

May 19, 2009

Carmen L. Mallon
Chief of Staff
Office of Information Policy
Department of Justice
Suite 11050
1425 New York Avenue, N.W.
Washington, D.C. 20530-0001

Re: Freedom of Information Request

Dear Ms. Mallon:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, I hereby request a copy of the current policy of the United States Department of Justice (USDOJ) regarding state-authorized medical use of marijuana.

I have attached a copy of a newspaper article from February 27, 2009, describing the new USDOJ policy on state medical marijuana laws announced by U.S. Attorney General Eric H. Holder, Jr., at a Washington news conference on February 25, 2009. U.S. to yield marijuana jurisdiction to states, by Bob Egelko, San Francisco Chronicle, Friday, February 27, 2009, page A-1.

See also <http://www.washingtonpost.com/wp-dyn/content/article/2009/04/10/AR2009041001288.html> (Attorney General Holder announced that the federal government would no longer go after groups that supply medical marijuana in the thirteen states where it is legal) and “Holder’s pot policy unclear on old state cases,” available at <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/04/10/MN5816UOLA>. DTL (Attorney General Holder announced that federal agents will target only persons who violate both federal and

Carl Olsen, Post Office Box 4091, Des Moines, Iowa 50333

state law; anyone complying with the medical marijuana law in the 13 other states with such laws would be left alone).

Also attached are orders from the U.S. District Court in Los Angeles, United States v. Lynch, No. CR 07-689-GW (C.D. Cal), requesting information on the new policy and the USDOJ response which acknowledges the change in federal policy but fails to include an actual copy of the new policy in the response.

If any expenses are incurred in connection with this request, please obtain my approval before any such charges are incurred. I am a public researcher and political activist. Disclosure of the information will contribute significantly to public understanding of the operations and activities of the government because states like mine are considering medical marijuana legislation and have a legitimate concern about the impact federal laws may have on medical patients residing in those states.

I will expect a response within 20 working days as provided by law. If my request is denied in whole or in part, I expect a detailed justification for withholding records. I also request any segregable portions that are not exempt to be disclosed.

Thank you for your prompt attention to this matter.

Very truly yours,

Carl Olsen

Iowans for Medical Marijuana

Post Office Box 4091

Des Moines, Iowa 50333

515-288-5798

Certified Mail Receipt No. 7007 1490 0002 0045 8517

SFGate.com

U.S. to yield marijuana jurisdiction to states

Bob Egelko, Chronicle Staff Writer

Friday, February 27, 2009



(02-26) 20:00 PST San Francisco -- U.S. Attorney General Eric Holder is sending strong signals that President Obama - who as a candidate said states should be allowed to make their own rules on medical marijuana - will end raids on pot dispensaries in California.

Asked at a Washington news conference Wednesday about Drug Enforcement Administration raids in California since Obama took office last month, Holder said the administration has changed its policy.

"What the president said during the campaign, you'll be surprised to know, will be consistent with what we'll be doing here in law enforcement," he said. "What he said during the campaign is now American policy."

Bill Piper, national affairs director of the Drug Policy Alliance, a marijuana advocacy group, said the statement is encouraging.

"I think it definitely signals that Obama is moving in a new direction, that it means what he said on the campaign trail that marijuana should be treated as a health issue rather than a criminal justice issue," he said.

Piper said Obama has also indicated he will drop the federal government's long-standing opposition to health officials' needle-exchange programs for drug users.

During one campaign appearance, Obama recalled that his mother had died of cancer and said he saw no difference between doctor-prescribed morphine and marijuana as pain relievers. He told an interviewer in March that it was "entirely appropriate" for a state to legalize the medical use of marijuana "with the same controls as other drugs prescribed by doctors."

After the federal Drug Enforcement Agency raided a marijuana dispensary at South Lake Tahoe on Jan. 22, two days after Obama's inauguration, and four others in the Los Angeles area on Feb. 2, White House spokesman Nick Schapiro responded to advocacy groups' protests by noting that Obama had not yet appointed his drug policy team.

"The president believes that federal resources should not be used to circumvent state laws" and expects his appointees to follow that policy, Schapiro said.

The federal government has fought state medicinal pot laws since Californians voted in 1996 to repeal criminal penalties for medical use of marijuana.

President Bill Clinton's administration won a Supreme Court case, originating in Oakland, that allowed federal authorities to shut down nonprofit organizations that supplied medical marijuana to their members. Clinton's Justice Department was thwarted by federal courts in an attempt to punish California doctors who recommended marijuana to their patients.

President George W. Bush's administration went further, raiding medical marijuana growers and clinics, prosecuting suppliers under federal drug laws after winning another Supreme Court case and pressuring commercial property owners to evict marijuana dispensaries by threatening legal action.

The Bush administration also blocked a University of Massachusetts researcher's attempt to grow marijuana for studies of its medical properties. Piper, of the Drug Policy Alliance, said he hopes Obama will reverse that position.

"If you removed the obstacles to research," he said, "in 10 to 15 years, marijuana will be available in pharmacies."

E-mail Bob Egelko at begeko@sfchronicle.com.

