



AOC

**Association of
Oregon Counties**

Economic Development and Marijuana

Some Ongoing Challenges

House Committee on Economic Development

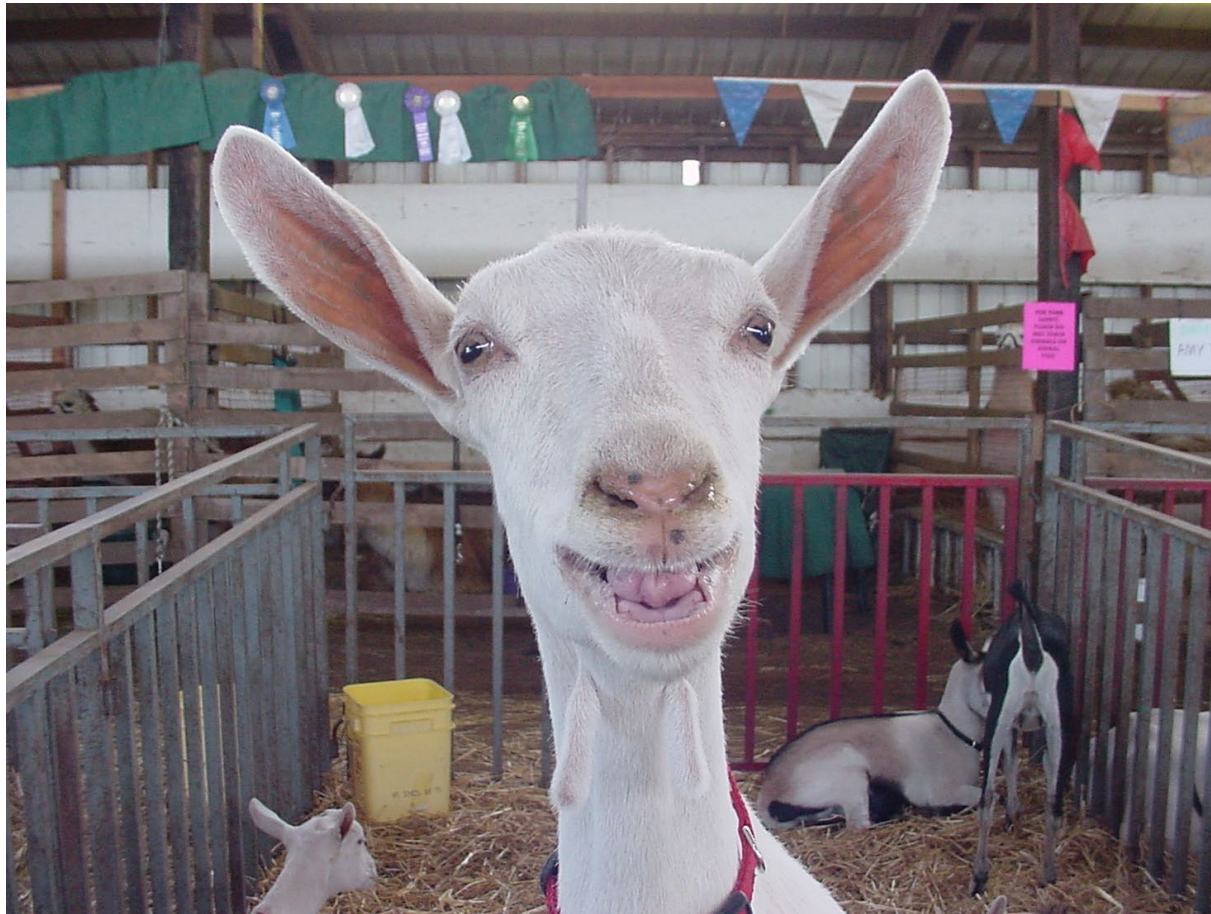
Wednesday, January 30, 2019, Hearing Room D, State Capitol, Salem, Oregon

Rob Bovett
AOC Legal Counsel

Outline

- **A. Quick review of local regulation**
- **B. Some of the ongoing challenges**

But First



AOC Position

- **Neutral on legalization of marijuana**
- **Promote and defend**
 - **Local opt in or out of marijuana businesses**
 - **Local reasonable regulation of time, place, and manner of marijuana businesses**
 - **Local tax options**



Key Dates

- **1973: Legislature decriminalized PCS < 1 oz**
- **1998: Voters approved M67 (OMMA)**
- **2005: Legislature expanded OMMA**
- **2013: Legislature authorized dispensaries**
- **2014: Voters approved M91 (CRMA)**
- **2015: Legislative rewrite of M91 and OMMA**
- **2016: More legislative tune-up**
- **2017: More legislative tune-up**
- **2018: More legislative tune-up**
- **2019: More legislative tune-up?**

