



## Office of the Attorney General

Washington, D. C. 20530

May 1, 2017

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
Washington, D.C. 20510

The Honorable Charles Schumer  
Minority Leader  
U.S. Senate  
Washington, D.C. 20510

The Honorable Paul Ryan  
Speaker  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Nancy Pelosi  
Minority Leader  
U.S. House of Representatives  
Washington, D.C. 20515

**Re: Department of Justice Appropriations**

Dear Senators McConnell and Schumer, Speaker Ryan, and Representative Pelosi:

I write to renew the Department of Justice's opposition to the inclusion of language in any appropriations legislation that would prohibit the use of Department of Justice funds or in any way inhibit its authority to enforce the Controlled Substances Act (CSA).

As you know, the most recent continuing resolution contained a rider that restricts the Department from using appropriated funds to prevent certain states "from implementing their own State laws that authorize the use, distribution, possession, or cultivation of medical marijuana," even though marijuana remains unlawful under the Controlled Substances Act. *See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, § 542, 129 Stat. 2242, 2332-33 (2015); Further Continuing and Security Assistance Appropriations Act, 2017, Pub. L. No. 114-254, § 101, 130 Stat. 1005, 1006 (2016) (extending 2016 Consolidated Appropriations Act).*

Last year, and over the Department's objection, the U.S. Court of Appeals for the Ninth Circuit interpreted this provision broadly to apply both to Department actions that prevent states from implementing their laws regarding medical marijuana and to Department prosecutions of certain individuals and organizations that operate under those laws. *United States v. McIntosh*, 833 F.3d 1163 (9th Cir. 2016). The court held that the Department may not prosecute violations of the CSA with respect to marijuana unless a court concludes that the individuals or organizations are not in compliance with state medical marijuana law. As a result, in the Ninth Circuit, many individuals and organizations that are operating in violation of the CSA and causing harm in their communities may invoke the rider to thwart prosecution.

I believe it would be unwise for Congress to restrict the discretion of the Department to fund particular prosecutions, particularly in the midst of an historic drug epidemic and potentially long-term uptick in violent crime. The Department must be in a position to use all laws available to combat the transnational drug organizations and dangerous drug traffickers who threaten American lives.