



Informational Hearing on Marijuana and the Second Amendment
Before the House Health and Judiciary Committees
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Testimony of

David Arnold
Lebanon County District Attorney
and
Communications Chair, Pennsylvania District Attorneys Association

Good morning and thank you for the opportunity to speak with you about marijuana and the Second Amendment. My name is David Arnold, and I am the District Attorney of Lebanon County and Communications Chair for the PDAA. The issues surrounding this hearing are important and, at times, complicated. I hope we can help shed some light this morning.

I want to first discuss the relationship between the use of medical marijuana and the ability to possess firearms. Those who use medical marijuana must choose, as a matter of law, between using medical marijuana lawfully and their right to legal firearm ownership. That is because under federal law, a person is prohibited from possessing a firearm if he or she is an unlawful user of any controlled substance. Marijuana is a controlled substance and, therefore, so is medical marijuana. This reality can only be changed if the federal government removed medical marijuana as a Schedule I drug and allowed states to do the same.

That the Department of Health has eliminated access to the medical marijuana database should have no impact on the issue. That is because the ATF form one must complete in order to purchase a firearm requires the potential purchaser to indicate whether he or she is a user of marijuana. Specifically, the form asks, “[a]re you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance?” The form then specifically says “Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside.” If you indicate that you are, you are necessarily disqualified. If you indicate that you are not, you have committed both federal and state crimes by lying on the ATF form.

Were recreational marijuana to be legalized, the same issue would arise. If you lawfully used recreational marijuana, you would be “an unlawful user” of marijuana because marijuana remains a controlled substance under federal law. The only way you could obtain a firearm in such a circumstance, therefore, would be to lie on the federal form, which again is both a violation of state and federal law.

Thank you again for the opportunity to testify before you this morning. I will be happy to answer any questions you may have.