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Governor Bill Walker
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August 14, 2017

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

RE: Marijuana Regulation and Criminal Prosecutions in Alaska

Dear Attorney General Sessions:

Thank you for your letter of July 24, 2017. The enclosed August 1 letter addresses some of the questions you raised, but because you did not receive that letter prior to the instant correspondence, we wanted to ensure that we fully respond to your inquiry. As stated earlier, the exercise of traditional police powers is an area where primary enforcement should be left to the individual states. The opioid crisis is Alaska's highest law enforcement priority. We appreciate President Trump's action on this front and look forward to partnering to address that challenge. With respect to marijuana, while we share your concern about the dangers of drug abuse, Alaskans voted to establish a regulated industry. We ask that the Department of Justice (DOJ) maintain its existing marijuana policies because the State relied on those assurances in shaping our regulatory framework and because existing policies appropriately focus federal efforts on federal interests.

Pointing to our 2015 Annual Drug Report, your July 24 letter questions whether our regulatory framework adequately protects federal interests. As an initial matter, the statistics in the 2015 report cannot be fairly attributed to the industry since sales from state-licensed businesses did not begin until 2016.¹ The report simply does not speak to the success or failure of the new regulatory framework. Also, while the number of minors that reported using marijuana in 2015 is concerning, the rate of marijuana use by Alaskan youth is lower than national averages, lower than reported

¹ Marijuana FAQs, Alcohol & Marijuana Control Office, <https://www.commerce.alaska.gov/web/amco/MarijuanaFAQs.aspx> (last visited August 11, 2017); Laurel Andrews, "Marijuana milestone: Alaska's first pot shop opens to the public in Valdez," Alaska Dispatch News, October 29, 2016, available at <https://www.adn.com/alaska-marijuana/2016/10/29/anticipation-builds-as-alaskas-first-marijuana-store-set-to-open-to-the-public/> (last visited August 11, 2017).

alcohol use, and continues to decline.² We are taking meaningful steps to curb illegal marijuana use, especially by minors. While there are many competing priorities for State law enforcement resources – seizures, arrests, and prosecutions related to illegal marijuana will continue.

Further, the regulatory framework governing State-licensed marijuana businesses addresses federal interests. State law addresses risks of diversion by requiring all marijuana to be tracked from seed to sale, requiring all marijuana waste to be rendered unusable, and ensuring marijuana businesses do not have associations with criminal organizations.³ We address public health and safety concerns by controlling advertising practices, encouraging responsible consumption, and working to ensure the public is aware of the risk of marijuana.⁴ State law prohibits sales to persons under the age of 21, restricts access to retail establishments, prohibits retail stores from locating and advertising in proximity to child-centered facilities, and bans advertisements targeting youth.⁵ State agencies are working hard to educate the public, combat the black market, and ensure state-licensed businesses comply with state law.⁶

² Alaska Department of Health and Social Services, Division of Public Health, 2015 Youth Risk Behavior Survey Results, available at http://dhss.alaska.gov/dph/Chronic/Documents/yrbs/2015AKTradHS_YRBS_TrendReport.pdf (last visited August 11, 2017); Marny Rivera and Cory R. Lepage, “Youth Marijuana and Prescription Drug Abuse in Anchorage,” Alaska Justice Forum (Spring 2016).

³ 3 AAC 306.730 – .750 (tagging and tracking of marijuana); AS 17.38.200(i) (licensees, as well as agents and officers of licensees, cannot have felony conviction within the last five years or be on parole or probation for a felony conviction); 3 AAC 306.015(b)(1) (licensees, including all partners in a partnership and members of a LLC and shareholders in a corporation, must be Alaska residents); 3 AAC 306.015(a) (only licensees can have direct or indirect financial interest in licensed business); 3 AAC 306.055 (applications for a license or annual license renewal must submit fingerprints for nationwide criminal justice background checks).

⁴ See 3 AAC 306.360(b)) (advertisements may not be false or misleading, promote excessive consumption, or represent that marijuana has any curative or therapeutic effects); 3 AAC 306.360(e) (advertisements must contain blunt warnings); 3 AAC 306.475(a) (all marijuana must be tested and labeled); 3 AAC 306.700 (training and certification requirements for handlers).

⁵ 3 AAC 306.010; 3 AAC 306.360; 3 AAC 306.430; 3 AAC 306.710.

⁶ The Department of Commerce Community and Economic Development website, <https://www.commerce.alaska.gov/web/amco/>, provides information about the work of the Marijuana Control Board and the Alcohol & Marijuana Control Office, including recent enforcement news. *Also see* AS 17.38.131 (empowering AMCO enforcement officers to enforce both criminal and civil laws relating to marijuana); Alaska Department of Health and Social Services, Division of Public Health, “Health and Safety Issues Related to Marijuana Use,” available at <http://dhss.alaska.gov/dph/> (providing educational information to Alaskans about the risks associated with marijuana use); Alaska State Troopers, 2016 Annual Drug Report, available at <http://www.dps.state.ak.us/ast/> (providing 2016 statistics regarding seizures of marijuana and marijuana related law enforcement activity of local, state, and federal law enforcement agencies).