A. Quick review of local regulation

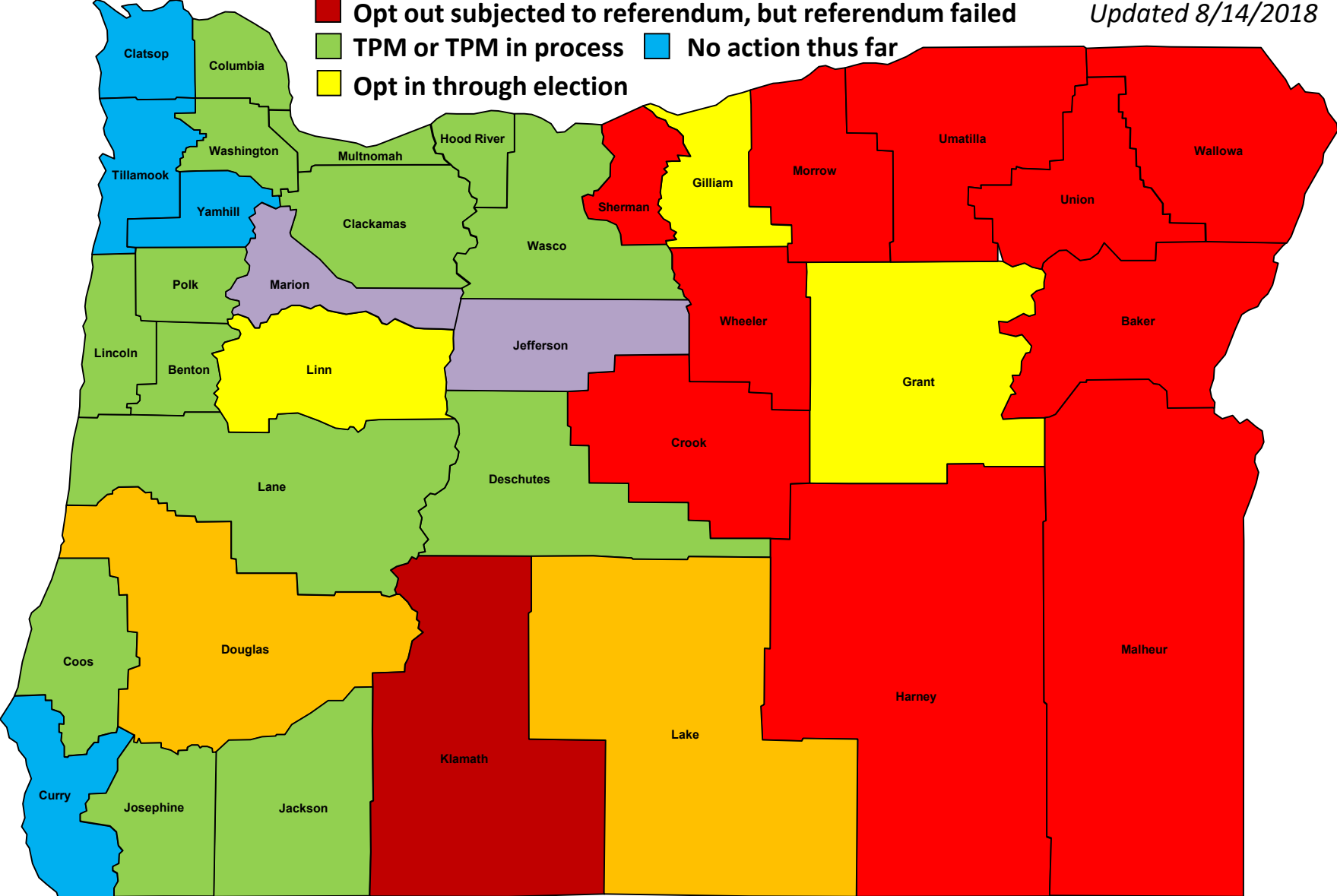
Three Issues

- **1. Opt in/out**
- **2. Regulations**
- **3. Taxation**

Local Control of Marijuana Businesses in Oregon Counties

- Opt out
- Opt out through election
- Opt out of retail only through election
- Opt out subjected to referendum, but referendum failed
- TPM or TPM in process
- No action thus far
- Opt in through election

