STATEMENT OF ERIC M. GOEPEL FOUNDER, VETERANS CANNABIS COALITION BEFORE THE UNITED STATES HOUSE OF REPRSENTATIVES COMMITTEE ON SMALL BUSINESS

"UNLOCKING POTENTIAL: SMALL BUSINESS IN THE CANNABIS INDUSTRY"

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Chairman Velazquez, Ranking Member Chabot, and Members of the House Committee on Small Business,

The Veterans Cannabis Coalition would like to thank you for the opportunity to address the Committee on veterans and cannabis issues currently under consideration. We would especially like to thank the Committee for its foresight in tackling some of the many issues that have arisen as citizens grapple with the conflict between federal and state laws regarding cannabis.

Introduction

The Veterans Cannabis Coalition works to end federal cannabis prohibition and drive research and development of cannabis-based medications through the Department of Veterans Affairs. We help to organize and facilitate the work of other veteran advocates, we educate the public and elected officials about cannabis and veterans policy and research, and we advocate for specific solutions. I co-founded VCC with a fellow Iraq War veteran and advocate, Bill Ferguson. We live in a community that has been wracked by suicide and overdose for years and we saw the disconnect between what people said was working for them, what the healthcare system was giving them, flawed federal law that criminalized people for self-care, and Congressional priorities. We also shared a need to serve others in a meaningful way, as we saw the years stretch into decades as parents and children become veterans of the same conflicts while at least 100,000 have died of suicide and overdose (based on an average of 6,000 suicide deaths a year from 2005-2016—we assume suicide rates have remained steady since 2016 based on current reporting and that suicide pre-2005 totaled at least several thousand over that period). ¹

We refused to stand idly by while opportunities for positive change fell to the wayside because of political inertia and the agendas of those who kneel before the status quo. We saw the need in our community to persistently and effectively advocate for reform on behalf of the many who cannot. The Veterans Cannabis Coalition, in the end, strives to restore opportunity and repair the damage caused by what has always been a war on people. In light of what we know about the politics of prohibition and the science of cannabis, we must make right the many wrongs inflicted on the citizens of this country out of a desire for authoritarian control of individual behavior and to punish with the power of the state. This Committee can take many steps to empower veterans and all Americans to engage with the cannabis by removing what barriers it can and creating incentives.

¹Department of Veterans Affairs. (Sep 2018) *VA National Suicide Data Report (2005-2016)*. https://www.mentalhealth.va.gov/docs/data-sheets/OMHSP_National_Suicide_Data_Report_2005-2016_508.pdf. Retrieved Jun 16, 2019.

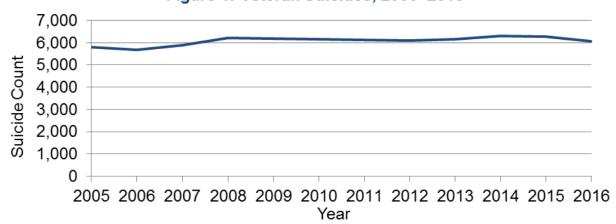


Figure 1: Veteran Suicides, 2005-2016

Figure 1. Excerpted from VA National Suicide Data Report (2005-2016).²

Fruit of the Poisonous Tree: Cannabis Prohibition in the U.S.

Cannabis prohibition is, at its heart, the fruit of the poisonous tree of racism and ignorance. As the end of alcohol prohibition neared, in 1930 there began a concerted campaign organized by the then U.S. Department of Treasury's Bureau of Narcotics to federally control cannabis, led by its founding commissioner Harry Anslinger. ³

In radio addresses in support of the campaign, Anslinger described cannabis turning young people into "slaves to this narcotic, continuing addiction until they deteriorate mentally, become insane, turn to violent crime and murder." ⁴ Here is how Anslinger variously described cannabis and its effects throughout his testimony on H.R.6385, the Marihuana Tax Act of 1937⁵:

Here we have a drug that is not like opium. Opium has all of the good of Dr. Jekyll and all the evil of Mr. Hyde. This drug is entirely the monster Hyde, the harmful effect of which cannot be measured. ... Some people will fly into a delirious rage, and they are temporarily irresponsible and may commit violent crimes. Other people will laugh uncontrollably. It is impossible to say what the effect will be on any individual. Those research men who have tried it have always been under control. They have always insisted upon that. ... It is dangerous to the mind and body, and particularly dangerous to the criminal type, because it releases all of the inhibitions. ⁶

² Ibid.

