MEMORANDUM FOR: Distribution

SUBJECT: Adherence to Federal Laws Prohibiting Marijuana Use

REFERENCES:

A. Executive Order 13467, Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees and Eligibility for Access to Classified National Security Information, 30 June 2008

B. Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana, Memorandum for Selected United States Attorneys, Deputy Attorney General David W. Ogden, U.S. Department of Justice, Office of the Deputy Attorney General, 19 October 2009

C. Guidance Regarding the Ogden Memo in Jurisdictions Seeking to Authorize Marijuana for Medical Use, Deputy Attorney General James M. Cole, U.S. Department of Justice, Office of the Deputy Attorney General, 29 June 2011

D. Guidance Regarding Marijuana Enforcement, Memorandum for All United States Attorneys, Deputy Attorney General James M. Cole, Department of Justice, Office of the Deputy Attorney General, 29 August 2013


F. The Intelligence Reform and Terrorism Prevention Act (IRTPA), as amended, 50 U.S.C. 3343 (2008)


H. Adjudicative Guidelines for Determining Eligibility for Access to Classified Information, 29 December 2005


In recent years, several states and the District of Columbia have decriminalized the use of marijuana, allowing the use of marijuana for medicinal purposes or for limited recreational use. These changes to state law resulted in inquiries from a number of agencies about the impact to
SUBJECT: Adherence to Federal Laws Prohibiting Marijuana Use

Adjudications of persons proposed for eligibility for access to classified information or eligibility to hold a sensitive position. As the Security Executive Agent, I am responsible for issuing guidelines and instructions to agencies to ensure appropriate uniformity in processes relating to personnel security investigations and adjudications (Reference A). The purpose of this memorandum is to set out guidance in this area.

The Department of Justice issued guidance (References B, C, and D) making it clear that no state can authorize violations of federal law, including violations of the Controlled Substance Act (Reference E), which identifies marijuana as a Schedule I controlled drug. Moreover, IRTPA, as amended (Reference F), specifically prohibits a federal agency from granting or renewing a clearance to an unlawful user of a controlled substance or an addict, and under federal law, use of marijuana remains unlawful. Last, Executive Order 12564 (Reference G) mandates a drug-free workplace and drug-free federal workforce, and expressly states that use of illegal drugs on or off duty by federal employees in positions with access to sensitive information may pose a serious risk to national security and is inconsistent with the trust placed in such employees as servants of the public.

Accordingly, in keeping with statute, executive order, and Department of Justice guidance, I remind agency heads that changes to state laws and the laws of the District of Columbia pertaining to marijuana use do not alter the existing National Security Adjudicative Guidelines (Reference H and I). An individual’s disregard of federal law pertaining to the use, sale, or manufacture of marijuana remains adjudicatively relevant in national security determinations. As always, adjudicative authorities are expected to evaluate claimed or developed use of, or involvement with, marijuana using the current adjudicative criteria. The adjudicative authority must determine if the use of, or involvement with, marijuana raises questions about the individual’s judgment, reliability, trustworthiness, and willingness to comply with law, rules, and regulations, including federal laws, when making eligibility decisions of persons proposed for, or occupying, sensitive national security positions.

Heads of agencies are expected to advise their workforce that legislative changes by some states and the District of Columbia do not alter federal law or existing National Security Guidelines. Agencies continue to be prohibited from granting or renewing a security clearance to an unlawful user of a controlled substance, which includes marijuana. Questions pertaining to this memorandum should be directed to Ms. Pamela Dempsey at (571) 204-6505, or by email to SECIA@DNI.GOV or SECIA_WMA@CIA.GOV.

James R. Clapper

Date

25 October 2014
SUBJECT: Adherence to Federal Laws Prohibiting Marijuana Use

Distribution:

Secretary of Agriculture, Department of Agriculture
Secretary of Commerce, Department of Commerce
Secretary of Education, Department of Education
Secretary of Energy, Department of Energy
Secretary of Health and Human Services, Department of Health and Human Services
Secretary of Homeland Security, Department of Homeland Security
Secretary of Housing and Urban Development, Department of Housing and Urban Development
Secretary of the Interior, Department of the Interior
Attorney General, Department of Justice
Secretary of Labor, Department of Labor
Secretary of State, Department of State
Secretary of Transportation, Department of Transportation
Secretary of the Treasury, Department of the Treasury
Secretary of Veterans Affairs, Department of Veterans Affairs
Director, Central Intelligence Agency
Director, Defense Intelligence Agency
Director, Office of Intelligence and Counterintelligence, Department of Energy
Under Secretary, Intelligence and Analysis, Department of Homeland Security
Assistant Secretary, Bureau of Intelligence and Research, Department of State
Assistant Secretary, Intelligence and Analysis, Department of Treasury
Chief of Intelligence/Senior Officer (SOIC), Drug Enforcement Administration
Executive Assistant Director, Intelligence Branch, Federal Bureau of Investigation
Director, National Geospatial-Intelligence Agency
Director, National Reconnaissance Office
Director, National Security Agency
Director, United States Secret Service
Under Secretary of Defense for Intelligence, Department of Defense
Director, Bureau of Alcohol, Tobacco, Firearms and Explosives
Director, Broadcasting Board of Governors
Administrator, Drug Enforcement Administration
Administrator, Environmental Protection Agency
Administrator, Equal Employment Opportunity Commission
Chairman, Federal Reserve Board, Federal Reserve System
Chairman, Federal Communications Commission
Chairman, Federal Maritime Commission
Chairman, Federal Trade Commission
Administrator, General Services Administration
Director, Information Security Oversight Office
Chairman, International Trade Commission
Director, Office of Management and Budget
Administrator, National Aeronautics and Space Administration
SUBJECT: Adherence to Federal Laws Prohibiting Marijuana Use

Distribution (cont’d):

Archivist, National Archives and Records Administration
Director, National Science Foundation
Commissioner, Nuclear Regulatory Commission
Director, Office of Government Ethics
Director, U.S. Peace Corps
Director, Office of Personnel Management
Chief Postal Inspector, U.S. Postal Inspection Service
Chairman, Securities and Exchange Commission
Director, Office of Science and Technology Policy
Director, Selective Service System
Administrator, Small Business Administration
Commissioner, Social Security Administration
Administrator, United States Agency for International Development
Commissioner, United States Customs and Border Protection
U.S. Trade Representative
Director, White House Office of the National Drug Control Policy
Office of Board of Governors, United States Postal Service