Updated 8/14/2018



2. Local Regulations

- **Land use and zoning**
 - 36 counties with 36 different land use plans
 - LUCS required for all OLCC producer, processor, wholesaler, and retailer licenses, except small canopy producers
- **Local time, place and manner regulations**
 - Supplement to state laws and rules

3. Local Taxation

- **Up to 3% supplemental local tax on sales**
 - Medical products exempt
 - Must hold local election
 - General election
 - November of even-numbered year



Local Retail Marijuana Tax

- **Election on November 8, 2016**
- **111 counties and cities**
 - 11 counties
 - 100 cities
- **All 111 passed**
 - Most by significant margins



B. Some of the ongoing challenges

They are quite diverse

KATU  On Your Side

Girl scout sells cookies outside Portland pot shop: 'It's not against the rules'



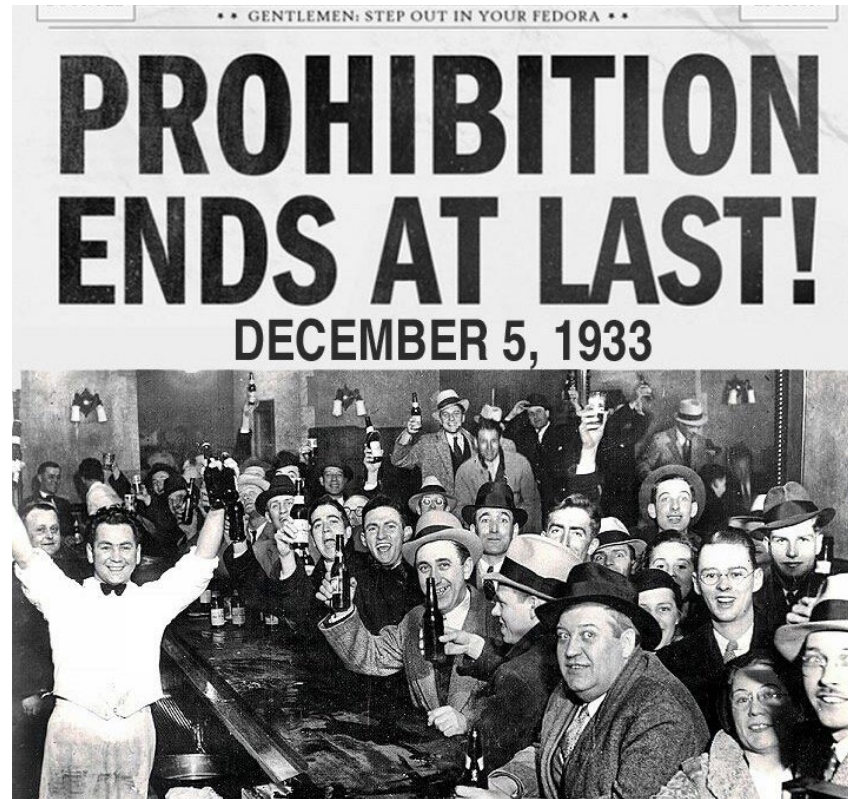
Part of my own short list

In no particular order:

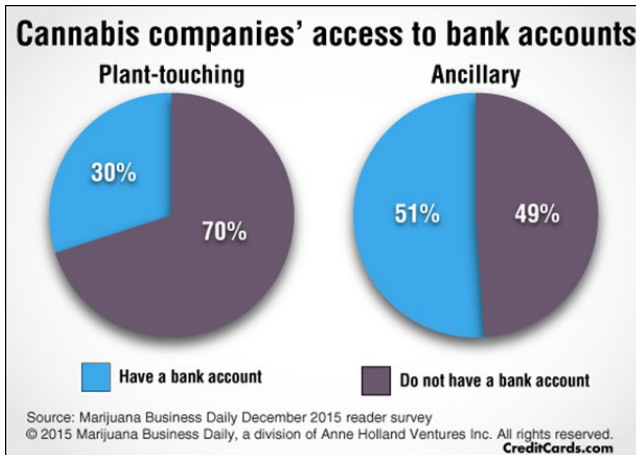
- **1. Federal-State Conflict – Prohibition v Legalization**
 - Banking and income taxation
- **2. Local regulation and NIMBY**
 - Smell, sound, light, water, etc
- **3. Leakage**
 - Enforcement resources
- **4. Usage**
- **5. Homemade BHO**

