

## Landlords threatened with property forfeiture

# DEA Raids Escalated in 2007

By Dale Gieringer

2007 saw a growing Drug Enforcement Administration offensive against California's cannabis clubs, with record numbers of raids, federal prosecutions, and threats of property forfeiture against dispensary landlords.

The campaign has put a damper on new dispensary openings across the state. At the beginning of 2007, the greater Los Angeles area had become the scene of a medical cannabis boom, with some 300 to 400 clubs opening in the past three years.

In July the DEA unleashed a potent weapon: letters to landlords who rented to Los Angeles dispensaries, warning that their property was subject to forfeiture for violating the Controlled Substances Act. An estimated 150 letters went out to LA property owners, depriving them of any claim that they were unaware of their tenants' businesses and making defense of their property virtually impossible under federal law.

The letters set off a panic among L.A. dispensaries, many of whom immediately made plans to move, shut their doors, or convert to delivery services. Some landlords took a relaxed view of the warnings, allowing tenants to remain on indefinitely. A few dispensaries sought to challenge their eviction in state court, a dubious defense against federal law. Skeptics viewed the letters as a cheap but effective bluff by the DEA, given the lack of actual charges from the U.S. Attorney's office. However, none could dispel the concern that such charges might be forthcoming.

Two weeks later, disgruntled LA cops teamed up with DEA agents to raid 10 Hollywood-area clubs. The raids were clearly aimed at disrupting the development of a legal distribution system, coming the same day that the City Council was scheduled to debate legislation to license cannabis clubs — and the same day that Congress voted down the Hinchey-Rohrabacher amendment to defund DEA medical marijuana raids.

Prominent among the raided clubs was the California Patients Group, a

center of political activism and L.A. headquarters for Americans for Safe Access. CPG's manager, Don Duncan, had been organizing local dispensaries, educating them in responsible management practices, and leading the campaign for a city licensing ordinance.

Although no arrests were issued in the L.A. raids, the clubs' merchandise and bank accounts were seized, with the threat of further criminal charges remaining.

One week earlier, the government had brought criminal indictments against five other dispensary operators in Southern California. Targets included facilities well regarded by patients and local officials for respecting state law, following good business practices, and paying taxes. In Morro Bay, the DEA raided Central Coast Compassionate Caregivers, the only dispensary on the Central Coast, arresting its owner Charles Lynch (Charles Lynch defense fund: www.friendsofcc.com). CCCC had been licensed under an ordinance of the city of Morro Bay, whose city council had given it strong support.

The San Luis Obispo County sheriff circumvented the city to help the DEA bust CCCC. Federal officials mendaciously charged Lynch with selling to minors, failing to note that the minors in question were either of legal age under Prop 215 (18) or else accompanied by parents. Local patients have filed a claim against the sheriff for cutting off their access to medicine.

In Bakersfield, the DEA raided Nature's Medicinal, one of the largest and most successful dispensaries in the state, and arrested its two owners, David Chavez, Sr. and David Chavez, Jr. plus six other employees. Nature's Medicinal was one of six medical cannabis coops licensed by the sheriff's department under a Kern County dispensary ordinance, but Kern Co. Sheriff Danny Youngblood cooperated with DEA to close the club. Youngblood then called for the closure of all Kern County dispensaries, saying that he could not in good conscience issue licenses to facilities that he was

obliged to raid. All of Kern County's remaining dispensaries shut down voluntarily.

### Who defines "profiteer"?

The DEA portrayed Nature's Medicinal as profiteers, claiming that they had sold \$9.6 million in marijuana in nine months. In fact, the indictment shows that Nature's Medicinal made \$9.5 million in sales during 2006, but spent \$7.8 million of that on product. In addition, Nature's Medicinal paid substantial payroll, taxes, and overhead. Nature's

*Federal agents raided 53 California medical-marijuana growers and dispensaries in 2007 — up from 20 in 2006.*

River City Patients' Center in Sacramento, acknowledged by both patients and police as a model dispensary. In a departure from recent practice, DEA conducted the raid without cooperation from local police. Agents targeted



MEDICAL MARIJUANA USERS protest the DEA raid on Healing Nations Dispensary.

Medicinal had 25 employees who were receiving health benefits with the company and who were subsequently jailed or unemployed due to the raid.

In Corona, the DEA arrested Ronald Naulls, owner of Healing Nations Collective, one of the few dispensaries in Riverside County (see story on page 42). Naulls, too, had paid taxes conscientiously, and the DEA used his gross receipts to portray him as a profiteer. Naulls' attorney, James Anthony, thinks Corona's attempt to ban dispensaries encouraged the DEA to act. Riverside County law enforcement, notorious for their hostility to Prop. 215, took part in the raid.

On Sept. 27 the DEA cracked down beyond Southern California, raiding

River City owner Bill Pearce, 60, an experienced businessman who had led efforts to organize local dispensaries to operate responsibly, follow good business practices, and open their doors for inspection to authorities.

