



Office of the Attorney General

Washington, D. C. 20530

July 24, 2017

The Honorable Jay Inslee
Governor
State of Washington
Office of the Governor
P.O. Box 40002
Olympia, WA 98504-0002

The Honorable Robert Ferguson
Attorney General
Office of the Attorney General
1125 Washington Street SE
P.O. Box 40100
Olympia, WA 98504-0100

Dear Governor Inslee and Attorney General Ferguson:

Thank you for your letters of February 15, 2017, April 3, 2017, and May 8, 2017, which I have attached to this letter as Exhibits A, B, and C for your convenience. I was pleased to read that you share my concern for public health and safety and my belief that the federal and state governments should work together to address our country's concerns with marijuana. Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a crime. The Department remains committed to enforcing the Controlled Substances Act in a manner that efficiently applies our resources to address the most significant threats to public health and safety. I look forward to working with you on these issues.

I also read with interest the statement in your letter that you "have worked . . . to establish robust regulatory structures that prioritize public health and public safety," and that you believe that the 2013 Cole Memorandum, its eight enforcement priorities, and related memoranda are an "indispensable" part of the "framework" in your state. In that regard, I would note the concluding paragraph: "nothing herein [in the Cole Memorandum] precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest." Thus, the memorandum "does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law."

I also recently read the 2016 report by the Northwest High Intensity Drug Trafficking Area (HIDTA), entitled "Washington State Marijuana Impact Report." (A copy of this report is attached as Exhibit D.) This report raises serious questions about the efficacy of marijuana "regulatory structures" in your state, including findings that:

- “[T]he medical market [for marijuana] is considered ‘grey’ due to the lack of regulation and oversight” and, furthermore, aspects of Washington’s regulatory structure for the “medical market” have “unintentionally led to the growth of black market enterprises”;
- The “recreationally licensed” marijuana market also is incompletely regulated: the leading regulatory violation in that market has been the “failure to utilize and/or maintain traceability” of marijuana products;
- “Since legalization in 2012, Washington State marijuana has been found to have been destined for 43 different states”;
- 90% of public safety violations of the state’s marijuana “regulatory structures” for “recreational licensees” involved minors, according to data from the first year of Washington’s “recreational marijuana” laws. Violations include, for example, sales to minors and employment of minors;
- “One in five 10th grade students reported riding with a driver who had used marijuana – 9% reported driving within three hours of consumption,” according to the most recent data in the report;
- “49% of young adult drivers who used marijuana in the past month had driven a car within three hours after using marijuana” and 64% of marijuana DUIs in Spokane Valley involved youth, according to data from the first year of Washington’s “recreational marijuana” laws;
- “61.9% of drivers do not believe marijuana makes a difference in their driving ability” and “[d]rivers with active THC in their blood involved in a fatal driving accident have increased 133.2% from 2010 (16) to 2014 (23)”;
- In 2014 alone, 17 THC extraction labs exploded; and
- There was a 54% increase in the number of marijuana calls to the State Poison Center from 2012-2014.

These findings are relevant to the policy debate concerning marijuana legalization. I appreciate your offer to engage in a continuing dialogue on this important issue. To that end, please advise as to how Washington plans to address the findings in the Northwest HIDTA report, including efforts to ensure that all marijuana activity is compliant with state marijuana laws, to combat diversion of marijuana, to protect public health and safety, and to prevent marijuana use by minors. I also am open to suggestions on marijuana policy and related matters as we work to carry out our duties to effectively and faithfully execute the laws of the United States. You may direct your response and suggestions to the Intergovernmental Affairs and Public Liaison within the Office of Legislative Affairs, which can help coordinate any communications logistics. I look forward to your response.