1. Federal-State Conflict

- A unique policy arena
 - As compared to post-prohibition



Banking and Income Taxation

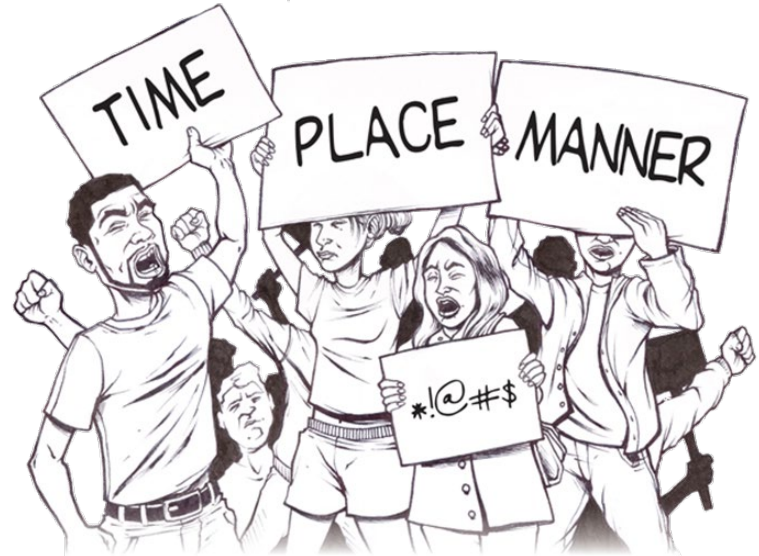


2. Local Regulation and NIMBY

- **Local time, place and manner regulations**
 - Supplement to state laws and rules
 - Land use and zoning
 - 241 cities
 - 241 different land use plans
 - 36 counties
 - 36 different land use plans

Common Complaints

- Smell
- Sound
- Light
- Water



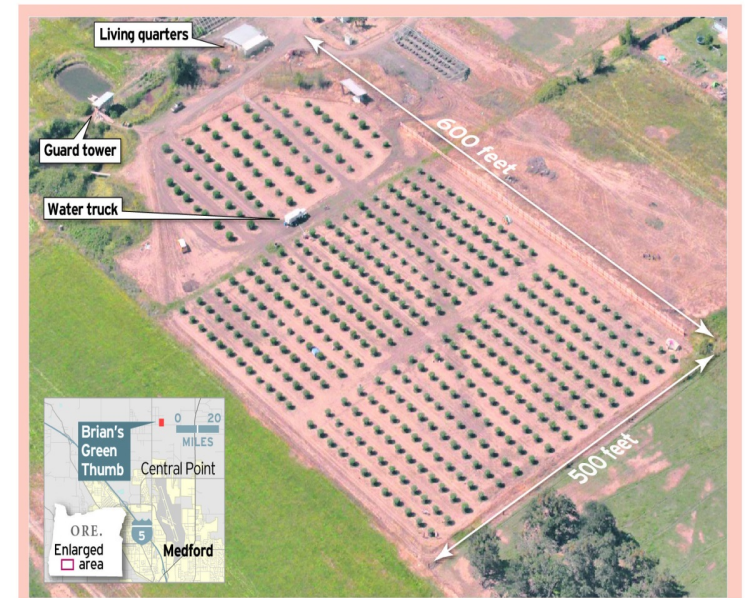
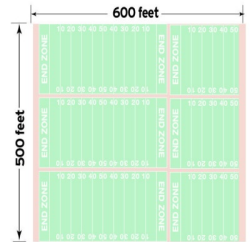
3. Leakage

- Black market
 - Intrastate *and* interstate
- Grows
 - Diversion
 - Illegal grows/illegal



A big harvest at Green Thumb Farm

Federal agents at Brian's Green Thumb Farm, shown in this surveillance photo, found more than 1,000 pounds of marijuana, two processing machines and a money counter. Prosecutors say the operation – large enough to accommodate 4½ football fields – exemplifies the massive over-production achieved by people exploiting Oregon's medical marijuana program. Operator Brian Wayne Simmons has been charged with drug conspiracy and is awaiting trial.



