



**U.S. Department of Justice**

Executive Office for United States Attorneys

Office of the Director

Room 2261, RFK Main Justice Building  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

(202) 252-1000

**MEMORANDUM – Sent via Electronic Mail**

DATE: February 26, 2024

TO: ALL UNITED STATES ATTORNEYS  
ALL FIRST ASSISTANT UNITED STATES ATTORNEYS  
ALL EXECUTIVE ASSISTANT UNITED STATES ATTORNEYS  
ALL CRIMINAL CHIEFS  
ALL OCDETF COORDINATORS

(b)(6), (b)(7)(C)

FROM: Norman Wong  
Acting Director

SUBJECT: Department Guidance Regarding the Impact of the President's Recent  
Proclamation Pardoning Certain Marijuana Offenses

ACTION REQUIRED: Review all pending matters that may be subject to the President's December 22, 2023 pardon proclamation, file motions to dismiss matters that have been pardoned or are appropriate for dismissal, and report results to EOUSA.

DUE DATES: April 12, 2024 (to file motions)  
May 3, 2024 (to report to EOUSA)

CONTACT PERSON: (b)(6), (b)(7)(C)  
Controlled Substances Coordinator  
Legal Programs Office

(b)(6), (b)(7)(C)

On December 22, 2023, the President issued a [Marijuana Pardon Proclamation](#) granting a pardon to all current U.S. citizens and lawful permanent residents who, on or before the date of the proclamation, committed or were convicted of simple possession of marijuana, attempted simple possession of marijuana, or use of marijuana, regardless of whether they were charged with or prosecuted for these offenses on or before the date of the proclamation. This pardon proclamation is in addition to an October 2022 [pardon proclamation](#), which pardoned certain individuals for simple possession of marijuana. This memorandum provides guidance about the

impact of the most recent proclamation and what U.S. Attorneys' offices (USAOs) should do to respond to it.

### **December 2023 Proclamation**

The President granted a full, complete, and unconditional pardon to all current U.S. citizens and lawful permanent residents who, on or before the date of the proclamation, committed or were convicted of the offense of simple possession of marijuana, attempted simple possession of marijuana, or use of marijuana in violation of (1) 21 U.S.C. § 844, 21 U.S.C. § 846, and previous provisions in the U.S. Code that prohibited simple possession of marijuana or attempted simple possession of marijuana; (2) D.C. Code § 48-904.01(d)(1) and previous provisions in the D.C. Code that prohibited simple possession of marijuana; (3) D.C. Code § 48-904.09 and previous provisions in the D.C. Code that prohibited attempted simple possession of marijuana; and (4) provisions in the Code of Federal Regulations (CFR), including as enforced under the U.S. Code, that prohibit only the simple possession or use of marijuana on federal properties or installations, or in other locales, as currently or previously codified, including but not limited to 25 C.F.R. § 11.452(a); 32 C.F.R. § 1903.12(b)(2); 36 C.F.R. § 2.35(b)(2); 36 C.F.R. § 1002.35(b)(2); 36 C.F.R. § 1280.16(a)(1); 36 C.F.R. § 702.6(b); 41 C.F.R. § 102-74.400(a); 43 C.F.R. § 8365.1-4(b)(2); and 50 C.F.R. § 27.82(b)(2).

### **Cases Impacted**

- **District Court**

As a result of the pardon proclamation, U.S. citizens or lawful permanent residents may not be prosecuted for simple possession, attempted possession, or use of marijuana under any of the statutes or regulations identified in the proclamation for conduct occurring on or before December 22, 2023.<sup>1</sup> If any such cases are pending in district court (before a district or magistrate judge), U.S. Attorneys should move to dismiss all charges that are subject to the pardon proclamation. In addition, U.S. Attorneys should take the following steps:

1. If there are outstanding arrest warrants related to such marijuana offenses, those warrants should be withdrawn;
2. If any fines or other financial assessments are being collected based solely on pardoned marijuana offenses, those collection efforts should be stopped;
3. If individuals convicted of these offenses are currently on probation or supervised release solely as a result of such offenses, U.S. Attorneys should seek to terminate their probation or supervised release;<sup>2</sup> and
4. In the unlikely event that a defendant is incarcerated solely due to conduct that was subject to the pardon proclamation, U.S. Attorneys should initiate efforts to secure the

---

<sup>1</sup> This includes any simple possession of marijuana prosecuted as a felony under the recidivist provisions of 21 U.S.C. § 844.

