how to continue the war on pot, U.S. attorneys in the states helped beat back local efforts to regulate the medical marijuana industry, **going so far as to threaten elected officials with jail**. The willingness of elements within the Department of Justice, including its top prosecutors, to use their power in brazenly political ways is, in many ways, the untold story of Obama's first-term approach to drug policy.

'THE LANDSCAPE HAS CHANGED'

→ → As president, Obama did his best to laugh off questions about marijuana. His own experience with weed had been positive, having spent his high school years hanging out with the "Choom Gang," a bunch of his stoner buddies in Hawaii. A young Obama coined the term "roof hits" to describe the act of sucking in pot smoke floating near a car roof, and was known to hog extra hits from a joint by jumping around a circle of smokers, snatching the weed and saying, "Intercepted!"

The **Drug Enforcement Administration** and federal prosecutors, however, found nothing funny about it. "I believe there's this notion out there that the marijuana industry is just full of organic farmers who are peacefully growing an organic natural plant and that there's no harm associated with that," **U.S. Attorney Melinda Haag** told San Francisco public radio station KQED last March. "And what I hear from people in the community is that there is harm." Marijuana, **Haag** said, could stunt brain development in children and act as a gateway drug to other substances. It may also, she warned, lead to armed robberies at dispensaries and grow operations, putting innocent bystanders at risk.

Federal authorities were determined to keep up the fight against pot legalization in any form, medical or recreational. **Fighting that political battle often meant carrying out high-profile raids in the midst of legislative debates**. In March 2011, agents swept through Montana, seizing property and arresting owners as part of a nationwide crackdown on medical marijuana. They timed the Montana raids to coincide with a legislative debate and votes in the state legislature over the future of medical marijuana, using law enforcement to shift the debate in their favor.

The raids led to images on the evening news of guns, drugs, and men in handcuffs. It imbued medical marijuana with a sense of criminality -- even though it was legal under state law -- and soured the political climate against it. Before the raids, state lawmakers had been debating two approaches: Repeal the voter-passed medical marijuana law altogether, or create a system of state-regulated and controlled dispensaries. The raids disabused Montanans of the notion that the federal government would allow states to regulate marijuana policy as they saw fit. The bill to sanction dispensaries was a casualty of the crackdown.

Instead, the Montana legislature voted to repeal the law, but Democratic Gov. **Brian Schweitzer** vetoed it -- burning a branding iron through it at a public event. Lawmakers sent him a new bill leaving the law in place, but strictly curtailing it, and disallowing dispensaries. He allowed it to become law without his signature.

People who felt they'd been baited into the business by the federal government cried foul and began fighting to stay out of prison. The team defending **Chris Williams**, a Montana medical marijuana provider who was arrested and charged with drug trafficking, reached out to a **Huffington Post** reporter, who had broken the news of **Holder's** announcement that he would lay off medical marijuana, asking him to testify. "Case law in our circuit indicates we may be able to introduce evidence concerning entrapment, such as quotes by govt. officials in news articles, if the writer of the article can testify to the authenticity of the statements," said an investigator.

The judge in the case, however, ruled that defense attorneys could in no way mention the federal policy -- either Holder's statement or the Ogden memo. **Williams** was convicted and faces a mandatory minimum of more than eight decades in prison, though the judge has ordered mediation on the sentence overseen by a different judge, an unusual step.

In a separate case now in court, former University of Montana quarterback **Jason Washington**, a hometown hero, was fingerprinted by the FBI while in the process of setting up a dispensary, apparently as part of an effort to rationalize the growing industry. **Washington's** lawyers hoped the FBI's documented cooperation with the establishment of the business would undermine the effort to imprison its owner. Last week, however, **Washington** was convicted, and faces two mandatory minimum sentences of five years each.

Federal officials in Washington state ran the same play that had worked to such effect in Montana. As state lawmakers debated legislation to license dispensaries, federal prosecutors said they felt excluded. "There didn't seem to be a recognition that the use and sale of marijuana is against federal law," **Michael Ormsby**, U.S. attorney for the Eastern District of Washington, complained to **The New York Times**. "No one [in the legislature] consulted with me about what I thought of what they were going to do and did I think it ran afoul of federal law."

In early April, Democratic Gov. **Christine Gregoire**, anticipating the bill's passage, wrote a letter to the Justice Department asking what the federal response to the law would be. **Ormsby** and the other U.S. attorney with jurisdiction in Washington sent back a fire-breathing letter threatening to prosecute anyone involved with the dispensaries, asserting -- falsely -- that the Ogden memo was strictly limited to "seriously ill individuals," when in fact it referenced any individual who followed state law.