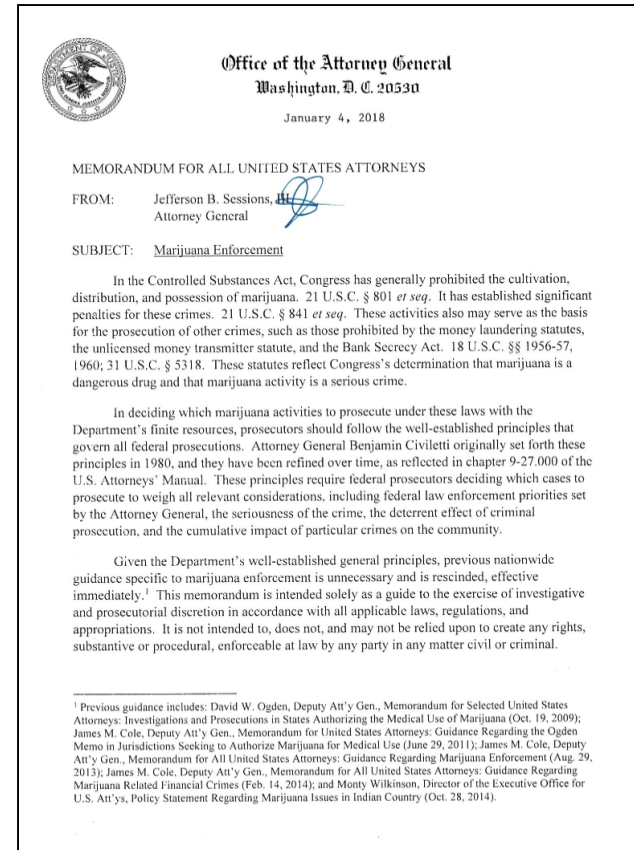
Source: U.S. Drug Enforcement Administration.

DAN AGUAYO/THE OREGONIAN

The Sessions Memo

January 4, 2018

- Revoked the Cole, Ogden, and Wilkinson Memos
- Defaults to standard federal drug prosecution criteria
- Hence each US Attorney decides, within usual federal criteria