<sup>2</sup> If a defendant is serving a term of pre-judgment probation pursuant to 18 U.S.C. § 3607, the U.S. Attorney should consult with the defendant prior to dismissing the matter so that the defendant has a full opportunity to ensure that the matter is dismissed without entry of a judgment of conviction and that, if eligible, the defendant can seek expungement of the record of disposition pursuant to 18 U.S.C. § 3607(c).

defendant's release from custody and contact EOUSA's Controlled Substances Coordinator immediately.

The above steps should be taken as soon as possible, but no later than April 12, 2024, and they should be reported to EOUSA's Controlled Substances Coordinator by May 3, 2024. To assist you in this effort, EOUSA will send each USAO a list of pending district court cases that are potentially impacted by the pardon proclamation. We will send this list to all recipients of this memo.

- **Central Violations Bureau Docket**

The vast majority of pending marijuana possession offenses are Central Violations Bureau (CVB) matters. Multiple federal agencies have issued citations for marijuana use or possession based upon alleged violations of 21 U.S.C. § 844 or various CFR provisions. In many cases, there are outstanding warrants or matters in collection status. Through coordination with the Administrative Office of the U.S. Courts (AOUSC), the Department has obtained a list of matters that are pending on the CVB docket that may be subject to the pardon proclamation. By March 4, EOUSA will send you a spreadsheet with information on these matters and copies of any related violation notices. To effectuate the pardon, USAOs should take the following steps with respect to these CVB matters:

1. By April 12, 2024, each USAO should review their CVB matters and identify those in which the defendant's conduct is subject to the pardon proclamation and move to dismiss those matters and any others that the USAO deems appropriate for dismissal. Each USAO should consult with its local district court to develop an efficient process to dismiss these cases, which may include filing a single motion that lists all matters to be dismissed or attaches a copy of the spreadsheet provided by the AOUSC. In reviewing these CVB matters, USAOs should pay particular attention to any matters with outstanding arrest warrants or pending collection matters that relate solely to conduct that was subject to the pardon proclamation. For pending collection matters, the USAO should dismiss the matter or take other court action to ensure that no further financial penalties are collected for conduct that was subject to the proclamation.
2. By May 3, 2024, each USAO should advise EOUSA's Controlled Substances Coordinator that it has completed its review and taken all appropriate steps. The USAO should identify matters on the CVB spreadsheet that were dismissed due to the pardon proclamation or the exercise of prosecutorial discretion. A template for reporting this information will be included on the spreadsheet.

- **Certain Unenumerated CFR Provisions**

The pardon proclamation applies to CFR provisions that prohibit only the simple possession or use of marijuana on federal properties or installations, or in other locales, as currently or previously codified, including but not limited to 25 C.F.R. § 11.452(a); 32 C.F.R. § 1903.12(b)(2); 36 C.F.R. § 2.35(b)(2); 36 C.F.R. § 1002.35(b)(2); 36 C.F.R. § 1280.16(a)(1); 36 C.F.R. § 702.6(b); 41 C.F.R. § 102-74.400(a); 43 C.F.R. § 8365.1-4(b)(2); and 50 C.F.R.

§ 27.82(b)(2). CFR provisions that prohibit more than the use or possession of marijuana are outside the scope of the proclamation. *See, e.g.*, 32 C.F.R. § 228.9 (prohibits the “[o]peration of a motor vehicle entering or while on protected property by a person under the influence of narcotic drugs, hallucinogens, marijuana, barbiturates or amphetamines” *as well as* the use or possession of these substances).

