

Alaskans can toké up for medical reasons, say feds

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WASHINGTON -- The Justice Department said Monday that it would mellow out on prosecuting medical marijuana users in 14 states, including Alaska, in which therapeutic pot smoking is allowed.

Breaking more definitively from the Bush administration, Attorney General Eric Holder formally directed federal prosecutors in Alaska, California, Washington and 11 other medical-marijuana states to refocus investigations on heftier targets.

"It will not be a priority to use federal resources to prosecute patients with serious illnesses or their caregivers who are complying with state laws on medical marijuana," Holder said.

At the same time, Holder stressed that "we will not tolerate drug traffickers who hide behind claims of compliance with state law to mask activities that are clearly illegal."

The newly clarified policy amplifies earlier Obama administration statements and puts more muscle behind them. The three-page memo sent to selected U.S. attorneys guides priority-setting for the White House-appointed prosecutors.

"Patients in Alaska no longer have to worry about arrest if they use medical marijuana," said Mike Meno, assistant director of communications for the Washington D.C.-based Marijuana Policy Project.

Alaska voters approved a ballot measure in 1998 allowing medical marijuana use. As a presidential candidate, Barack Obama declared that he wouldn't interfere with individual state decisions to permit prescription marijuana use, and Holder previously voiced similar sentiments. Within weeks of Obama's inauguration, though, federal Drug Enforcement Administration agents raided several pot dispensaries in Los Angeles.

Medical marijuana raids have occurred in recent months in San Diego, San Francisco and California's rural Lake County.

This year's raids resembled earlier Bush administration DEA raids, raising alarms about whether drug enforcement policies really had changed. An unsuccessful 2005 Supreme Court challenge by Oakland, Calif., resident Angel Raich left federal authorities with the power to prosecute medical marijuana use even in states that permitted it.

"The FDA has never approved marijuana as safe and effective for any medicinal use," the Bush administration's solicitor general, Paul Clement, advised the court in 2005.

In California, where voters adopted a medical marijuana program in 1996, records show that 24,258 user identification cards have been issued over the past five years. The true number of medical marijuana users in the state is probably closer to 300,000, said Dale Gieringer, the state coordinator of California NORML, the National Organization for the Reform of Marijuana Laws.

In Alaska, medical marijuana patients must register with the state and can only do so with a doctor's note asserting the person has been diagnosed with a debilitating medical condition that medical marijuana could help. The patient can register up to two qualified caregivers who would also be exempt from prosecution for marijuana possession in approved circumstances. The law prohibits medical marijuana use in public and in a way that endangers anyone else.

The patient and caregivers can not sell the marijuana or possess more than one ounce of marijuana in usable form and six plants, only three of which can be mature at once.

In Washington state, voters approved a medical marijuana initiative in 1998 that permits the possession or cultivation of a personal 60-day supply. It's a different system from that of California, where public dispensaries have proliferated. Alaska too has not developed a network of public dispensaries, said Allen St. Pierre of the National Organization for the Reform of Marijuana Laws.

The new policy memo is part of the priority-setting that happens in every new Justice Department. During the Bush administration, for example, federal prosecutors were encouraged to pursue child pornography and immigration cases.

Now, individuals "with cancer or other serious illnesses who use marijuana as part of a recommended treatment regimen" will not be deemed worthy of prosecution, the policy memo says. Neither are "those caregivers (who) in clear and unambiguous compliance with existing state law provide such individuals with marijuana."

"At least this is on paper," Gieringer said, "so perhaps it will make a difference in how (prosecutors) operate."

However, federal raids and prosecutions should continue when other potentially law-breaking circumstances exist, Holder stressed.

The unlawful possession of firearms, "excessive amounts of cash," possession of other controlled substances and questionable financial gains still might provoke prosecution. The policy appears consistent with some high-profile past prosecutions, including a case last year in which two Modesto, Calif., men were convicted of running a major pot dispensary that earned more than \$4.5 million.

Erika Bolstad contributed to this report.

