

## Policy Statement Regarding Marijuana Issues in Indian Country Frequently Asked Questions

### **Does this [policy statement](#) legalize the manufacture, distribution or possession of marijuana in American Indian Country?**

No. Marijuana remains illegal under federal law, and nothing in the Cole Memorandum or this policy statement alters the authority or jurisdiction of the United States to enforce federal law in Indian Country.

### **Does this policy statement authorize tribes to start producing and selling marijuana?**

No. This policy statement provides guidance on the enforcement of federal law on Tribal lands by the United States Attorneys' Offices and reiterates the priorities articulated in the Cole Memorandum and the authority of federal prosecutors to enforce federal marijuana laws in 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. Neither the Cole Memorandum nor this policy statement alters the authority or jurisdiction of the United States to enforce federal law in Indian Country.

### **What does the Cole Memorandum say about federal law enforcement priorities?**

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.

**What prompted the Justice Department to issue a separate policy statement on marijuana issues in Indian Country?**

A number of tribes have raised concerns that state legalization of marijuana may have negative public safety impacts in their communities, many of which suffer disproportionately from juvenile and adult substance abuse, illegal cultivation of marijuana on tribal lands, as well as gang and organized crime activity associated with the drug trade. The policy statement was drafted to give United States Attorneys and Tribal governments greater clarity on how the federal government would interact with them to address these and other issues.

**What will happen when a tribe enacts tribal laws that permit marijuana-related conduct that could lead to the distribution of marijuana outside of tribal lands and into an area where it is illegal?**

The Cole Memorandum sets out eight priority areas for federal marijuana enforcement, one of which is preventing the diversion of marijuana from states where it is legal under state law in some form to other states where it is not. In addition, the Cole Memorandum expressly states that the federal government reserves the right to challenge a state marijuana law if that state does not implement strong and effective regulatory and enforcement systems that will address the threat that state law could pose to public safety, public health, and other law enforcement interests. This policy statement makes clear that these considerations and limitations apply in Indian Country.

**Who determines whether the tribes are properly regulating the disbursement of marijuana?**

The Justice Department is committed to dealing with tribes on a government-to-government basis, consistent with the special trust relationship of the federal government to the tribes, and the federal government's particular authority for law enforcement and prosecution in Indian Country. Consistent with the Cole Memorandum and this policy statement, each United States Attorney will assess the threats and circumstances in his or her district and consult closely with tribal partners and the Justice Department when significant issues or enforcement decisions arise in this area.

**Are there any federal resources available to help tribes put the proper regulatory framework into place?**

No. This policy statement provides guidance on the enforcement of federal law in Indian Country by the United States Attorneys' Offices. Because marijuana possession and distribution remain illegal under federal law, the policy statement does not and cannot authorize or provide for Department of Justice assistance in the establishment of a marijuana regulatory structure.

**Are any American Indian tribes currently working with DOJ on plans to legalize recreational marijuana use?**

No. American Indian tribes are sovereign governments, like states. Marijuana remains illegal under federal law so it would not be the Justice Department's role to work with tribes to facilitate legalization, especially because the federal government has particular authority over law enforcement matters on most reservations. As the memo indicates, tribal governments and their local U.S. Attorneys will consult on a government-to-government basis as issues arise to determine an appropriate local enforcement response in line with the priorities laid out in the Cole memo, taking into account local circumstances.

**Can a state enforce its marijuana laws on tribal lands?**

Federal Indian reservations are generally exempt from state jurisdiction, including taxation, except when Congress specifically authorizes such jurisdiction. For more information, see the [website](http://www.bia.gov/FAQs/index.htm) of the U.S. Department of Interior Indian Affairs.

**What is the Attorney General's Native American Issues Subcommittee and what is its function?**

Thirty United States Attorneys from districts with Indian Country or one or more federally recognized tribes serve on the Attorney General's Native American Issues Subcommittee (NAIS). The NAIS focuses exclusively on Indian Country issues, both criminal and civil, and is responsible for making policy recommendations to the Attorney General regarding public safety and legal issues.

**For additional information**

If you represent a tribe, please contact your tribal liaison for the local United States Attorney's Office. If you are a member of the media, please contact the Office of Public Affairs at the Department of Justice at (202) 514-2007.