



**U.S. Department of Justice**

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July 17, 2012

Ms. Leslie Devaney  
City Attorney  
City of Del Mar  
STUTZ ARTIANO SHINOFF & HOLTZ, APC  
2488 Historic Decatur Road, Suite 200  
San Diego, CA 92106

**Re: The City of Del Mar Medical Marijuana Ballot Initiative**

Dear Ms. Devaney,

This letter acknowledges receipt of your office's request dated June 26, 2012, concerning the Department of Justice's guidance on investigations and prosecutions in states and cities that authorize the medical use of marijuana. This letter is written to clarify the U.S. Department of Justice's guidance on this issue.

The United States Congress has determined that marijuana is a controlled substance, and it has placed marijuana on Schedule I of the Controlled Substances Act, 21 U.S.C. § 801, *et. seq.* (the "CSA"). As such, growing, distributing, and possessing marijuana, in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities. Moreover, those who engage in financial transactions involving the proceeds of such activities may also be in violation of federal money laundering statutes and other federal financial laws.

As stated in the October 2009 Ogden Memorandum, "the prosecution of significant traffickers of illegal drugs, including marijuana, and the disruption of illegal drug manufacturing and trafficking networks continues to be a core priority" of the Department. This Department's commitment to the enforcement of the CSA was reiterated in the June 2011 Cole Memorandum which advised that the prosecution of business enterprises that unlawfully cultivate, distribute, or sell marijuana remains a core priority, regardless of state law. The Cole Memorandum is consistent with, and a further explanation of, the Ogden memorandum.

Both the Ogden and Cole Memoranda state that the Department of Justice will likely not focus its limited resources on the prosecution of seriously ill individuals who use marijuana as part of a medically recommended treatment regimen consistent with state laws, or on their individual caregivers. The Cole Memorandum further clarifies that the "term 'caregiver'...means just that: *individuals* providing care to individuals with cancer or other serious illnesses." (Emphasis added).

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You raised concerns with respect to the citizen-drafted City of Del Mar Compassionate Use Dispensary Regulation and Taxation Ordinance (“Ordinance”) which has qualified with sufficient signatures to be placed on the November 2012 ballot in the City of Del Mar, California. Although the Department does not offer advisory opinions, as indicated above, enterprises engaged in the cultivation, manufacture, and sale of marijuana directly violate federal law. Accordingly, individuals and organizations that participate in the unlawful cultivation and distribution of marijuana could be subject to civil and criminal remedies. State and City employees who conduct activities mandated by the Ordinance are not immune from liability under the CSA. The United States Attorney’s Office (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 the USAO’s available resources.

I hope that this letter assists the City of Del Mar in making informed decisions about the cultivation, manufacture, and distribution of marijuana.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Laura E. Duffy".

LAURA E. DUFFY  
United States Attorney