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/02/27/MN2016651R.DTL>

This article appeared on page **A - 1** of the San Francisco Chronicle

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES - GENERAL

Case No. CR 07-689-GW

Date March 23, 2009

Present: The Honorable **GEORGE H. WU, UNITED STATES DISTRICT JUDGE**

Interpreter None

Javier Gonzalez

Wil Wilcox

David P. Kowal; Rasha Gerges

Deputy Clerk

Court Reporter/Recorder, Tape No.

Assistant U.S. Attorney

<u>U.S.A. v. Defendant(s):</u>	<u>Present</u>	<u>Cust.</u>	<u>Bond</u>	<u>Attorneys for Defendants:</u>	<u>Present</u>	<u>App.</u>	<u>Ret.</u>
1. Charles C. Lynch	✓		✓	1. Reuven L. Cohen; John Littrell;	✓	✓	
				Guy Iverson, Michael Tanaka	✓	✓	

PROCEEDINGS: STATUS CONFERENCE RE SENTENCING

Hearing is held. Court and counsel confer.

For reasons stated on the record, the Sentencing hearing is **continued** to **April 30, 2009 at 10:30 a.m.**

The Government is ordered to submit a response as to whether the Department of Justice's position has changed regarding criminal cases and medical marijuana dispensaries. A telephonic status conference is set for **March 27, 2009 at 10:00 a.m.** Counsel for the government will be prepared to discuss the timetable of the Department of Justice's response.

IT IS SO ORDERED.

Initials of Deputy Clerk JG

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES - GENERAL

Case No. CR 07-689-GW

Date March 27, 2009

Present: The Honorable **GEORGE H. WU, UNITED STATES DISTRICT JUDGE**

Interpreter None

Javier Gonzalez

Wil Wilcox

David P. Kowal; Rasha Gerges

Deputy Clerk

Court Reporter/Recorder, Tape No.

Assistant U.S. Attorney

<u>U.S.A. v. Defendant(s):</u>	<u>Present</u>	<u>Cust.</u>	<u>Bond</u>	<u>Attorneys for Defendants:</u>	<u>Present</u>	<u>App.</u>	<u>Ret.</u>
1. Charles C. Lynch	not		✓	1. Reuven L. Cohen; John Littrell;	✓	✓	
				Guy Iverson	✓	✓	

PROCEEDINGS: TELEPHONIC STATUS CONFERENCE

Hearing is held. Court and counsel confer.

The Government is ordered to submit a response as to Department of Justice's position regarding criminal cases and medical marijuana dispensaries by no later than April 23, 2009. Defendants' response will be due by close of business on April 27, 2009.

The Sentencing hearing remains set for April 30, 2009 at 10:30 a.m.

IT IS SO ORDERED.

Initials of Deputy Clerk JG
_____ : _____
24

1 THOMAS P. O'BRIEN
 United States Attorney
 2 CHRISTINE C. EWELL
 Assistant United States Attorney
 3 Chief, Criminal Division
 DAVID P. KOWAL (State Bar No. 188651)
 4 RASHA GERGES (State Bar No. 218248)
 Assistant United States Attorneys
 5 OCDETF Section
 1400 United States Courthouse
 6 312 North Spring Street
 Los Angeles, California 90012
 7 Telephone: (213) 894-5136/6530
 Facsimile: (213) 894-0142
 8 E-mail: David.Kowal@usdoj.gov
Rasha.Gerges@usdoj.gov

9 Attorneys for Plaintiff
 10 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,)	No. CR 07-689-GW
)	
14 Plaintiff,)	<u>GOVERNMENT'S RESPONSE TO</u>
)	<u>INQUIRY BY THE COURT REGARDING</u>
15 v.)	<u>SENTENCING</u>
)	
16 CHARLES C. LYNCH, et al.,)	
)	
17 Defendants.)	
)	

18
 19 The United States, by and through its counsel of record, the
 20 United States Attorney for the Central District of California,
 21 hereby responds to the Court's order regarding the sentencing of
 22 Charles C. Lynch ("defendant") as set forth during the March 23,
 23 2009 hearing and March 27, 2009 telephone conferences in the
 24 above-captioned case:

25 1. The enforcement policies of the Department of Justice
 26 ("DOJ"), including those expressed by the United States
 27 Attorney's Office ("USAO"), or by Attorney General Holder on this
 28 topic, do not confer any rights or defenses on any person.



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) 514-2121

APR 17 2009

Hon. Thomas P. O'Brien
United States Attorney
Central District of California
United States Courthouse
312 North Spring Street, 12th Floor
Los Angeles, California 90012

Re: United States v. Charles C. Lynch, et al.,
No. CR 07-689-GW

Dear Mr. O'Brien:

This responds to your request for guidance in responding to questions from the court in the above-captioned case as to whether recent public statements by the Attorney General indicate a change in Department of Justice policy that would impact the sentencing of Mr. Lynch.

In response to your request, the Office of the Deputy Attorney General reviewed the facts of this case to determine whether the prosecution of Mr. Lynch comports with the Department of Justice's policies with respect to marijuana prosecutions. Based on the facts of this case, the Office of the Deputy Attorney General concurs with your office that the investigation, prosecution, and conviction of Mr. Lynch are entirely consistent with Department policies as well as public statements made by the Attorney General. Accordingly, you should seek to proceed with the sentencing recommendations which your office has filed with the court.

If you have any questions regarding any of the above, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Marshall Jarrett".

H. Marshall Jarrett
Director