



U.S. Department of Justice

Executive Office for United States Attorneys

Office of the Director

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Washington, DC 20530

MEMORANDUM - Sent via Electronic Mail

DATE: **OCT 28 2014**

TO: ALL UNITED STATES ATTORNEYS
ALL FIRST ASSISTANT UNITED STATES ATTORNEYS
ALL CRIMINAL CHIEFS
ALL APPELLATE CHIEFS
ALL OCDETF COORDINATORS
ALL TRIBAL LIAISONS

FROM: 
Monty Wilkinson
Director

SUBJECT: Policy Statement Regarding Marijuana Issues in Indian Country

ACTION REQUIRED: None. Information Only.

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With a number of states legalizing marijuana for use and production, some tribes have requested guidance on the enforcement of the Controlled Substance Act (CSA) on tribal lands by

the United States Attorneys' offices. With these requests in mind, the Attorney General's Native American Issues Subcommittee has reviewed the Memorandum from the Deputy Attorney General, dated August 29, 2013, regarding marijuana enforcement ("Cole Memorandum") and considered its impact on Indian Country.

The Cole Memorandum provides guidance to United States Attorneys on the proper prioritization of marijuana enforcement in their districts given the number of states that have moved to legalize marijuana for medicinal, agricultural, or recreational use. Specifically, the Cole Memorandum lists eight federal law enforcement priorities where the Department will focus its limited investigative and prosecutorial resources in all states. These eight priorities are as follows:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as cover or pretext for the trafficking of other illegal drugs or illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

The Cole memorandum contains the additional directive that "nothing herein precludes investigation or prosecution, even in the absence of any one of the factors . . . , in particular circumstances where the investigation and prosecution otherwise serve an important federal interest."

Indian Country includes numerous reservations and tribal lands with diverse sovereign governments, many of which traverse state borders and federal districts. Given this, the United States Attorneys recognize that effective federal law enforcement in Indian Country, including marijuana enforcement, requires consultation with our tribal partners in the districts and flexibility to confront the particular, yet sometimes divergent, public safety issues that can exist on any single reservation.

Nothing in the Cole Memorandum alters the authority or jurisdiction of the United States to enforce federal law in Indian Country. Each United States Attorney must assess all of the threats present in his or her district, including those in Indian Country, and focus enforcement efforts based on that district-specific assessment. The eight priorities in the Cole Memorandum will guide United States Attorneys' marijuana enforcement efforts in Indian Country, including in the event that sovereign Indian Nations seek to legalize the cultivation or use of marijuana in Indian Country. Consistent with the Attorney General's 2010 Indian Country Initiative, in

evaluating marijuana enforcement activities in Indian Country, each United States Attorney should consult with the affected tribes on a government-to-government basis. When in the judgment of a United States Attorney, significant issues or enforcement decisions arise that may implicate this policy statement, each United States Attorney should keep the Executive Office for United States Attorneys, the Office of Tribal Justice, and the Office of the Deputy Attorney General informed of those matters, in advance of any determination on how to proceed, in order to keep the Department's leadership apprised of significant issues and to maintain consistency throughout the Department.

cc: All United States Attorneys' Secretaries