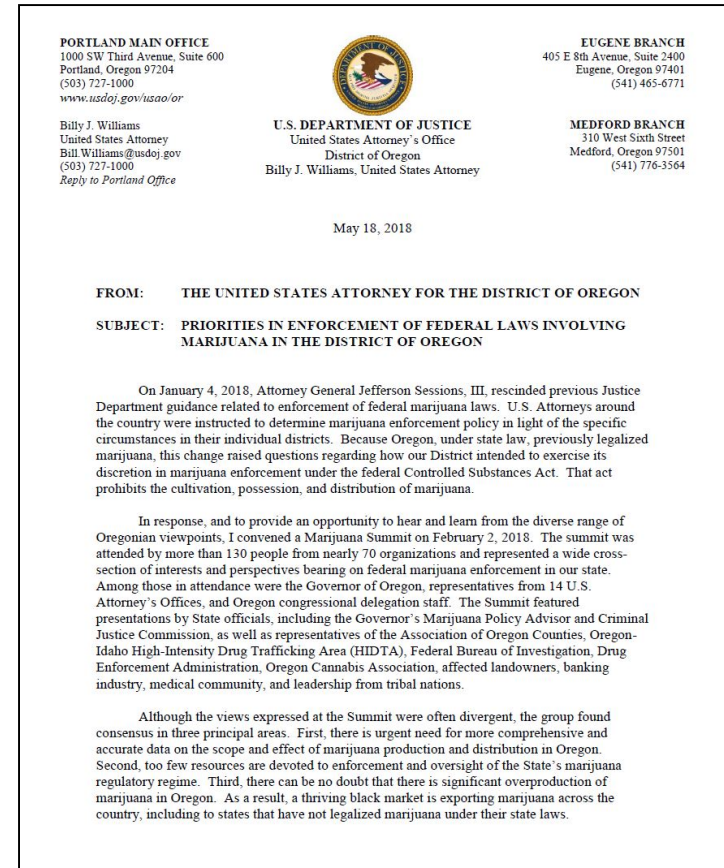


The Williams Memo

May 18, 2018

- **Five priorities**

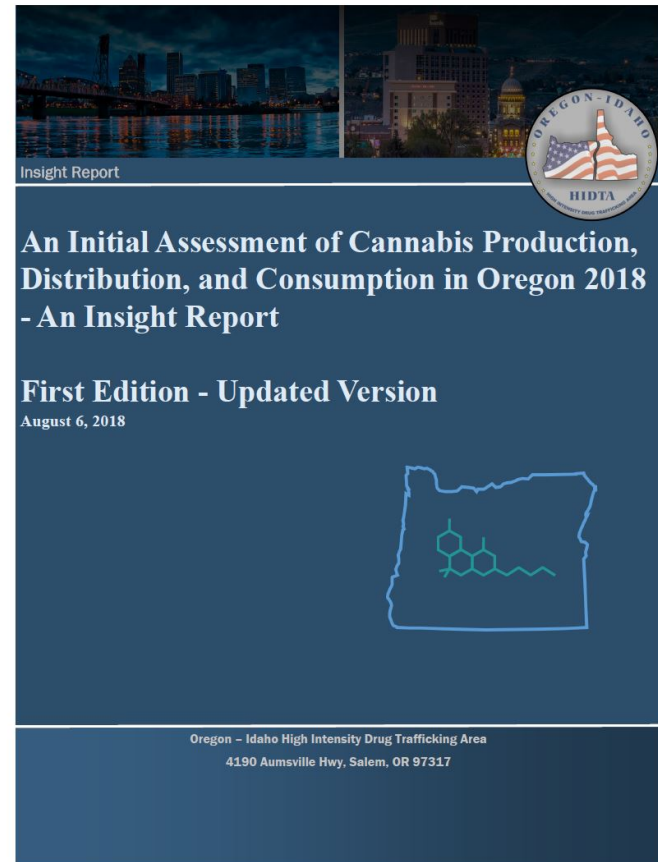
- **1. Overproduction and Interstate Trafficking**
- **2. Protecting Oregon's children**
- **3. Violence, Firearms, and Other Public Safety Threats**
- **4. Organized Crime**
- **5. Protecting Federal Lands, Natural Resources, and Oregon's Environment**



The Baseline Report

August 6, 2018

- Mostly told us what we already knew, with more details

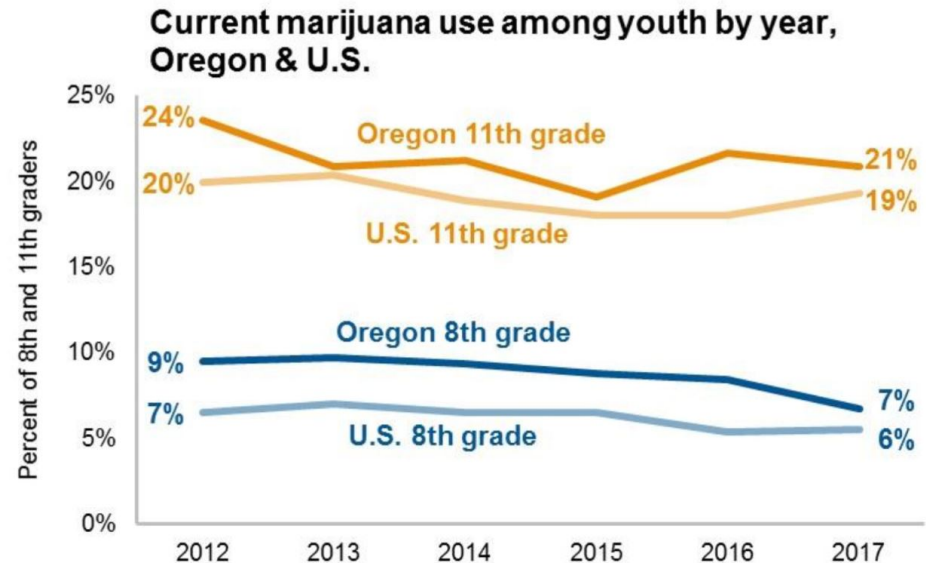


Some of What We've Been Up To

- **Medical grows over 12 mature plants added to cannabis tracking system**
- **Demonstration grants through the CJC to four counties to enforce against the black market**