Although Pearce has not (yet) been criminally charged, the federal government moved to seize his business, personal property, and family home, acquired years ago when he was in other, legal business. Pearce had paid River City's sales tax the day before the raid — \$35,000 to the state board of equalization.

The Sacramento raid was part of a broader federal crackdown by the U.S. Attorney's office in the Eastern District of California, which stretches from Sacramento north to Siskiyou County and south to Bakersfield. The office is run by McGregor Scott, a former Shasta County district attorney who helped organize opposition to Prop 215 and was the only federal prosecutor in California retained by the Bush Administration during the spate of politically motivated firings that led to Alberto Gonzales's departure as Attorney General.

### Feds taking small-time cases

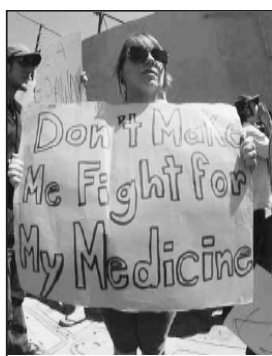
Scott's office has begun to take up cases involving small quantities that would normally be tried in state court. Michael Lombardo, 49, was federally arrested Sept. 11 for a modest, five-patient garden in Nevada County involving 65 to 100 plants, far below the longstanding 500- to 1,000-plant threshold for federal prosecution.

While Lombardo's garden was arguably legal under California's medical marijuana law (he was growing for five documented patients), no medical defense is available to him under federal law — and the penalties involved are extremely onerous. The federal government has filed to seize Lombardo's home, legally acquired years ago.

Other growers in the Eastern District who face federal attempts to seize their homes — despite legal status as

*continued on next page*

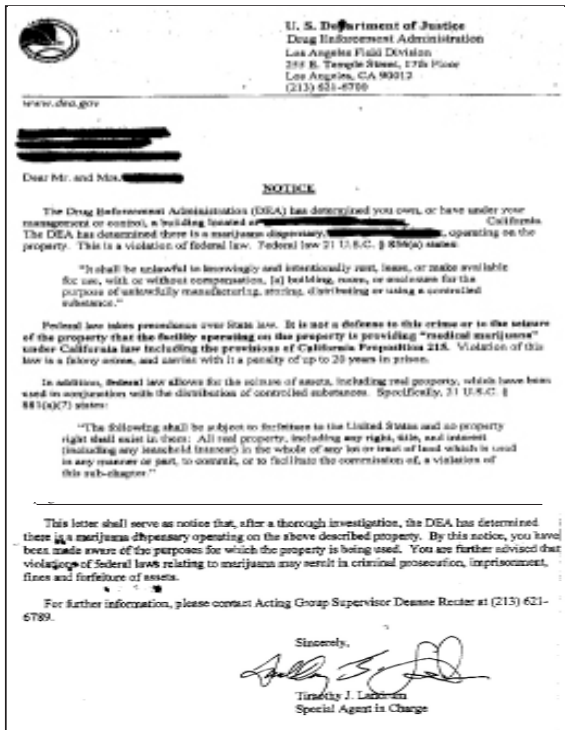
## Confrontation in L.A.



The California Patients Group in Hollywood was one of 10 Los Angeles area dispensaries raided in late July. DEA agents in Robocop combat gear were aided by LAPD officers. As word spread that staffers were being arrested, supporters arrived to protest. Some sat down in the driveway to prevent DEA agents from taking CPG staffers into custody. "The LAPD set up police lines around us and would not let anyone else join us," according to one protester. "Apparently, three undercover cops that were in the crowd as protesters jumped one of the patients. They tackled this guy, and when they were all bent over you could see two of them had radios and one of them had cuffs on the back of his belt. And they were immediately surrounded by the LAPD and they began pushing people back because we started yelling at them, shouting "DEA GO AWAY!" Five people were arrested.

Photos by Shay Sowden

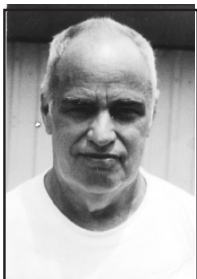
**Raids Escalated** from previous page



caregivers under Prop 215— include a Plumas County couple, Jeff Sanderson and Alice Wiegand (who are both also facing criminal charges); Ron Hennig of Siskiyou County; James Robertson of Butte County; and Patricia Hatton, also of Butte County. Hatton's attorney, Jodea Foster, denounced the federal charges as "legal extortion."

In other Eastern District cases, defendants with modest gardens were snatched up from state court and hauled off to jail on federal charges as their state charges were dismissed. Examples include Gordon Rasmussen, charged with a 210-plant caregiver garden in Chico, and Donato Canceleno, a 63-year old disabled patient with a similar garden in Madera County. While each might have been found innocent under state law, they have no defense under federal law and face a potential five-year mandatory minimum for growing more than 100 plants.