³Adams, Cydney. (Nov 17, 2016) "The man behind the marijuana ban for all the wrong reasons." CBS News. https://www.cbsnews.com/news/harry-anslinger-the-man-behind-the-marijuana-ban/. Retrieved Jun 16, 2019. ⁴Ibid.

⁵Marihuana Tax Act of 1937. United States Congress. Schaffer Library of Drug Policy. http://www.druglibrary.org/Schaffer/hemp/taxact/mjtaxact.htm. Retrieved June 16, 2019. ⁶Anslinger, Harry. (1937) "Statement of H.J. Anslinger on H.R.6385." Schaffer Library of Drug Policy. http://www.druglibrary.org/schaffer/hemp/taxact/anslng1.htm. Retrieved June 16, 2019.

Anslinger had spent the preceding years gathering and disseminating⁷ reports to the media and Congress tying cannabis to violent crime allegedly committed by Latinx and African American individuals under the influence and framing cannabis as a threat to young whites.⁸ Propaganda films like *Reefer Madness* (1936) reflected the popular anti-drug sentiment and echoed instances of cannabis-induced crime Anslinger popularized.⁹ After its passage, for the next 32 years the Marihuana Tax Act effectively criminalized cannabis by placing extraordinary costs on requirements for its legal possession, importation, and sale.

The Marihuana Tax Act stood for over three decades before being overturned in *Leary v. United States* in 1969 on narrow constitutional grounds. ¹⁰ The U.S. Congress repealed the Marihuana Tax Act the following year and replaced it with the Comprehensive Drug Abuse Prevention and Control Act of 1970. ¹¹ Under Title II, the Controlled Substances Act (CSA), cannabis (or the slang "marihuana" or "marijuana" as it referred to throughout U.S. code) was placed in Schedule I, the most restrictive category, reserved for substances that have: A) a high potential for abuse; B) no currently accepted medical use in treatment in the United States; C) a lack of accepted safety for use under medical supervision. ¹²

Following the passage of the Marihuana Tax Act in 1937 and the Comprehensive Drug Abuse Prevention and Control Act in 1970, there were government reports generated by the LaGuardia Committee in New York City in 1944 and the federal Shafer Commission in 1972 that examined cannabis policy and health issues. After more than five years of research, the New York Academy of Medicine, on behalf of the committee appointed by New York City Mayor Fiorello LaGuardia, issued a report that categorically denied the many spurious and unscientific claims made by Anslinger and the Federal Bureau of Narcotics. ¹³ Appointed by President Richard Nixon, the Shafer Commission, formally known as the National Commission on Marihuana and Drug Abuse, recommended ending cannabis prohibition and criminalization and finding other means to reduce problematic use. ¹⁴

⁷DEA Museum Lecture Series. (Oct 15, 2014). "Standing in the Shadows: The Legacy of Harry J. Anslinger." https://www.deamuseum.org/wp-content/uploads/2015/08/101514-DEAMuseum-LecturesSeries-StandingintheShadows-transcript.pdf. Retrieved Jun 16, 2019.

⁸Encyclopedia of Drugs, Alcohol, and Addictive Behavior. (2001). "Anslinger, Harry Jacob, and U.S. Drug Policy." https://www.encyclopedia.com/education/encyclopedias-almanacs-transcripts-and-maps/anslinger-harry-jacob-and-us-drug-policy. Retrieved Jun 16, 2019.

⁹Lee, Martin A. (Feb 1, 2013) "Book Excerpt: Origins of Reefer Madness." Fairness and Accuracy in Reporting (FAIR). https://fair.org/home/book-excerpt-the-origins-of-reefer-madness/. Retrieved Jun 16, 2019.

¹⁰Leary v. United States. (May 19, 1969). United States Supreme Court.

https://cdn.loc.gov/service/ll/usrep/usrep395/usrep395006/usrep395006.pdf. Retrieved Jun 16, 2019.

¹¹Comprehensive Drug Abuse Prevention and Control Act of 1970. United States Congress. Oct 27, 1970. https://www.govinfo.gov/content/pkg/STATUTE-84/pdf/STATUTE-84-Pg1236.pdf. Retrieved Jun 16, 2019. ¹² Ibid.