A week after the legislature passed the bill and sent it to **Gregoire** to sign, the DEA carried out coordinated raids on dispensaries in eastern Washington.

The next day, on April 29, **Gregoire** vetoed the licensing bill. "The landscape has changed," she explained. "I cannot disregard federal law on the chance that state employees will not be prosecuted."

In Rhode Island, a U.S. attorney fired off a similar letter to Independent Gov. **Lincoln Chafee** that same month, as the governor considered whether to create state-run medical marijuana dispensaries, which the state legislature had authorized in 2009, before Chafee took office. The governor scrapped the planned "compassion centers."

"Federal injunctions, seizures, forfeitures, arrests and prosecutions will only hurt the patients and caregivers that our law was designed to protect," **Chafee** said.

Similar scenarios played out in Arizona and Hawaii, with raids and federal intervention followed by state officials backing off attempts to regulate dispensaries. **The New York Times**, rarely quick to ascribe motives to law enforcement on the news side, noted federal authorities' timing.

"As some states seek to increase regulation but also further protect and institutionalize medical marijuana, federal prosecutors are suddenly asserting themselves," the newspaper wrote that May.

For federal officials, the crackdown was necessary because things had accidentally gotten out of their control, said a former White House official. "If you read the memo, with the exception of a few words you maybe could've worded better, it's really not that different from current law," he said. "It took us by surprise, I will tell you, the way it was received in the beginning, and then the media ran with that narrative, that this was a change in policy and **Obama's** gonna allow medical marijuana shops. The smart legalizers ran with that too, even though the really smart ones knew, when you read that memo, there really wasn't much of a change from the **Bush** administration. All of a sudden, it took on a life of its own."

Another official contended pro-marijuana legalization groups "distorted" the Ogden memo, a characterization the groups dispute.

"The distortion certainly wasn't on our side," **Steve Fox**, director of government relations for the **Marijuana Policy Project**, told **HuffPost**. "The Ogden memo said it wasn't going to be a priority of the Department of Justice to prosecute individuals who were acting in compliance with state law. It was pretty straightforward, and a lot of people invested a lot of money based on that guidance and put their necks on the line, and some of those people are now being sent to prison by the Department of Justice after that memo had been issued in 2009."

Still, the consequences of the Ogden memo were unequivocal. **Sherer** traveled to Montana just before the crackdown to train owners on "raid preparedness." She asked rooms full of pot shop owners how many had opened their doors because of the Ogden memo. Nearly all raised their hands, she recalled.

Pushing the memo, she thought, as she stared out at the crowd now in dire legal jeopardy, had been a mistake.

A FIGHT FOR CLARIFICATION

The Ogden memo, despite the press coverage -- including here at **HuffPost** -- held loopholes an aggressive prosecutor could drive a battering ram through. "Nor does this guidance preclude investigation or prosecution," it reads at one point, "even when there is clear and unambiguous compliance with existing state law, in particular circumstances where investigation or prosecution otherwise serves important federal interests."

One of those federal interests was the continuation of current pot laws.

Pushed by political appointees, the Ogden memo, even with its loopholes, faced stiff internal resistance from career Justice Department prosecutors. "That's just not what they do," said a former Justice official. "They prosecute people."

"One of the challenges is that condoning lawlessness is not okay," another former DOJ official involved in the medical marijuana discussions told **HuffPost**. "On the other hand, you've got the reality of resources and priorities. You just don't go off and make cases just to make a point."

With the 2011 crackdown underway, federal prosecutors needed some legal justification, some clarification to the Ogden memo. "Their argument was, look, anytime we go to anyone and try to say we're going to crack down on you, they say, 'Well, look at the Ogden memo. You can't.' They'd get that thrown back in their face," one former Justice official told **HuffPost**.

Even supporters of the Ogden memo acknowledged it wasn't a permanent fix, given the contradiction between state and local laws. But federal officials were surprised by how quickly states moved, writing laws around the Ogden memo.

U.S. attorneys led the rebellion with support from the DEA. **Benjamin B. Wagner**, a U.S. attorney in Sacramento, Calif., who is currently prosecuting medical marijuana distributor **Matthew R. Davies**, was particularly pushy, according to officials involved in the discussions. Ogden's memo, the federal prosecutors argued, created uncertainty. They wanted a memo they could use to push state officials to crack down on their own.

The Ogden memo, or at least the public perception of it, stood in the way.

"There was a fight to get a clarification," said one White House official.

