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Medical Use of Marijuana  
A Guideline for Implementation

Given the vagueness and many avenues left open to local interpretation of the Compassionate Use Act (Proposition 215), as well as its incompatibility with federal law, both seriously ill Californians who properly qualify as medicinal users of marijuana and law enforcement officers have been left in a quagmire as to how this law should be implemented. All agree that some sort of guidelines should be established to assist in the interpretation, to avoid unnecessary investigations by law enforcement and inconvenience to those persons who properly qualify as medicinal users of marijuana or their primary caretakers. However, few agree on what those guidelines should be. As with most laws, a bright line set of facts cannot be put forth to dictate how law enforcement will handle a particular case. This is because each case is dependent upon a unique set of circumstances, and is subject to interpretation by line officers who have, and should have, the discretion to make the judgement calls mandated to them by law.

It is important to remember that:

1. Federal law prohibits possession and cultivation by any person and does not recognize medicinal use. Therefore, it is contraband and may be properly seized by law enforcement.
2. The Compassionate Use Act does not legalize possession and cultivation of marijuana for medical purposes. It only provides an affirmative defense at trial. Given sufficient information before trial to form the opinion that the affirmative defense would prevail, in the interest of judicial economy and equity, the District Attorney will not proceed to trial.
3. Proposition 215 does not authorize driving under the influence of marijuana.
4. The District Attorney has prosecutorial discretion regarding all offenses and this guideline is not intended to limit that authority.
5. The District Attorney cannot require the police to follow this guideline.
6. This guideline does not apply to possession of marijuana for sale, or any offense other than cultivation or possession of marijuana for medicinal purposes.

This guideline is not intended to address every conceivable situation that may arise, but is merely a first step in dealing with a very complex law, while awaiting some statewide direction from the legislature.

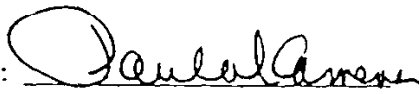
Given the above, this document sets forth a guideline of expected response by the District Attorney for medical marijuana cases submitted for review by the police.

The District Attorney has determined that the following guidelines will be used when making a decision to file charges regarding cultivation of marijuana:

If the following criteria are met, no charges will be filed:

- 1) The person has a valid identification card from the Marin County Department of Health and Human Services designating him or her as a valid patient for whom marijuana has been prescribed or recommended, or as a valid caretaker for such a patient; and,
- 2) There is no evidence of violations of law to be considered other than cultivation or possession of marijuana for personal use; and,
- 3) All of the requirements of H&S Code 11362.5 have been complied with; and,
- 4) The number of plants is six or less mature plants (i.e., budding or flowering) or twelve immature plants; and/or,
- 5) The amount of dried marijuana is less than 1/2 pound.
- 6) The person is not on parole or probation nor has the person been ordered not to use, abuse, possess, or transport alcohol or drugs or paraphernalia.

ANY OTHER MATTER REFERRED TO THE DISTRICT ATTORNEY'S OFFICE FOR CONSIDERATION OF CHARGES THAT HAS A POTENTIAL MEDICAL MARIJUANA DEFENSE WILL BE EVALUATED ON A CASE BY CASE BASIS.

By:   
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