



THE FRIDAY COVER

Congress' Summer Fling With Marijuana

How Congress turned on the DEA and embraced weed.

By JAMES HIGDON | July 30, 2015

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It's not easy being the DEA these days. After an unprecedented losing streak on Capitol Hill, the once-untouchable Drug Enforcement Administration suffered last week what might be considered the ultimate indignity: A Senate panel, for the first time, voted in favor of legal, recreational marijuana.

Last Thursday, the Appropriations Committee voted 16-14 on an amendment to allow marijuana businesses access to federal banking services, a landmark shift that will help states like Colorado, where pot is legal, fully integrate marijuana into their economies. As significant as the vote was, it's only the latest vote in a remarkable run of success marijuana advocates have had this year on Capitol Hill.

"The amendment was a necessary response to an absurd regulatory morass," Montana Sen. Steve Daines, one of the three Republicans to support Thursday's amendment, tells POLITICO, referring to the multifaceted and complex system of laws that have been enacted over the past four decades to prosecute a war on marijuana. It's a war that began on or about May 26, 1971, when President Richard Nixon told his chief of staff Bob Haldeman, "I want a goddamn strong statement on marijuana ...I mean one on marijuana that just tears the ass out of them."

But that war appears to be winding down—potentially quickly. The summer of 2015 could be viewed historically as the tipping point against Nixon's war on pot, the time when the DEA, a federal drug-fighting agency created by Nixon in 1973, found itself in unfamiliar territory as a target of congressional scrutiny, budget cuts and scorn. In a conference call this week, the new acting DEA administrator **repeatedly downplayed** marijuana enforcement efforts, saying that while he's not exactly telling agents not to pursue marijuana cases, it's generally not something anyone focuses on these days:

“Typically it’s heroin, opioids, meth and cocaine in roughly that order and marijuana tends to come in at the back of the pack.”

What a difference a year makes.

Once upon a time—in fact, just last year—then-DEA Administrator Michele Leonhart could dismiss President Barack Obama’s views on marijuana in public and get away with it because she had friends in Congress. After Obama said he believed marijuana was **less dangerous than alcohol**, Leonhart lambasted her boss as soft on drugs—and **criticized** the White House staff for playing in a softball league that included advocates from a drug reform group.

Then, she tried to **bigfoot Sen. Mitch McConnell** over his farm bill hemp provision; she **slow-walked Sen. Chuck Grassley** for three years over his questions about the DEA’s improper detention of a San Diego college student; and she was **downright dismissive** of an inspector general report that showed her agents had sex with prostitutes in Colombia who were paid for by the drug cartels the agents were supposed to be fighting. One by one, Leonhart eliminated all her friends in Congress, even as national attitudes about marijuana were shifting under the DEA’s feet.

The day after Leonhart’s appearance before the House Oversight and Government Reform Committee, when she admitted she didn’t know if the prostitutes used by DEA agents were underage, Chairman Jason Chaffetz (R-Utah) and ranking member Elijah Cummings (D-Md.) **issued a joint statement** expressing no confidence in Leonhart’s leadership. The next day, Leonhart retired, a move Chaffetz and Cummings deemed “**appropriate**.” That was April.

In May, the Senate made history by voting in favor of the first pro-marijuana measure ever offered in that chamber to allow the Veterans Administration to recommend medical marijuana to veterans. Then when June rolled around, it was time for the House to pass its appropriations bill for Commerce, Justice and Science. That's when things got interesting. The DEA got its budget cut by \$23 million, had its marijuana eradication unit's budget slashed in half and its bulk data collections program shut down. Ouch.

In short, April was a bad month for the DEA; May was historically bad; but June was arguably the DEA's worst month since Colorado went legal 18 months ago—a turn of events that was easy to miss with the news crammed with tragic shootings, Confederate flags, Obamacare, gay marriage, a papal encyclical and the Greece-Euro drama. July hasn't been any different, with the legalization movement only gaining steam in both chambers of Congress.

The string of setbacks, cuts and handcuffs for the DEA potentially signals a new era for the once untouchable law enforcement agency—a sign that the national reconsideration of drug policy might engulf and fundamentally alter DEA's mission.

“The DEA is no longer sacrosanct,” Rep. Steve Cohen (D-Tenn.) tells POLITICO.

The national tide is clearly not in the DEA's favor. Since Colorado legalized recreational marijuana in January 2014, three additional states have followed suit with full legal weed; the District of Columbia's fight to legalize continues; the number of medical marijuana states has grown to 23; 14 states have legalized nonpsychoactive CBD oil; and 13 states have legalized industrial hemp, spurring a rapidly expanding legal market for a plant long demonized by the DEA.

At the same time, a national debate about the high costs of sending millions of people—many of them young black and Hispanic men—to prison for nonviolent marijuana offenses has led to increasing questions about whether the zero-tolerance enforcement favored by DEA is the right way to proceed.

That marijuana reform is moving along in Congress at all is a sign of just how far—and fast—the landscape has shifted. Much of the recent uptick of reform voices are actually coming from Republicans, long tough-on-crime legislators who were stalwart opponents of marijuana. In a sign of just how far the sands have shifted, Sen. Lindsay Graham, a Republican candidate for president, tells POLITICO that he believes, “Medical marijuana holds promise.”

It's no longer political suicide to be seen on Capitol Hill as backing drug reform. “There clearly is momentum, absolutely,” says Rep. Ted Lieu (D-Calif.), a former Air Force JAG officer who replaced Henry Waxman as the congressman from Beverly Hills.

“It's the first time we've ever been able to show momentum in Congress,” Dan Riffle of the Marijuana Policy Project tells POLITICO.

The looming cuts has the Justice Department issuing dire warnings: “If enacted, the House budget would cause DEA to experience a significant shortfall in their FY16 budget that would severely inhibit their ability to carry out their mission of stopping the manufacture and distribution of illicit drugs,” says Patrick Rodenbush, a spokesman for DOJ.

But unlike such dire warnings in the past, when Congress could be assured of protecting funding for a law enforcement agency seen for decades as key to winning the War on Drugs, the shine has now clearly come off DEA—and that means the agency's problems might just be beginning.

Before last year, marijuana reform had never made it very far in Washington. For decades, it appeared that DEA had no better friend than Congress, a body that blindly believed everything DEA told it about the dangers of weed. In 1998, the first time Congress voted on medical marijuana, it was an anti-medical marijuana House resolution co-sponsored **by nine Republicans** (including Rob Portman and Dennis Hastert), which passed 311-94.

The first pro-marijuana resolution to get a vote was 2003, a measure that prevents the federal government from interfering with state-legal medical marijuana programs. In 2014, after eight tries, that measure, known as Rohrabacher-Farr, finally passed by a vote of 219-189 as an amendment to a larger appropriations bill. Today, though, nearly all of the momentum now appears to be on the side of legalization. On June 3, 2015, Rohrabacher-Farr was renewed with a vote of 242-186. “That’s a significant uptick,” Riffle says.



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