→ → Despite its name, the key players behind the Ogden memo were then - **Associate Deputy Attorney General Ed Siskel** and then - **Principal Associate Deputy Attorney General Kathy Ruemmler**, according to two people involved in the discussions. As two of Ogden's top associates, they took the lead in drafting the memo.

By the time the push for second memo started, both had already been promoted to the White House. Working in the White House Counsel's office, they had no say as their replacements at DOJ drafted a memo many contend undermined the Ogden memo. "There was nowhere to hide. They had to get on the bandwagon," said the White House official involved in the process.

The politics around drug policy do not move in a linear, upward direction like, say, civil rights issues. As civil rights are expanded, the politics become reinforcing, as people become normalized to the new equality and reject the old intolerance as immoral. It's by no means a smooth transition, but, for instance, the more gay weddings that are held, the more people come to accept the concept of gay marriage as uncontroversial.

But drug politics move in both directions. Drugs of all kinds -- cocaine, heroin, speed -- were fully legal at the turn of the 20th century, then banned over the next several decades. The pendulum swung back in the 1970s, with more than a dozen states decriminalizing marijuana. Then back again toward criminalization. Drugs are not like gay or interracial couples, where familiarity breeds acceptance. More drugs can lead, instead, to a public backlash.

Nearly everywhere that medical marijuana shops have proliferated, beginning in San Francisco in the early 1990s, there has been some negative public reaction. In the early communities, the public outcry was followed by a moratorium on new dispensaries and tight regulations on how they could operate. Well regulated shops have by and large been accepted where they have been allowed. It's that pregnant moment in between that the shops are most vulnerable.

After 2009, the shops expanded faster than cannabis movement and industry organizers could keep up with. "People were telling themselves what they wanted to hear," namely that the Ogden memo provided immunity from raids, said **Sherer**. "The proliferation got really out ahead of advocates."

She watched the tragedy unfold. In the 1990s and 2000s, her group organized patients and others sympathetic to marijuana, and as soon as a shop was raided, the owner would immediately notify **Americans for Safe Access**, which would then send text messages to all its nearby activists. Before the evening news trucks could get to the scene, a throng of protesters would be outside the shop, often joined by local officials, denouncing the DEA. The resulting images in the media were a major blow to the feds. The DEA, **Sherer** said, signed up for **Americans for Safe Access** text alerts and would begin leaving the scene of a raid as soon as one went out. But that momentum was broken when the industry exploded.

The way to guard against a raid, said **Sherer**, had been to talk with neighbors, attend city council meetings, respond to complaints, and generally become a part of the community. "Make sure your community wanted you," **Sherer** said she advised businesses. "I've been training people for 10 years that the number one reason people get raided is community complaints. The telltale sign of federal activity is the local community rejecting the dispensary."

Medical marijuana shops' protection had never been the law, it had been public opinion. With the perception in some local communities that the pot industry had gotten out of control, the DEA and U.S. attorneys were left with an opening.

THE EMPIRE STRIKES BACK

The drug warriors who had dug in at the DEA and Justice Department won their rear-guard action. The result was a new memo, issued by Deputy Attorney General **James M. Cole**, in June 2011.

"The second [memo] was kind of like The Empire Strikes Back," a former DOJ official told **HuffPost**. "All the people who had been beaten the first time worked for several years to win one, and they won a round in the second one."

Officially, DOJ took the position they were only further clarifying the Ogden memo, rather than throwing the guidance overboard. Its subject line promised it was merely "Guidance Regarding the Ogden Memo."

Practically, however, the Cole memo gave U.S. attorneys more cover to go after medical marijuana distributors. The U.S. attorneys, "in unison, were saying, 'We're going to shut these down, this is the law.' **Holder** could've said stop, but he didn't," said the White House official.

In August 2011, Justice officials told their local government leaders in the town of Chico, Calif., that they could personally be jailed if they went forward with legislation to regulate medical cannabis. **Under criminal conspiracy laws, "all parties involved would be considered, including city officials,"** city manager **David Burkland** wrote in a report on their meeting with U.S. Attorney **Benjamin Wagner**.

"Staff and Council's involvement in implementing the marijuana ordinance could be interpreted as facilitating illegal activity associated with marijuana," Burkland wrote. "U.S. Attorney **Wagner** also stated that although the DOJ may lack the resources to prosecute every case, it intends to prosecute more significant cases to deter the activity of marijuana cultivation and unlawful distribution. **In those cases, staff or elected officials will not be immune from prosecution under conspiracy or money laundering laws.**"

In October 2011, four California-based U.S. attorneys held a remarkable joint press conference effectively declaring war on medical marijuana. "We were all experiencing the same thing, which is that everyone was saying ... the U.S. attorneys are not going to take any actions with respect to marijuana in California because of the 2009 Ogden memo," U.S. Attorney **Haag** told KQED. "So it's fair game. We can have grow operations, we can have dispensaries, we can do anything we want with respect to marijuana. ... That was incorrect."

