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U.S. eases stance on medical marijuana

Attorney general says prosecuting such cases 'will not be a priority'

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Tuesday, October 20, 2009

Attorney General Eric H. Holder Jr. directed federal prosecutors Monday to back away from pursuing cases against medical marijuana patients, signaling a broad policy shift that drug reform advocates interpret as the first step toward legalization of the drug.

The government's top lawyer said that in 14 states with some provisions for medical marijuana use, federal prosecutors should focus only on cases involving higher-level drug traffickers, money launderers or people who use the state laws as a cover.

The Justice Department's action came days after the Senate's second-highest-ranking Democrat introduced a bill that would eradicate a two-decade-old sentencing disparity for people caught with cocaine in rock form instead of powder form. Taken together, experts say, the moves represent an approach favored by President Obama and Vice President Biden to put new emphasis on violent crime and the sale of illicit drugs to children. Legislation that would cover a third administration commitment, to support federal funding of needle exchanges, is moving through the House.

The announcement set off waves of support from advocacy groups that have long sought to relax the enforcement of marijuana laws. But some local police and Republican lawmakers criticized the change, saying it could exacerbate the flow of drug money to Mexican cartels, whose violence has spilled over the Southwestern border.

In a statement, Holder asserted that drug traffickers and people who use firearms will continue to be direct targets of federal prosecutors, but that, on his watch, "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."

The turnaround could pave the way for Rhode Island, New Mexico and Michigan to put together marijuana-distribution systems for residents of those states, according to Graham Boyd, director of the Drug Law Reform Project at the American Civil Liberties Union. Advocates say marijuana use can help alleviate pain and stimulate appetite in patients suffering from cancer, HIV-AIDS and other ailments. But the American Medical Association since 2001 has held firm to a policy opposing marijuana for medical purposes.

Under the Controlled Substances Act, which is more than three decades old, marijuana remains within the category of drugs most tightly restricted by the government. Donna Lambert, who is awaiting criminal trial in San Diego County Superior Court for allegedly providing medical marijuana to another patient, injected a note of skepticism into Holder's announcement. In an interview, Lambert noted that senior administration officials had made public comments this year in line with the Justice Department policy, only to have law enforcement agents, including the Drug Enforcement Administration, take part in raids soon afterward.

Ethan Nadelmann, executive director of the Drug Policy Alliance, said he and other advocates will watch closely whether federal agents refuse to participate in raids or send other signals to district attorneys in the states that allow some medical use of marijuana.

Americans for Safe Access, which supports medical marijuana programs nationwide, estimated that during the Bush administration federal authorities conducted 200 raids in California alone. A 2005 U.S. Supreme Court case made clear that the federal government has the discretion to enforce federal drug laws even in states that had approved some relaxation of marijuana statutes for sick patients.

White House press secretary Robert Gibbs, at a daily briefing in Washington, declined to address "what states should do" in response to the Justice Department guidance. But Gibbs said that the president since January had outlined his medical marijuana policy and that the Justice Department memo, signed by Deputy Attorney General David W. Ogden, helped to fill in the details.

The administration stopped far short Monday of endorsing wholesale marijuana legalization, frustrating some activists. At the libertarian Cato Institute, official Tim Lynch described the war on drugs as a "grand failure." He exhorted the White House to take "much bolder steps to stop the criminalization of drug use more generally."

In the three-page memo, Ogden made clear that the department is not creating a new legal defense for people who may have violated the Controlled Substances Act. Instead, the memo is intended to guide prosecutors on where to train their scarce investigative resources.

The International Association of Chiefs of Police "strongly believes that the federal government must continue to play a central role in the investigation and prosecution of . . . traffickers, dispensary operators, and growers," said Meredith Mays, a spokeswoman for the group.

[Rep. Lamar Smith](#) (Tex.), the top Republican on the House Judiciary Committee, said the Justice Department guidelines "fly in the face of Supreme Court precedent and undermine federal laws that prohibit the distribution and use of marijuana."

He added: "We cannot hope to eradicate the drug trade if we do not first address the cash cow for most drug-trafficking organizations -- marijuana."

The cocaine bill is still pending in the Senate, although advocates say its prospects are stronger now

than over the past decade. The sponsor, [Sen. Richard J. Durbin](#) (D-Ill.), said in an interview last week that he was working to enlist GOP co-sponsors to ease the bill's passage.

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