

New Developments and Complications in Marijuana Laws

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Marijuana will remain an illegal drug under federal law, after the Drug Enforcement Administration ("DEA") denied two petitions to reschedule marijuana under the Controlled Substances Act ("CSA"). The DEA has decided to keep marijuana as a "Schedule 1" drug, concluding that marijuana has no proven medical benefits and is highly addictive. In reaching its conclusion, the DEA said a Health and Human Services evaluation shows marijuana has no "currently accepted medical use" because "the drug's chemistry is not known and reproducible; there are no adequate safety studies; there are no adequate and well-controlled studies proving efficacy; the drug is not accepted by qualified experts; and the scientific evidence is not widely available."

The DEA's decision further complicates the interplay between state and federal laws regarding marijuana. Despite the DEA's decision to keep marijuana as a Schedule 1 drug and illegal under federal law, the Justice Department will be prevented from prosecuting people who grow and distribute medical marijuana in compliance with state law. In an opinion issued on August 16th, the Ninth Circuit Court of Appeals in *United States v. McIntosh* held that recent federal appropriations acts prohibit the Justice Department from spending funds to prosecute individuals for the use, distribution, possession or cultivation of medical marijuana that is authorized by the state. The court emphasized that the Justice Department can still prosecute any individual who does not strictly comply with the relevant state medical marijuana laws. The court also noted that its decision could be temporary because Congress could appropriate funds for these types of prosecutions in the future.

If you have questions or would like more information on these issues, please contact Maricella Marroquin or Brendan Kearns.

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