The Eastern District has been notorious for imposing harsh sentences in medical marijuana cases. Examples include Dustin "DC" Costa of Modesto, ordered to prison for 15 years, the longest sentence ever for a Prop 215 defendant; and Bryan Epis, currently appealing a 10-year mandatory minimum for attempting a small patient co-op in Chico. Mollie Fry, MD, and Dale Schafer were



Dustin Costa, whose Modesto grow was legal under state law, is doing 15 years in federal prison.

found guilty of cultivation and are facing five-year mandatory minimums for their 215 patient center in El Dorado County. (See story on page 36).

**Bay Area Hit**

The federal crackdown has also hit the San Francisco Bay Area, a bastion of support for medical marijuana, where many communities have ordinances permitting dispensaries. On Oct. 30 the DEA raided Compassionate Caregivers of Alameda County, the largest of three licensed dispensaries in the county, arresting its owners, Abraham and Winslow Norton. The sheriff's office, which had previously promised to protect licensed clubs from DEA busts, said they had no choice but to cooperate with the investigation. The sheriff cited various complaints involving the club, including street sales, robberies, noise, and a shooting.

Federal officials emphasized the large scale of the operation, which totaled \$21.5 million in sales in 2006 and nearly twice as much in 2007. Attorneys argue that CCAC abided by all regulations and followed responsible business practices. CCAC paid an estimated \$3 million in state sales taxes since 2005, including a \$350,000 check to the Board of Equalization that was cancelled by the DEA in seizing the club's assets. Their business had increased heavily due to the forced closure of nearby clubs, notably the Local Patients Group in Hayward. In turn, CCAC's closure will increase demand at the dwindling number of dispensaries elsewhere in the East Bay.

In San Mateo, local law enforcement called in the DEA to shut down three dispensaries that had opened up in the past year. The city of Visalia moved to close down its only dispensary, citing concerns that it was not fully abiding by a local ordinance.

The DEA has expanded its campaign of landlord letters with dramatic results. In Santa Barbara, which was a quietly flourishing haven of 19 dispensaries, threatening letters have left only a couple still in business. Landlord letters have also begun to hit Orange County, Long

Beach, and Sacramento, where a similar decline in dispensaries may be imminent. In Hayward, a once flourishing medical cannabis center, city officials forced the last remaining club to close after it failed to find a suitable site for relocation.

As this issue was being laid out in December, the DEA sent letters to landlords in San Francisco, birthplace of medical marijuana clubs, ending a two-year respite from federal interference. Supervisors Chris Daly, Ross Mirkarimi, Tom Ammiano, and Assemblyman Mark Leno were among the officials expressing dismay that the DEA was showing disregard for the regulatory scheme adopted by the city.

Early casualties of the letters included two of the city's longest-established clubs, the San Francisco Patients' Resource Center at 350 Divisadero St, which had served as a community center for patients and advocates since 1999, and the Compassion and Care Center at 194 Church St, where Dennis Peron set up his original Cannabis Buyers' Club in 1993, the longest-operating dispensary site in the nation.

**Glimmer of relief**

House Speaker Nancy Pelosi released a statement from House Judiciary Committee Chairman Rep. John Conyers, promising to "sharply question" the DEA's tactics at oversight hearings. "I am deeply concerned about recent reports that the Drug Enforcement Administration is threatening private landlords with asset forfeiture and possible imprisonment if they refuse to evict organizations legally dispensing medical marijuana to suffering patients," said Conyers.

The prospect of meaningful oversight hearings offers a glimmer of relief from the DEA surge. According to ASA, 2007 has seen 53 DEA raids, up from 20 last year and 19 in 2005. In their final year of office, Bush administration drug warriors have no incentive to let up.

Medical marijuana supporters take heart from the fact that all of the Democratic candidates for President have pledged to halt the DEA raids.

A few dispensaries have begun to open in states outside of California, including Colorado and Washington.

If history (not to mention medical science) is any guide, the government's



Kim Stabnan, a receptionist at River City Patients Center, joined the protest after being grilled by DEA agents.

**Rep. Conyers promises to "sharply question" the DEA's forfeiture threats at Congressional oversight hearings.**

crackdown should be followed by a new resurgence of medical cannabis outlets. Meanwhile, several hundred California property owners have to decide how to respond to the federal forfeiture threats.

Not a one has been hit with forfeiture charges yet. In order to initiate a forfeiture, the government would presumably first raid the tenant purveying the cannabis. Although there have been numerous DEA raids since the letters went out, and even some major busts, no forfeiture charges have been filed. The threatening letters may simply be a cost-efficient way to close some clubs.

However, there are no signs of an imminent let-up in the government's offensive. The recent appointment of Joseph Russoniello as U.S. Attorney for Northern California is not a good omen for cannabis clubs. Russoniello, who held the same post under the Reagan administration, promoted federal funding of the CAMP eradication program and was notorious for seeking tough sentences in drug cases. Defense attorneys are likely to employ delaying tactics in court during the final year of the Bush regime.



ALAMEDA COUNTY SHERIFF'S DEPUTIES guarded the perimeter as DEA agents raided Compassionate Caregivers of Alameda County.