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As the industry matures and new issues develop, we will continue to refine the regulatory framework and remain open to accommodating federal concerns. The Commissioner of the Department Public Safety can provide additional information about the annual drug reports if desired. We also invite you or your designee to sit down and discuss any concerns about the regulated industry with us and the Executive Director of the Alaska Marijuana Control Board. That said, given the direction from Alaskan voters to establish a regulated industry and our work to accommodate federal concerns in an area of traditional state authority, the existing federal marijuana policies should be maintained as we work together to protect and serve Alaskans.

Sincerely,



Bill Walker
Governor



Jahna Lindemuth
Attorney General

Enclosure

cc: The Honorable Lisa Murkowski, United States Senate
The Honorable Dan Sullivan, United States Senate
The Honorable Don Young, United States House of Representatives
The Honorable Chris Hladick, Commissioner, Alaska Department of Commerce,
Community, and Economic Development
The Honorable Walt Monegan, Commissioner, Alaska Department of Public Safety
Bryan Schroder, Acting U.S. Attorney for the District of Alaska
U.S. Department of Justice Task Force on Crime Reduction and Public Safety
Intergovernmental Affairs and Public Liaison, U.S. Department of Justice Office of
Legislative Affairs



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August 1, 2017

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

RE: Task Force on Crime Reduction and Public Safety

Dear Attorney General Sessions:

Thank you for bringing focus and energy to the important task of combating violent crime. The State of Alaska shares your concern over the numerous and growing threats to public safety and challenges faced by law enforcement agencies. As you and your Task Force on Crime Reduction and Public Safety undertake a review of various Department of Justice (DOJ) policies and following up on Governor Walker's April 5, 2017 letter, I want to offer some additional perspective on issues of particular concern to our state: the ongoing opioid epidemic and DOJ's marijuana policy.

I. Opioid Epidemic

As you know, opioid abuse continues to pose a grave danger throughout the nation. In Alaska, the opioid epidemic and the alarming rate of associated deaths led Governor Walker to declare a state of emergency. Battling the spread of this threat, the state administration organized a specific task force and disaster response team to orchestrate the efforts of state health and law enforcement officials. And, our legislature established additional controls on prescriptive authority for opiates. Despite these and other efforts, more is needed.

The transportation of opioids into and through the state has proven difficult to stem. We are faced with importation of opioids manufactured abroad through a sophisticated international trade network. Transport of opioids into rural communities, often through the U.S. postal service, is also of particular concern because off of the road system villages are frequently the least equipped to handle the public safety and medical challenges associated with the opioid epidemic. As it undertakes its work, we ask that the Task Force give focused thought to how DOJ can most effectively contribute to efforts to address this urgent problem.

II. Marijuana Regulation

Given the diversity of public sentiment regarding marijuana throughout the country, marijuana regulation is an area where states should take the lead. In fact, our federal constitution presumes that traditional police powers remain with state governments precisely because of our ability to be responsive to this type of regional variation in citizens' policy preferences and priorities. In Alaska, in accordance with a successful citizens' ballot initiative, the State has implemented a comprehensive framework to regulate marijuana that we believe also protects federal interests.

Our regulatory framework strictly controls every aspect of the industry—with particular emphasis on neutralizing the involvement of criminal growers and traffickers, keeping marijuana away from children, and ensuring that our citizens are fully informed about the risks of using marijuana. Licensure requirements for growing and selling marijuana are among the strictest in the nation; only bona fide Alaskan residents can be licensed and every licensee must submit fingerprints for a national criminal background check each time they renew. Every ounce of marijuana that is grown under our laws is tracked from the time it is eight inches tall until it leaves the door of a retail establishment with a consumer. State law enforcement efforts continue to combat black market marijuana activity and we appreciate the ongoing support and collaboration of our federal counterparts in those efforts. While challenges remain, they are manageable and not dissimilar to the law enforcement efforts in other contexts.

In light of the citizens' ballot initiative and the existence of a robust regulatory framework that protects federal law enforcement interests, we ask DOJ to maintain a policy substantially similar to the guidance articulated in the 2013 Cole Memorandum. From our perspective, the existing policy is a pragmatic approach that effectively creates space for states to be responsive to our residents while also protecting federal priorities. Of course, we remain open to discussion about where improvements might be made as our experience with the regulated marijuana industry develops. Should the Task Force recommend a shift in DOJ policy, we ask that you engage directly with us to discuss potential approaches before reaching any final conclusions.

Sincerely,



Jahna Lindemuth
Attorney General
State of Alaska

cc: Governor Bill Walker
Senator Lisa Murkowski
Senator Dan Sullivan
Representative Don Young
Bryan Schroder, Acting U.S. Attorney for the District of Alaska
U.S. Department of Justice Task Force on Crime Reduction and Public Safety