Haag said she launched her crackdown because she heard Oakland officials were preparing to license and regulate the industry, and allow large-scale growing operations in warehouses, which she opposed.

"What was described to me was that they were going to be quote 'Walmart-sized.' And I was hearing that everyone believed that would be okay, and that my office would not take any action. And I knew it isn't okay. It is a violation of federal law," **Haag** said. "If you actually read the so-called Ogden memo from 2009 from the Department of Justice, what it says is that U.S. attorneys will not ordinarily use their limited resources to bring actions against seriously ill individuals or their caregivers. That's the direction we were given."

Whatever the authors of the Ogden memo had in mind, the actual words they used said that resources should not be used to target "individuals whose actions are in clear and unambiguous compliance with existing state laws."

"I didn't think it was fair to stand by, be silent, let people pull licenses in Oakland, put millions of dollars into setting up a grow operation in a warehouse and then come in and take an enforcement action," **Haag** said.

The prosecutor's pursuit of fairness also took her to Mendocino County, where local officials had established an effective "zip tie program" to regulate its medical marijuana trade. Growers, after paying a licensing fee and submitting to police inspection, were given zip ties by the sheriff. Police officers who found bags of pot cinched by those ties then had reason to believe the product had been grown legally.

Just before the county board of supervisors planned to vote on making the program official and permanent, **Haag** traveled to the county and, in a meeting with county counsel **Jeanine Nadel**, **threatened the supervisors with legal action if they moved forward**, according to a report by **California Watch**.

The board decided to squash the program, but **Haag's** pursuit continued. She empaneled a grand jury and subpoenaed information from the county about its program, looking for the names of people who had registered as growers, as well as all financial information related to it. **Mendocino** has so far refused to provide the information and is fighting the subpoena in court.

Dan Hamburg, a former member of Congress who's now a Mendocino supervisor, said that his fellow board members were well aware that if they created an ordinance, they'd be putting themselves at legal risk. "The Board of Supervisors knew the possibility that we could be charged by the U.S. attorney with **aiding and abetting criminal behavior**, or even a **criminal conspiracy**," he said. "However, my worry was, and remains, the possibility of forfeiture." Under forfeiture laws, the federal government can seize money and valuables connected with criminal activity.

The feds have demanded to know how much money the county has made registering cannabis growers, which **Hamburg** and others suspect means they have their eye on it. **Hamburg** said it was just short of a million dollars, far more of a hit than the county budget, with "deteriorating finances," could withstand.

"Our county doesn't have a million dollars to turn over to the feds," **Hamburg** said.

Hamburg had opposed the initiative, and opposed publicizing it, arguing that it would put a target on Mendocino and draw the ire of the federal government. Now that he's been proven right, he's backing his colleagues in defending it.

Just as pot policy split the Justice Department into factions, it pitted local cops against each other as well. The sheriff strongly supported the zip tie program, but some below him had a hard time countenancing what they saw as sanctioning criminal enterprise. Hamburg said that **Haag** saw there were local law enforcement concerns with the program and exploited those divisions.

The tensions are evident in a 2011 county audit report.

The zip tie program "is by far the program that causes the greatest chasm of disagreement within the department," reads the audit. Critics "believe the program is illegal, runs counter to overall crime prevention in Mendocino County, is potentially criminal friendly, reduces morale, and is poised to bring more crime to the County and potential corruption to the department."

The **U.S. and Mendocino** are scheduled to go to court on Jan. 29. **Hamburg** said he's optimistic, but the fight is draining county resources.

"The president said he has bigger fish to fry than Washington and Colorado legalizing marijuana," **Hamburg** said. "But apparently his government doesn't have bigger fish to fry than stopping Mendocino from attempting to regulate its marijuana situation."

A MUMBO-JUMBO MESS

While the Justice Department escalates its fight against medical marijuana, the country is moving beyond it. In November, voters in Washington and Colorado approved initiatives legalizing the recreational use of marijuana. Recent polls show majority support for legalization of pot for any adult, sick or not.

At a recent congressional hearing, DEA head **Michele Leonhart** was nearly laughed out of the room for refusing to say that marijuana was less dangerous than heroin. . . .