¹³LaGuardia Committee Report. New York City Mayor's Committee on Marihuana. 1944. http://www.druglibrary.net/schaffer/Library/studies/lag/lagmenu.htm. Retrieved Jun 16, 2019.

¹⁴Nahas, G., and Greenwood, A. (1972). The First Report of the National Commission on Marihuana: Signal of Misunderstanding Or Exercise In Ambiguity.

https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1749335/pdf/bullnyacadmed00168-0058.pdf. Retrieved Jun 16, 2019.

Since cannabis was placed in Schedule I in 1970, there have been more than 30,000 entries for "marijuana" made in PubMed, a government website that serves as a portal and repository of medical research operated by the US National Library of Medicine, part of the Department of Health and Human Services (HHS).¹⁵ In 1986, the Drug Enforcement Administration (DEA) rescheduled dronabinol—the compound Δ9-tetrahydrocannabinol (delta-9-THC)—which is chemically identical to the common psychoactive cannabinoid found in the cannabis plant.¹⁶ Since 2003, HHS has maintained patent #US6630507B1 "Cannabinoids as antioxidants and neuroprotectants" on non-psychoactive cannabinoids (compounds found naturally in the cannabis plant or made synthetically that interact with vertebrate endocannabinoid system (ECS)).¹⁷ In 2004, the Food and Drug Administration (FDA) approved Marinol, with its active ingredient dronabinol (synthetic THC), for: "1) anorexia associated with weight loss in patients with AIDS; and 2) nausea and vomiting associated with cancer chemotherapy in patients who have failed to respond adequately to conventional antiemetic treatments."¹⁸

The DEA issued a policy statement in August 2016 wherein the Administration adopted "a new policy that is designed to increase the number of entities registered under the Controlled Substances Act (CSA) to grow (manufacture) marijuana to supply legitimate researchers in the United States." In November 2017, the National Academies of Sciences published a comprehensive review of 10,000 cannabis-related studies titled *The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research*. They found "There is conclusive or substantial evidence that cannabis or cannabinoids are effective:

For the treatment for chronic pain in adults (cannabis) (4-1)

Antiemetics in the treatment of chemotherapy-induced nausea and vomiting (oral cannabinoids) (4-3)

For improving patient-reported multiple sclerosis spasticity symptoms (oral cannabinoids) $(4-7a)^{21}$

¹⁵US National Library of Medicine. "Marijuana". Department of Health and Human Services. https://www.ncbi.nlm.nih.gov/pubmed/?term=marijuana. Retrieved Jun 16, 2019.

¹⁶Drug Enforcement Agency. (May 13, 1986). Federal Register. Vol. 51, No. 92.

https://s3.amazonaws.com/archives.federalregister.gov/issue_slice/1986/5/13/17464-17478.pdf#page=13. Retrieved Jun 16. 2019.

¹⁷Hampson, A., Axelrod, J., Grimaldi, M. (2003) "Cannabinoids as antioxidants and neuroprotectants." Department of Health and Human Services. http://patft.uspto.gov/netacgi/nph-

Parser?Sect1=PTO1&Sect2=HITOFF&p=1&u=/netahtml/PTO/srchnum.html&r=1&f=G&l=50&d=PALL&s1=663 0507.PN. Retrieved Jun 16, 2019.

¹⁸Food and Drug Administration. (2004) "Marinol." NDA 18-651/S-025 and S-026.

https://www.accessdata.fda.gov/drugsatfda_docs/label/2006/018651s025s026lbl.pdf. Retrieved Jun 16, 2019.

¹⁹ Drug Enforcement Administration. (August 12, 2016). "Applications to Become Registered Under the Controlled Substances Act to Manufacture Marijuana to Supply Researchers in the United States." Federal Register. Vol. 81, No. 156. https://www.deadiversion.usdoj.gov/fed_regs/rules/2016/fr0812_3.pdf. Retrieved Jun 16, 2019.

²⁰National Academies of Science, Engineering, Medicine. (Nov 2017) *The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research.*

http://nationalacademies.org/hmd/Reports/2017/health-effects-of-cannabis-and-cannabinoids.aspx. Retrieved Jun 19, 2019.

