



U. S. Department of Justice

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District of Arizona

2012 FEB 17 P 4: 26

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February 16, 2012

The Honorable Janice K. Brewer  
Governor of Arizona  
1700 W. Washington Street  
Phoenix, AZ 85007

Dear Governor Brewer:

I write in response to your letter dated January 13, 2012, seeking guidance from my office and the Department of Justice concerning the potential criminal and civil ramifications for state employees implementing the Arizona Medical Marijuana Act (AMMA). As noted in previous communications from this office, Congress has determined that marijuana is a controlled substance within Schedule I of the Controlled Substances Act (CSA). Enforcement of the federal Controlled Substances Act has been, and continues to be, a priority for the Department of Justice. Thus, compliance with the AMMA and Arizona regulations will not provide a safe harbor or immunity from federal prosecution for anyone involved in the cultivation and distribution of marijuana.

The United States Attorney's Office for the District of Arizona ("the USAO") will continue to follow the guidance received from the Department of Justice in October 2009 and June 2011. Under this guidance, seriously ill individuals who use marijuana as part of a medically-recommended treatment regimen, consistent with state laws, or caregivers—individuals providing care to seriously ill individuals—will likely not be the focus of the USAO's limited prosecutorial resources. Nonetheless, neither a person's status as an individual, or a caregiver, nor compliance with the AMMA, renders possession or distribution of marijuana lawful under the Controlled Substances Act. As such, state employees who conduct activities authorized by the AMMA are not immune from liability under the CSA.

This USAO will continue to vigorously enforce the Controlled Substances Act against individuals and entities that operate and facilitate large marijuana production facilities and marijuana production facilities involved in the cultivation, sale, and distribution of marijuana, even if purportedly for medical purposes. The USAO will evaluate all potential civil and criminal enforcement actions on a case-by-case basis in light of the priorities of the Department of Justice and available prosecutorial resources.

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I thank you for providing me with this opportunity to clarify the position of the Department of Justice as it relates to the potential prosecution of state employees operating under the AMMA.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'AS', written in a cursive style.

ANN BIRMINGHAM SCHEEL  
Acting United States Attorney  
District of Arizona

ABS/nah