Sincerely,

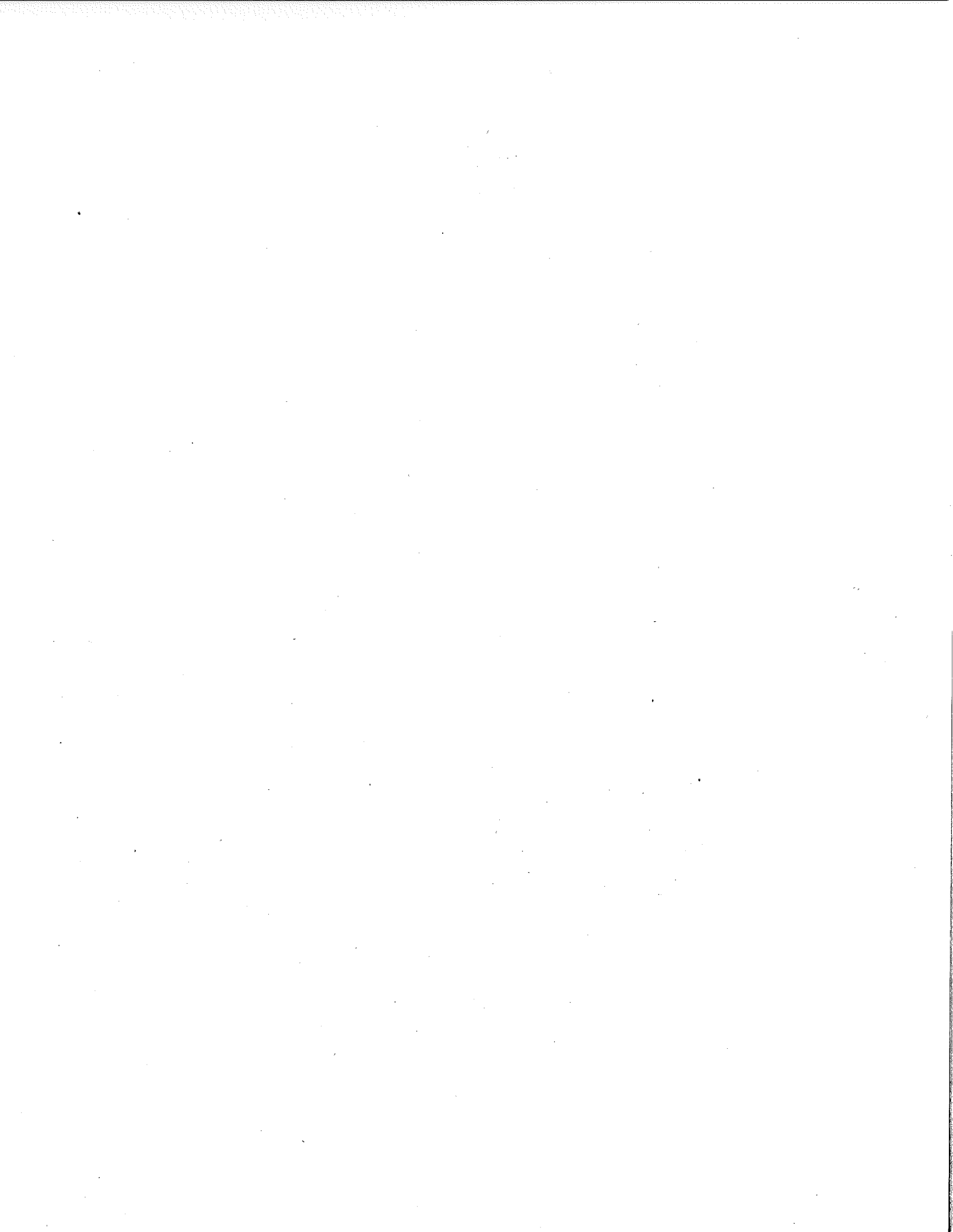


Jefferson B. Sessions III
Attorney General

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ATTORNEY GENERAL
STATE OF WASHINGTON
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ALASKA



COLORADO



OREGON



WASHINGTON

April 3, 2017

Attorney General Jeff Sessions
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Secretary Steve Mnuchin
U.S. Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

Attorney General Sessions and Secretary Mnuchin:

As governors of states that have legalized marijuana in some form, we ask the Trump Administration to engage with us before embarking on any changes to regulatory and enforcement systems. The balance struck by the 2013 Department of Justice Cole Memorandum (Cole Memo) has been indispensable – providing the necessary framework for state regulatory programs centered on public safety and health protections.

We understand you and others in the administration have some concerns regarding marijuana. We sympathize, as many of us expressed apprehensions before our states adopted current laws. As governors, we have committed to implementing the will of our citizens and have worked cooperatively with our legislatures to establish robust regulatory structures that prioritize public health and public safety, reduce inequitable incarceration and expand our economies.

The Cole Memo and the related Financial Crimes Enforcement Network (FinCEN) guidance provide the foundation for state regulatory systems and are vital to maintaining control over marijuana in our states. Overhauling the Cole Memo is sure to produce unintended and harmful consequences. Changes that hurt the regulated market would divert existing marijuana product into the black market and increase dangerous activity in both our states and our neighboring states. Likewise, without the FinCEN guidance, financial institutions will be less willing to provide services to marijuana-related businesses. This would force industry participants to be even more cash reliant, posing safety risks both to the public and to state regulators conducting enforcement activity. The Cole Memo and FinCEN guidance strike a reasonable balance between allowing the states to enact reasonable regulations and the federal government's interest in controlling some of the collateral consequences of legalization.

Twenty-eight states, representing more than 60 percent of Americans, have authorized some form of marijuana-related conduct. As we face the reality of these legalizations, we stand eager to work with our federal partners to address implementation and enforcement concerns cooperatively. The Cole Memorandum and the associated FinCEN guidance are critical to the success of any collaboration.

We look forward to working with you and your administration. We stand ready to have further discussion on how these important federal policies work in our states.

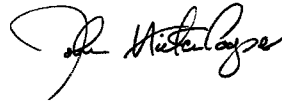
Sincerely,



Bill Walker
Governor
State of Alaska



Kate Brown
Governor
State of Oregon

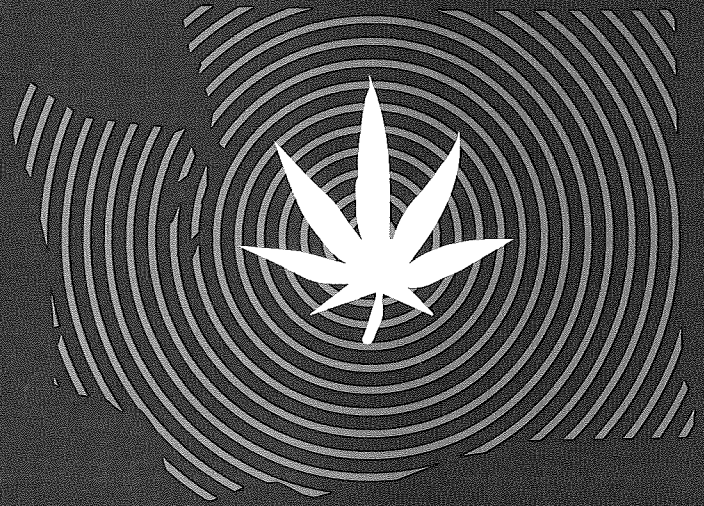


John Hickenlooper
Governor
State of Colorado



Jay Inslee
Governor
State of Washington

MARCH 2016



Washington State Marijuana Impact Report

Northwest High Intensity Drug Trafficking Area



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Seattle, WA 98104