²¹National Academies of Science, Engineering, Medicine. (Jan 2017). "The Health Effects of Cannabis and Cannabinoids: Committee's Conclusions."

http://nationalacademies.org/hmd/~/media/Files/Report%20Files/2017/Cannabis-Health-Effects/Cannabis-conclusions.pdf. Retrieved Jun 16, 2019.

In May 2018, the HHS Assistant Secretary for Health Dr. Brett Giroir wrote a letter to DEA Acting Administrator Robert Patterson stating "HHS is recommending that the substance cannabidiol (CBD) [a major cannabinoid found in the cannabis plant] ... be controlled in Schedule V [the least restrictive schedule] of the CSA. ²² In September 2018, the DEA issued the rule "Schedules of Controlled Substances: Placement in Schedule V of Certain FDA-Approved Drugs Containing Cannabidiol; Corresponding Change to Permit Requirements." This rule placed the recent FDA-approved drug Epidiolex—the active component of which is whole-plant cannabis-derived CBD—in a category to be sold legally for the treatment of seizures caused by rare forms of epilepsy. ²³

Since the CSA went into effect in 1970, 46 states, three territories, and the District of Columbia have passed laws legalizing everything from regulated adult-use cannabis markets to the heavily restricted low-THC, high-CBD product only systems.²⁴ The vast majority of state and territorial law is currently in violation of U.S. code and the Supremacy Clause of the Constitution; meanwhile Pew Research Center, having polled sentiment on this particular issue for decades, found that from a low of 12% in favor of cannabis legalization in 1969, in 2018 62% of Americans supported legalization.²⁵

Veterans: Patients, Advocates, and Entrepreneurs

All the preceding information is meant to paint a picture of the mountain of inconsistencies and the incredible distance between federal and state law and basic science and freedom. Veterans, because of their regular interaction with the federal government for healthcare, education, housing, and employment, find themselves particularly impacted by federal cannabis prohibition. According to surveys by the American Legion²⁶ of veteran households and Iraq and Afghanistan Veterans of America (IAVA) of their membership²⁷, more than 1-in-5 veterans use or have used cannabis for medicinal reasons, more than 80% support medicinal cannabis access, and 93% of IAVA members would be "interested in using cannabis or cannabinoid products as a treatment option if it were available to" them.

²²Drug Enforcement Administration. (May 16, 2018). DEA-2018-0014. https://www.regulations.gov/document?D=DEA-2018-0014-0002. Retrieved Jun 16, 2019.

²³Food and Drug Administration. (Jun 26, 2018) "FDA approves first drug comprised of an active ingredient derived from marijuana to treat rare, severe forms of epilepsy." https://www.fda.gov/news-events/press-announcements/fda-approves-first-drug-comprised-active-ingredient-derived-marijuana-treat-rare-severe-forms. Retrieved Jun 16, 2019. ²⁴ State Medical Marijuana Laws. (2019). National Conference on State Legislatures.

http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx. Retrieved Jun 16, 2019.

²⁵ Hartig, H., and Geiger, A.W. (Oct 8, 2018). "About six-in-ten Americans support marijuana legalization." Pew Research Center. https://www.pewresearch.org/fact-tank/2018/10/08/americans-support-marijuana-legalization/. Retrieved Jun 16, 2019.

²⁶The American Legion. (Nov 2, 2017). "Survey shows veteran households support research of medical cannabis." https://www.legion.org/veteranshealthcare/239814/survey-shows-veteran-households-support-research-medical-cannabis. Retrieved Jun 16, 2019.

²⁷Iraq and Afghanistan Veterans of America. (Jan 30, 2019). "IAVA Releases 2019 Annual Member Survey, Revealing Diverse Opinions among Post 9-11 Veterans." https://iava.org/press-release/iava-releases-2019-annual-member-survey/. Retrieved Jun 16, 2019.

There is obvious interest, demand, and support, both scientific and public, for a variety of reforms to federal cannabis laws. Research and access issues affecting veterans have been raised in several current pieces of legislation before the 116th Congress, particularly H.R.712, the VA Medicinal Cannabis Research Act,²⁸ and H.R.1647, the Veterans Equal Access Act.²⁹ The bills would direct the Department of Veterans to conduct cannabis research within certain parameters and would permit VA physicians to recommend medicinal cannabis in states adult-use and medicinal states, respectively. The VA opposed the VA Medicinal Research Act on the grounds that they are already conducting research (one trial with CBD to be completed in 2023) and the Veterans Equal Access Act because there is not enough evidence for doctors to make recommendations about cannabis.³⁰ The circular nature of the problem should be clear.