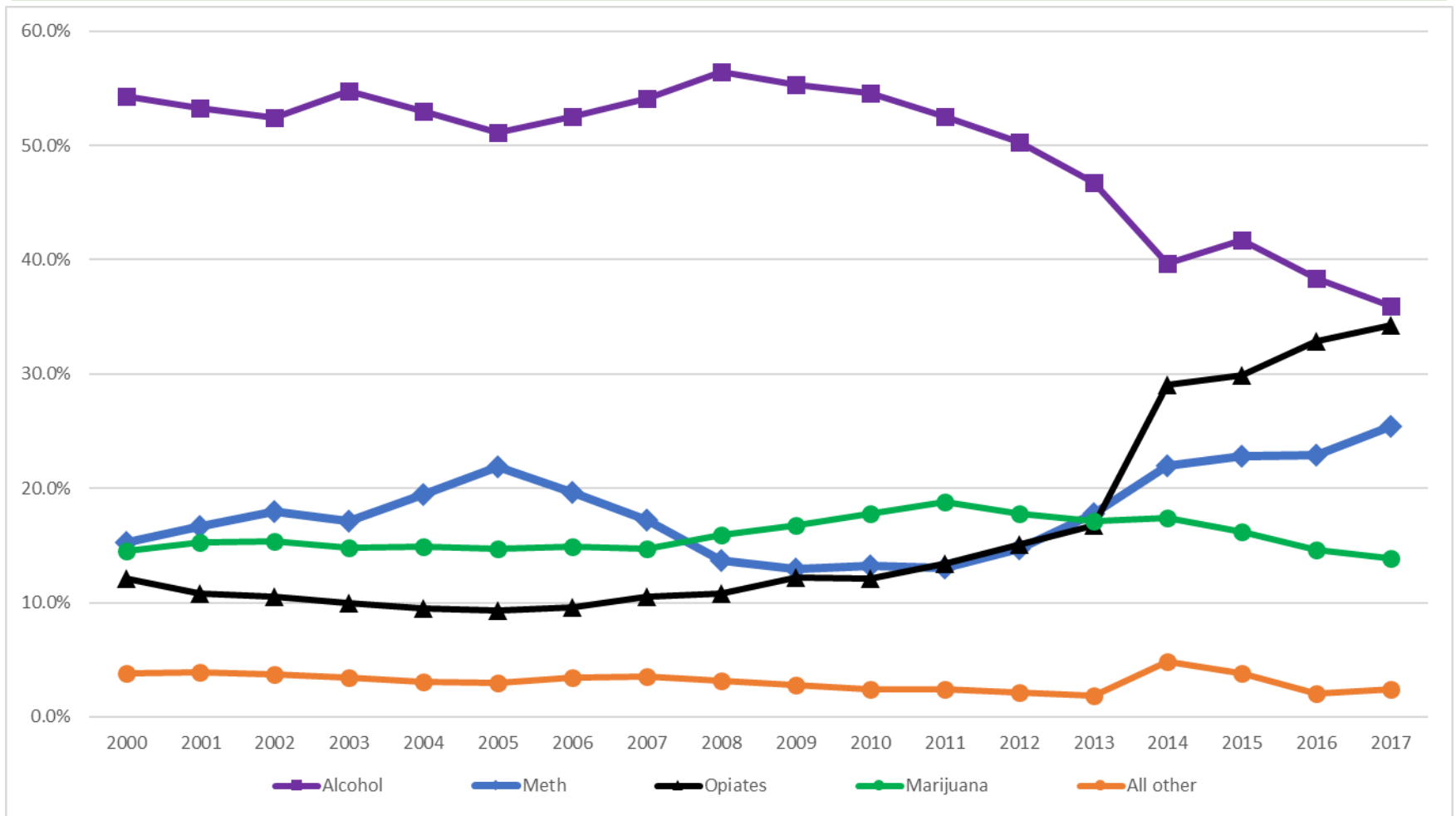
4. Usage

- Things we need to monitor and prevent
 - 1. Youth usage
 - 2. Overall usage
 - 40; 80; ?
 - 3. Substance abuse



Source: Student Wellness Survey (2012, 2014 & 2016) and Oregon Healthy Teens Survey (2013, 2015 & 2017); Monitoring the Future Current Drug Use Trends

