

Rep. Marcus Oshiro, Chair
Rep. Marilyn Lee, Vice Chair and
Members of the Committee on Finance

LATE TESTIMONY

RE: SB 1458, SD2, HD2 RELATING TO HEALTH.

Hearing: Tuesday, April 5, 2011, 2:00 p.m., Room 308

Support - but prefer improved Senate version

I am a medical marijuana patient living on the Big Island.

I am also a cancer patient, currently undergoing chemotherapy on Oahu every two weeks.

The police have been arresting patients at the airports, and a judge found a patient guilty in Kona recently, so I must smuggle medicine to Oahu (or take a risk buying it on the black market in Honolulu...or not have any medicine at all). Having only one compassion center on one island for a test period of five years does not help me, or most other patients, at all. At least there should be one location on each island for the pilot program. And patients should be able to enter ANY compassion center. Don't force them to choose only one.

If there is only a compassion center on one island, then you must fix the wording of the law so that patients can travel inter-island safely with medicine (just like with Oxycontin or any prescription), and so that they can travel in their car with it. (Actually, the wording must be fixed in any case. No patient should be arrested for travelling with their medicine.)

I think the 30% tax is outrageous. How are the majority of patients going to be able to afford the added cost? Is there any provision to wave the tax for people on Social Security or disability?

The medical marijuana program has been unchanged for 10 years, don't make the majority of us wait 5 more years for improvements

Deirdre Moana Tavares

Hilo, HI



U.S. Department of Justice

Office of the Deputy Attorney General


The Deputy Attorney General

Washington, D.C. 20530

LATE TESTIMONY

October 19, 2009

MEMORANDUM FOR SELECTED UNITED STATES ATTORNEYS

FROM: 
David W. Ogden
Deputy Attorney General

SUBJECT: Investigations and Prosecutions in States
Authorizing the Medical Use of Marijuana

This memorandum provides clarification and guidance to federal prosecutors in States that have enacted laws authorizing the medical use of marijuana. These laws vary in their substantive provisions and in the extent of state regulatory oversight, both among the enacting States and among local jurisdictions within those States. Rather than developing different guidelines for every possible variant of state and local law, this memorandum provides uniform guidance to focus federal investigations and prosecutions in these States on core federal enforcement priorities.

The Department of Justice is committed to the enforcement of the Controlled Substances Act in all States. Congress has determined that marijuana is a dangerous drug, and the illegal distribution and sale of marijuana is a serious crime and provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. One timely example underscores the importance of our efforts to prosecute significant marijuana traffickers: marijuana distribution in the United States remains the single largest source of revenue for the Mexican cartels.

The Department is also committed to making efficient and rational use of its limited investigative and prosecutorial resources. In general, United States Attorneys are vested with "plenary authority with regard to federal criminal matters" within their districts. USAM 9-2.001. In exercising this authority, United States Attorneys are "invested by statute and delegation from the Attorney General with the broadest discretion in the exercise of such authority." *Id.* This authority should, of course, be exercised consistent with Department priorities and guidance.

The prosecution of significant traffickers of illegal drugs, including marijuana, and the disruption of illegal drug manufacturing and trafficking networks continues to be a core priority in the Department's efforts against narcotics and dangerous drugs, and the Department's investigative and prosecutorial resources should be directed towards these objectives. As a general matter, pursuit of these priorities should not focus federal resources in your States on

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individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana. For example, prosecution of individuals with cancer or other serious illnesses who use marijuana as part of a recommended treatment regimen consistent with applicable state law, or those caregivers in clear and unambiguous compliance with existing state law who provide such individuals with marijuana, is unlikely to be an efficient use of limited federal resources. On the other hand, prosecution of commercial enterprises that unlawfully market and sell marijuana for profit continues to be an enforcement priority of the Department. To be sure, claims of compliance with state or local law may mask operations inconsistent with the terms, conditions, or purposes of those laws, and federal law enforcement should not be deterred by such assertions when otherwise pursuing the Department's core enforcement priorities.

Typically, when any of the following characteristics is present, the conduct will not be in clear and unambiguous compliance with applicable state law and may indicate illegal drug trafficking activity of potential federal interest:

- unlawful possession or unlawful use of firearms;
- violence;
- sales to minors;
- financial and marketing activities inconsistent with the terms, conditions, or purposes of state law, including evidence of money laundering activity and/or financial gains or excessive amounts of cash inconsistent with purported compliance with state or local law;
- amounts of marijuana inconsistent with purported compliance with state or local law;
- illegal possession or sale of other controlled substances; or
- ties to other criminal enterprises.