Veterans have long been at the leading edge of cannabis reform. Veterans of the Vietnam War, exposed to cannabis during their tours in southeast Asia, returned to a country that preferred to hate or ignore them and offered little assistance or compassion. Some turned to growing and consuming cannabis because it was often the only effective substance available to them to deal with conditions ranging from post-traumatic stress disorder to Agent Orange and other toxic chemical exposure. 31 The most notable veteran advocate was an individual that intersected with several communities, as every veteran does. Dennis Peron, the "Father of Medical Marijuana" was a Vietnam War draftee, a U.S. Air Force veteran, and an advocate for cannabis, the LGBTQ+ community, and patients with AIDS, cancer, and the numerous conditions and illnesses that cannabis could treat.³² Peron would help organize a broad popular coalition that passed a California state initiative called Proposition 215 that legalized cannabis under certain circumstances for medical purposes in 1996. 33 From the veteran farmers in northern California who grew cannabis for decades under threat of incarceration while supporting thousands of medical patients, to the numerous veterans who have stepped up and made their voices heard everywhere from federal court³⁴ to Capitol Hill, ³⁵ veterans understand what is stake—the health, and ultimately lives, of their comrades, their friends, and their families.

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²⁸Correa, L. (2019). H.R.712, the *VA Medicinal Cannabis Research Act of 2019*. U.S. Congress. https://www.congress.gov/bill/116th-congress/house-bill/712/text. Retrieved Jun 16, 2016.

²⁹Blumenauer, E. (2019). H.R.1647, the *Veterans Equal Access Act of 2019*. U.S. Congress.

https://www.congress.gov/bill/116th-congress/house-bill/1647/text. Retrieved Jun 16, 2019.

³⁰Franklin, Kieta. "Statement of Dr. Keita Franklin before the House Committee on Veterans Affairs Subcommittee on Health. (Apr 30, 2019). Department of Veterans Affairs.

https://docs.house.gov/meetings/VR/VR03/20190430/109385/HHRG-116-VR03-Wstate-FranklinK-20190430.pdf ³¹Kennedy, Bruce. (Apr 30, 2018). "Medicating in Wartime: The Cannabis Legacy of Vietnam Veterans." *Leafly*. https://www.leafly.com/news/politics/medicating-in-wartime-the-cannabis-legacy-of-vietnam-veterans. Jun 16, 2019.

³²Barcott, Bruce. (Jan 27, 2018). "America Mourns Passing of Dennis Peron, Father of Medical Marijuana." https://www.leafly.com/news/politics/america-mourns-passing-of-dennis-peron-father-of-medical-marijuana ³³Ballotpedia. "California Proposition 215, the Medical Marijuana Initiative (1996)." https://ballotpedia.org/California_Proposition_215,_the_Medical_Marijuana_Initiative_(1996). Retrieved Jun 16, 2019.

³⁴Hasse, Javier. (May 31, 2019). "Federal Appeals Court Rules DEA, Federal Govt. Must 'Promptly' Reassess Marijuana's Illegality." *Forbes*. https://www.forbes.com/sites/javierhasse/2019/05/31/federal-appeals-court-rules-dea-federal-govt-must-promptly-reassess-marijuanas-illegality/. Retrieved Jun 16, 2019.

³⁵Nixon, Dennis. (Feb 26, 2019) "Statement of Dennis R. Nixon Before the Committees on Veterans' Affairs." Disabled American Veterans.

https://www.veterans.senate.gov/imo/media/doc/PDF%2002.20.19%20Nixon%20HVAC%20SVAC%20Joint%20Testimony%202019.pdf. Retrieved Jun 16, 2019.

Veterans have been an integral part of the networks that have produced and distributed cannabis, from the aforementioned small rural farmers to operators of state-legal medical dispensaries to manufacturers of high-quality medicinal cannabis products. They are some of the most prominent victims, innovators, and supporters of patients in the war on cannabis. Like too many others, veterans have had their property seized, their bank accounts closed, and their freedom stripped away for the crime of growing, possessing, or selling a useful plant. To look at the number of people who have been brutalized by government for so-called crimes related to cannabis is to see an historic failure of political will and public policy that has enabled this to go on for decades.