Oregon Treatment Admissions



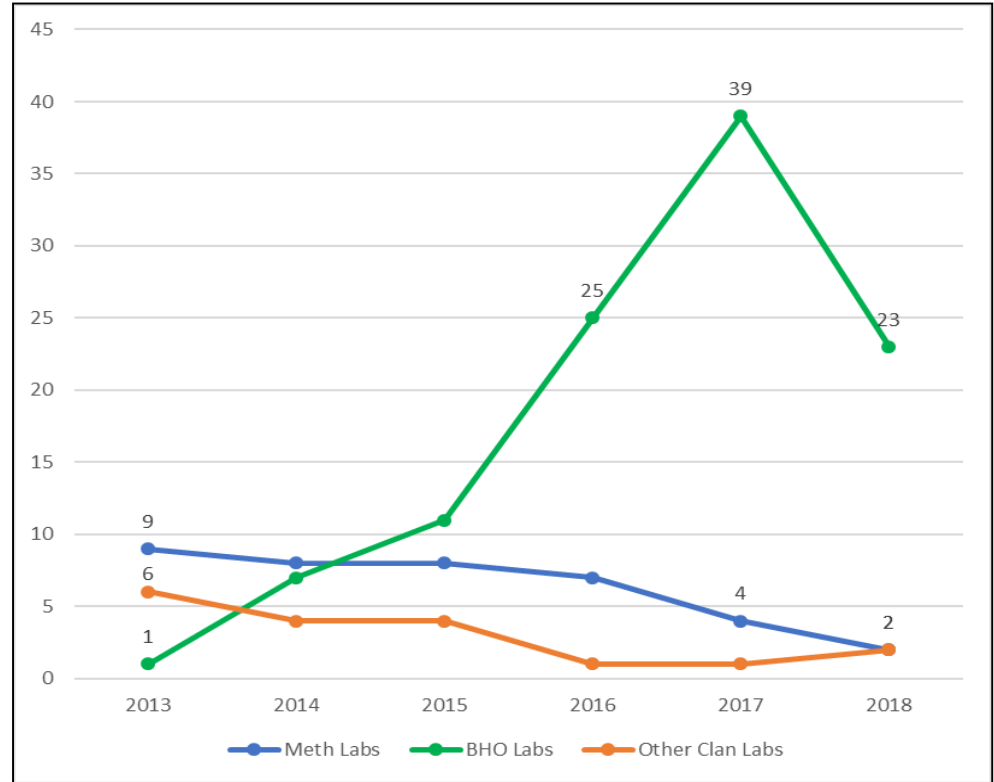
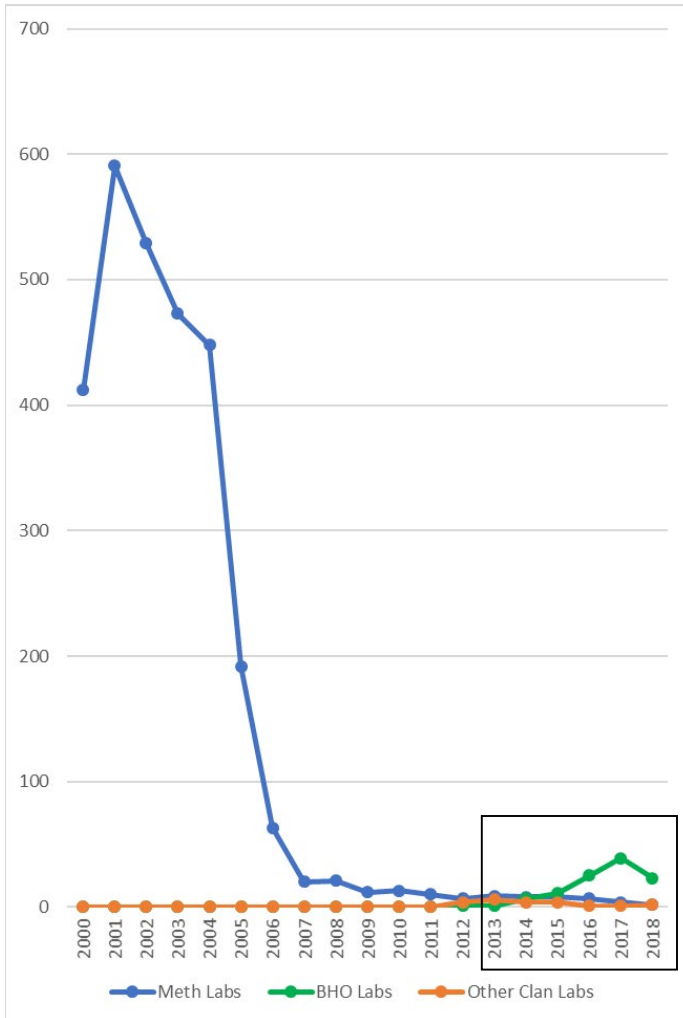
Oregon substance abuse treatment admissions by primary drug of abuse (2000-2017)

Source: Oregon Health Authority (OHA)

5. Homemade BHO



Reported OR Clandestine Drug Labs



Source: Oregon State Police (OSP).

Notes: (1) 2018 data not yet complete; mostly complete through October.

(2) BHO lab data is incomplete; they are not required by law to be reported, but often are if they catch fire or explode

(2) "Other" includes all other types, such as DMT, MDMA, etc.

Where are things headed?

- Getting out my Dragon Ball ¹ . . . uh, I mean Crystal Ball . . .



¹ [3,000 grams of pure cannabis extract measuring up to 99% THC. Approximate value = \\$150,000.](#)

2019 Federal and Oregon Legislation

- **Federal**
 - Legalization?
 - Banking?
 - IRC § 280E?
- **Oregon**
 - OMMP redesign?
 - Social consumption?
 - Capping production?
 - Local control?
 - Employer rights?
 - Expunctions?
 - Interstate sales?

AOC

Association of
Oregon Counties

Questions?