Of course, no State can authorize violations of federal law, and the list of factors above is not intended to describe exhaustively when a federal prosecution may be warranted. Accordingly, in prosecutions under the Controlled Substances Act, federal prosecutors are not expected to charge, prove, or otherwise establish any state law violations. Indeed, this memorandum does not alter in any way the Department's authority to enforce federal law, including laws prohibiting the manufacture, production, distribution, possession, or use of marijuana on federal property. This guidance regarding resource allocation does not "legalize" marijuana or provide a legal defense to a violation of federal law, nor is it intended to create any privileges, benefits, or rights, substantive or procedural, enforceable by any individual, party or witness in any administrative, civil, or criminal matter. Nor does clear and unambiguous compliance with state law or the absence of one or all of the above factors create a legal defense to a violation of the Controlled Substances Act. Rather, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion.

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Finally, nothing herein precludes investigation or prosecution where there is a reasonable basis to believe that compliance with state law is being invoked as a pretext for the production or distribution of marijuana for purposes not authorized by state law. Nor does this guidance preclude investigation or prosecution, even when there is clear and unambiguous compliance with existing state law, in particular circumstances where investigation or prosecution otherwise serves important federal interests.

Your offices should continue to review marijuana cases for prosecution on a case-by-case basis, consistent with the guidance on resource allocation and federal priorities set forth herein, the consideration of requests for federal assistance from state and local law enforcement authorities, and the Principles of Federal Prosecution.

cc: All United States Attorneys

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LATE TESTIMONY

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COMMITTEE ON FINANCE

Rep. Marcus Oshiro, Chair

Rep. Marilyn Lee, Vice Chair

Tuesday April 5, 2011

Room 308

2:00 p.m.

SB 1458 SD2, HD1 - STRONG SUPPORT for Compassion Centers in Senate Bill

<http://www.capitol.hawaii.gov/emailtestimony>

Aloha Chair Oshiro, Vice Chair Lee and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working on prison reform and justice issues in Hawai'i for more than a decade. We respectfully offer our testimony always being mindful that Hawai'i has some 6,000 people behind bars with almost 1,800 individuals serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

Community Alliance on Prisons stands in strong support of the Senate version of this compassionate measure. Hawai'i's medical marijuana program was the first in the nation to be passed by a state legislature. At the time, our legislature passed this law as compassionate legislation, responding to the many requests of patients for relief from their suffering.

I was then and remain a strong supporter today having served as a caregiver to several terminally ill individuals. I have seen, first hand, how medical cannabis relieved their nausea from chemotherapy and from the prescription medications and helped them to eat, since loss of appetite is quite common. I am absolutely convinced that my friend Adam lived years longer than his doctors predicted because his appetite was stimulated by cannabis. Enhancing the last days of someone's life is a privilege and I saw the benefit that medical cannabis produced in the last days in the lives of my friends.

On the other hand, I watched my mother suffer in excruciating pain, literally wasting away, and dying at 45 pounds.

Sadly, when we passed this progressive legislation, we left the patients to fend for themselves.

This bill will provide immediate access to relief for those patients who don't have caregivers to grow cannabis for them. It is the humane thing to do.

It is sad that DOH testified that dispensaries would put them in conflict with federal law. Please remind this agency that the constitution provides for states' rights. The decision to have a medical marijuana program in Hawai'i and the other states that sought to relieve the suffering of their citizens was a state decision and constitutionally sound.

Perhaps dispensaries should be under the Department of Agriculture, not the Department of Public Safety who has not proven to be good stewards of this public program.

We have the chance to do this right. We have seen the trials that others went through and we know what NOT to do. This can be done right, in a humane way that focuses on treating those in pain in a compassionate and non-judgmental way where everyone can benefit. We have the chance to learn from a range of programs that are working.

Please don't criminalize sick people by forcing them to go to the black market to relieve their pain. And don't give in to threats and intimidation. This bill is about compassion and access to relief.

We respectfully ask that you pass this bill.

Mahalo for this opportunity to testify.