Because the proclamation is not limited to the CFR’s enumerated provisions, there may be additional unenumerated provisions to which the proclamation applies. If, during your review of the spreadsheets, you identify a case that has been charged under an unenumerated CFR provision that may be subject to the proclamation, please contact EOUSA’s Controlled Substances Coordinator. He will work with other Department subject matter experts to determine whether the provision is within the scope of the pardon proclamation and provide appropriate guidance.

### **Conditions of Pretrial Release, Probation, and Supervised Release**

U.S. Attorneys may continue to seek and enforce conditions of pretrial release, probation, and supervised release that require defendants to refrain from using or possessing marijuana. Federal defendants are not permitted to use or possess marijuana as a standard condition of pretrial release, probation, or supervised release. *See* 18 U.S.C. § 3142(c)(1)(B)(ix); 18 U.S.C. § 3563(a)(5); and 18 U.S.C. § 3583(d). That remains true across the United States, even if the defendant resides in a state that permits the medicinal or recreational use of marijuana. However, U.S. Attorneys may not pursue a violation premised upon the commission of a new crime if the only new crime was a marijuana possession offense that was pardoned by the President’s proclamation (*i.e.*, was committed by a U.S. citizen or lawful permanent resident on or before December 22, 2023). This restriction would apply even if the defendant was charged or convicted of marijuana possession in state court if the conduct would have been subject to the pardon proclamation if it had been charged federally. For example, in the context of a supervised release violation, the U.S. Attorney may pursue a Grade C supervised release violation under U.S.S.G. § 7B1.1 for failure to comply with a judicially imposed condition but may not seek a violation of any grade premised upon conduct constituting a federal, state, or local offense covered by the pardon proclamation.

Violations of conditions of supervision that are based on the medicinal use of marijuana by an individual who lives in a state that authorizes medicinal use, and who has a valid, state-issued medical marijuana license or permit might not warrant the revocation of release conditions in all situations. Accordingly, if the U.S. Probation Office files a violation of supervised release or probation petition based on a defendant’s personal use of marijuana for medicinal purposes in conformity with state law, U.S. Attorneys have the discretion to recommend alternatives to incarceration as an appropriate penalty.



## **Cases Not Impacted**

- **Prior Convictions**

The proclamation does not expunge prior convictions. With the limited exception of certain individuals who may be eligible for expungement under 18 U.S.C. § 3607, U.S. Attorneys should oppose motions seeking to expunge records related to pardoned marijuana possession convictions. For assistance in responding to expungement requests, U.S. Attorneys may contact the Criminal Division's Appellate Section.

- **Other Offenses, Including Other Crimes Related to Marijuana or other Controlled Substances**

The proclamation does not pardon any other offenses and does not impact the ability to prosecute other crimes related to marijuana or other controlled substances. U.S. Attorneys may continue to charge defendants with simple possession of other controlled substances and other marijuana-related offenses, such as possession of marijuana with intent to distribute or distribution of marijuana, in violation of 21 U.S.C. § 841(a)(1), and crimes related to impaired driving caused by marijuana use or public intoxication. As discussed further below, U.S. Attorneys may also bring cases for marijuana possession, attempted possession, or use involving conduct that occurred after December 22, 2023, or was otherwise not covered by the pardon proclamation, but should do so with great caution and appropriate supervisory approval.

U.S. Attorneys also may pursue charges under 18 U.S.C. § 922(g)(3) or 18 U.S.C. § 922(d)(3) based on the unlawful use of, or addiction to, marijuana because the proclamation does not change the fact that marijuana use violates federal law. To mitigate potential litigation risk, however, U.S. Attorneys should be cautious before proceeding under these firearms provisions and consult with EOUSA's Controlled Substances Coordinator prior to doing so.