The Future of Veterans and Cannabis in the United States

There is a veteran in every community: veteran status intersects with every conceivable demographic. Veterans issues are American issues: mental and physical health, employment, education, housing, fulfilment and purpose—veterans face additional obstacles arising from their military service, but these challenges themselves are not unique to veterans. As a population that the federal government has an explicit obligation to care for and study, however, veterans offer a window into larger trends effecting the American people.

There are, however, many ways that veterans can run afoul of federal law and regulation even if they compliant with their state. For example, a recent case saw a veteran working in the cannabis industry in Massachusetts denied a VA-backed home loan because of his choice of legal employment. A Small Business Administration (SBA) policy notice from April 2018 stated that any business that engages with cannabis directly, as well as indirect businesses that "derived any of its gross revenue for the previous year... from sales to Direct Marijuana Businesses of products or services that... support the use, growth, enhancement or other development of marijuana" is ineligible for any SBA programs. That policy effectively cuts off all SBA assistance to businesses that have any conceivable relationship with any entity directly or indirectly involved with cannabis.

Within the cannabis sector, as they do in every other field, veterans bring to the table both hard and soft skills necessary for successful business operations. From technical know-how in disciplines like supply chain logistics and information technology to intangible qualities like leadership and perseverance, veterans offer advantages to any potential employer. Yet the many dangers posed by conflicting state and federal law on cannabis, which extends into basic liberties like restricting child custody or the Constitutional right to keep and bear arms, discourages many veterans from considering participating. Considering the synergy that veterans

³⁶Kopp, Emily. (Jun 3, 2019). "Veterans are being denied this GI Bill benefit if they work in cannabis." *Roll Call*. https://www.rollcall.com/news/veterans-denied-gi-bill-benefit-if-they-work-in-cannabis. Retrieved Jun 16, 2019. ³⁷Small Business Administration. (April 3, 2018). "Revised Guidance on Credit Elsewhere and Other Provisions inSOP 50 10 5(J)." https://www.sba.gov/sites/default/files/resource_files/SBA_Policy_Notice_5000-17057_Revised_Guidance_on_Credit_Elsewhere_and_Other_Provisions.pdf. Retrieved Jun 16, 2019. ³⁸Gosselin, Chris. (Nov 11, 2016). "Why America's Veterans Make the Best Entrepreneurs.: *Fortune*. http://fortune.com/2016/11/11/veterans-day-leadership-ceo/. Retrieved Jun 16, 2019.

have long maintained with cannabis, it is a disservice for government to prevent those who served when called on from pursuing their life and liberty.

This Committee has the authority to put forward changes, like to April 2018 SBA policy statement, to remove barriers to assistance for American small businesses who wish to engage with the cannabis sector. The Committee can also begin to look down the road to the many needs of a complex industry that can produce hundreds, if not thousands, of medicinal, commercial, and industrial goods from cannabis. Research and development of all the potential applications of the plant hold incredible promise to disrupt everything from pharmaceuticals and medical treatments to commodities like biofuels and livestock feed. Within a future trillion-dollar market for cannabis-derived products, there will be demand for every skill and resource. Veterans can, and will, be a part of this—whether they have the support of the government, and in what way, remains to be seen.

What the movement for cannabis reform offers is the ways and means to achieve positive ends. The ways are methods and strategies—they are day-to-day advocacy that sees patients and doctors challenge stigma and ignorance and voters choose time and again to force their state legislatures to change laws. The means are resources—it is the political will, money, time, and people necessary to create generational change. The ends are the outcome, the end state. What millions of Americans are working toward are ends that ensure government recognizes the compounded error of prohibition and does whatever is necessary to make the people it harmed whole. The ends are the elimination of government's arbitrary, authoritarian, and punitive restrictions and threats to people who interact with cannabis.

Veterans continue to play an important role throughout the ongoing development of the cannabis industry and in the fight for legal reforms. What binds those of us engaged in this work is the knowledge that what we seek to make known and accessible to every person is of tremendous benefit to the individual and society as a whole.

We thank you for your consideration of our perspective on these issues and stand ready to serve as an ongoing resource in the Committee's discussions.