

Congress of the United States

Washington, DC 20515

March 27, 2024

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
Washington, D.C.

Dear Attorney General Garland:

We write to share our frustration that the U.S. Department of Justice (DOJ) has not reissued overdue protections against federal interference in state-legal marijuana markets. We urge you to correct this oversight and reissue a memo making clear DOJ's limited resources will not be spent prosecuting those acting in accordance with state or Tribal law. The Cole¹ and Wilkinson² Memoranda provided this clear federal guidance until they were rescinded on January 4, 2018 by then-Attorney General Jeff Sessions. While we appreciate the historic steps the Biden-Harris Administration has taken to pardon federal simple possession marijuana offenses and begin the formal review of marijuana's schedule under the Controlled Substances Act, it is unacceptable that more than half of Americans living in jurisdictions with legal marijuana markets are left in limbo without public guidance to prevent unjust prosecution of those complying with their state's or Tribe's regulations.

Law enforcement, state regulators, small businesses, patients, and everyday Americans are caught in the ambiguity of the federal-state gap, made worse by the delay in reissuing the Cole and Wilkinson Memoranda protections. For years, we urged DOJ to act on this commonsense protection. We have been consistently disappointed in meetings with agency leadership and DOJ prosecutors on existing policies. It is especially concerning that this delay continues after you testified on March 1, 2023 that this public guidance was forthcoming.

As congressional allies in the work to undue the harms of the misguided war on drugs, we request answers on the delays in reissuing these protections:

- Given President Biden and Vice President Harris' public position that no one should be incarcerated for marijuana possession, what steps is DOJ taking to ensure state- or Tribe-legal actions are not prosecuted?
- What is the DOJ's specific timeline for reissuing the Cole and Wilkinson Memoranda protections?

¹ Cole, James. Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement. August 29, 2013. <https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>

² Wilkinson, Monty. Memorandum: Policy Statement Regarding Marijuana Issues in Indian Country. October 28, 2014. <https://www.justice.gov/sites/default/files/tribal/pages/attachments/2014/12/11/policystatementregardingmarijuanaisuesinindiancountry2.pdf>

While Congress works to address the impacts of the federal-state gap on cannabis policy, the urgency of issuing public guidance addressing federal prosecution of those who comply with state and Tribe cannabis laws should inform DOJ's actions. We look forward to your response and to the long overdue reissuing of these critical, fiscally responsible, and common-sense protections.

Sincerely,



Earl Blumenauer
Member of Congress



Barbara Lee
Member of Congress