## **Charging Marijuana Possession Cases in the Future**

Because marijuana remains illegal under federal law, U.S. Attorneys retain the discretion to prosecute cases involving simple possession, use, or attempted possession of marijuana against individuals whose conduct was not covered by the pardon proclamation. U.S. Attorneys should be extremely cautious and measured in the exercise of this discretion. Effective immediately, all charges of simple possession of marijuana and other charges where the underlying criminal conduct involves simple possession, use, or attempted possession of marijuana, including (but not limited to) violations of 18 U.S.C. §§ 2, 3, 4, 13, 371, and 1382 and 21 U.S.C. §§ 844 and 846 and all charges of possession, use or attempted possession of marijuana under the enumerated CFR provisions identified in the pardon proclamation, may only be pursued with the approval of the U.S. Attorney or a supervisory AUSA designated by the U.S. Attorney.<sup>3</sup> All such decisions must be reported in writing to EOUSA's Controlled Substances

---

<sup>3</sup> This requirement does not apply to any other provision of the CFR. For example, the approval requirement does not apply to 32 C.F.R. § 228.9 or to CFR provisions related to impaired driving, public intoxication, disorderly conduct, or smoking in a non-designated area. This requirement also would not apply to state offenses that are

Coordinator within 72 hours.<sup>4</sup> In circumstances where a law enforcement agency has issued a violation notice under the CFR or 21 U.S.C. § 844 for marijuana possession, use, or attempted possession that appears on the CVB docket, the U.S. Attorney should make a charging determination no later than the date of the defendant's scheduled court appearance and report any approved prosecutions to EOUSA's Controlled Substances Coordinator within 72 hours.

U.S. Attorneys should advise their staffs, including all Special Assistant U.S. Attorneys, and all relevant law enforcement partners of this policy. With respect to CVB matters, U.S. Attorneys should communicate with their law enforcement partners about any relevant factors that will be evaluated prior to pursuing cases involving use, possession, or attempted possession of marijuana.

### **Pardon Certificates**

The Office of the Pardon Attorney has created a [Marijuana Pardon Application](#) that will allow eligible individuals to request a Certificate of Pardon. U.S. Attorneys may direct eligible individuals to that site if they are interested in applying for a pardon certificate or have other general questions about the pardon proclamation.

\*\*\*\*

Please contact EOUSA's Controlled Substances Coordinator, John Farley, at the contact information provided above if you have questions about whether a particular matter is impacted by the President's pardon proclamation or if you have any other questions about the proclamation's effect or any of the Department's guidance regarding marijuana possession offenses.

cc: All United States Attorneys' Secretaries

---

prosecuted pursuant to 18 U.S.C. § 13 for offenses that are not subject to the pardon proclamation, including possession of drug paraphernalia.

<sup>4</sup> This requirement applies to situations where a defendant is pleading guilty to a charge involving possession, use or attempted possession as part of a plea agreement that involves the dismissal of felony charges.



**U.S. Department of Justice**

Executive Office for United States Attorneys

Office of the Director

Room 2261, RFK Main Justice Building  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

(202) 252-1000

**MEMORANDUM - Sent via Electronic Mail**

DATE: September 29, 2025

TO: ALL UNITED STATES ATTORNEYS  
ALL FIRST ASSISTANT UNITED STATES ATTORNEYS  
ALL EXECUTIVE ASSISTANT UNITED STATES ATTORNEYS  
ALL CIVIL CHIEFS  
ALL CRIMINAL CHIEFS  
ALL OCDETF COORDINATORS

(b)(6), (b)(7)(C)

FROM: Francey Hakes  
Director

SUBJECT: Recission of Previous Department Guidance Regarding Implementation of the  
Marijuana Pardon Memo

ACTION REQUIRED: Discontinue Implementation of Charging and Reporting  
Requirements

CONTACT PERSON: Gretchen Shappert  
Assistant Director  
Legal Programs

(b)(6), (b)(7)(C)

EOUSA issued the February 26, 2024 memorandum [\*Department Guidance Regarding the Impact of the President's Recent Proclamation Pardoning Certain Marijuana Offenses\*](#) which provided that approval of the United States Attorney (USA) or a supervisory AUSA designated by the USA was required for initiation of all charges of simple possession of marijuana and other charges where the underlying conduct involved simple possession, use, or attempted possession of marijuana. The Memorandum also required that all such charging decisions must be reported immediately to EOUSA's Controlled Substances Coordinator within 72 hours. This charging guidance and reporting requirement is hereby rescinded, effective immediately. Please contact Gretchen Shappert at the above contact information, if you have any questions.