

# Federal Law: Status of Federal Law Enforcement



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# Federal Law

## Controlled Substances Act:

- Under federal law, it is unlawful to manufacture, distribute, dispense or possess a controlled substance. 21 U.S.C. § 841(a).
- Marijuana is a controlled substance under federal law. 21 U.S.C. § 812, Section I(c)(10).



# Timeline: Federal Enforcement

2009

- AG Eric Holder issues a guidance for Investigations and Prosecutions in States Authorizing Medical Marijuana.
  - Guidance confirms that DOJ “is committed to the enforcement of the Controlled Substances Act in all States.”
  - Prosecution priorities would not focus federal resources “where actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana”.



# Timeline: Federal Enforcement

## 2011-2014

- Deputy AG James M. Cole issues several memos to US Attorneys regarding marijuana enforcement:
  - Memos confirm distribution and sale of marijuana is a crime.
  - Enforcement of the Controlled Substances Act would be focused on enforcement priorities, such as large-scale criminal enterprises, gangs and cartels.
  - DOJ would also focus efforts to prevent the distribution of marijuana to minors, preventing diversion of marijuana from states where it is legal to other states.



# Timeline: Federal Enforcement

2017:

- AG Jeff Sessions writes a letter to Governor Inslee and Washington AG Robert Ferguson regarding marijuana legalization in Washington:
  - Sessions requests Washington State confirm that “all marijuana activity is compliant with state marijuana laws, to combat diversion of marijuana [to other states], to protect public health and safety, and to prevent marijuana use by minors.”



# Timeline: Federal Enforcement

January 4, 2018:

- AG Jeff Sessions issues letter to all US Attorneys regarding Marijuana Enforcement:
  - Letter rescinds prior DOJ letters regarding nationwide guidance on marijuana enforcement.
  - Confirms Controlled Substances Act “has generally prohibited the cultivation, distribution, and possession of marijuana.”
  - Local prosecutors will set priorities on which cases to prosecute given the Department’s finite resources.
  - Priorities are: “seriousness of the crime, the deterrent effect of criminal prosecution, and the cumulative impact of particular crimes on the community.”



# Timeline: Federal Enforcement

January 4, 2018:

- Western District of WA US Attorney Annette L. Hayes issues Statement on Marijuana Prosecutions:
  - Confirms discretion of local U.S. Attorneys to address public safety and crime control problems.
  - Western District cases have focused on "organized crime, violent and gun threats, and financial crimes related to marijuana".\*
  - "[E]nforcement efforts with our federal, state, local and tribal partners focus on those who pose the greatest safety risk to the people and communities we serve."\*

\*Emphasis added



# Summary: Federal Enforcement

- U.S. Attorneys retain discretion on which crimes to prosecute.
- DOJ has finite resources to focus on enforcement efforts. Focus remains on organized crimes, violent crimes, and financial crimes.
- According to U.S. Attorney's Office for Western District of Washington, there have been no federal prosecutions in Clark County relating to state licensed marijuana retail/manufacturing operations since I-502 effective date.

