



STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL
BILL LOCKYER
ATTORNEY GENERAL

September 23, 2002

The Honorable Gray Davis
Governor of the State of California
State Capitol, First Floor
Sacramento, CA 95814

Re: Proposed Legislation Regarding Medicinal Marijuana (Proposition 215)

Dear Governor *Gray* Davis:

I understand that you have publicly expressed an interest in working with me to help resolve the differences between the people of California and their federal government on the issue of the regulation of medicinal marijuana and the implementation of Proposition 215. Your interest and leadership would bring powerful and welcome influence to the effort to bring an end to this rapidly escalating disagreement. I am writing to thank you, to offer you my active partnership in this endeavor and to briefly discuss my view of the problem.

On November 6, 1996, the people of the State of California enacted Proposition 215 entitled the Compassionate Use Act of 1996 (codified in Health and Safety Code section 11362.5), in order to allow seriously ill residents of California, who have the recommendation of a physician, to cultivate and use marijuana for medical purposes without fear of criminal liability. Health and Safety Code section 11362.5 encourages "the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana."

However, since 1996, and particularly recently, the implementation of Proposition 215 has become increasingly challenged as a result of the conflict between state and federal law regarding the legality of marijuana. There have been several seizures of marijuana in California by the Federal Drug Enforcement Administration ("DEA") from persons claiming to possess marijuana in compliance with Proposition 215. In at least one of these cases, the DEA seized marijuana from people who were working with local law enforcement to ensure compliance with California law. I am deeply concerned about such seizures of marijuana from, and arrests of, Californians by the federal officials, especially in cases where the United States Attorneys are not

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initiating any prosecutions. I am attempting to work with the United States Attorney John Ashcroft and DEA Administrator Asa Hutchinson to resolve the problems created by this conflict between state and federal law.

Contributing greatly to our current predicament are the ambiguities and uncertainties created in the drafting of Proposition 215 that have impeded the ability of law enforcement officers to enforce the provisions of the Compassionate Use Act and the ability of citizens to know how to comply with the law. These problems include: identifying individuals who have the proper recommendation by a physician, setting standards for how much marijuana can be possessed or cultivated by persons having differing medical conditions, and establishing appropriate standards for physicians and professional licensing boards. In the absence of clarifying and corrective legislation, these problems are being addressed differently in the various local jurisdictions, rather than uniformly statewide.

At least one DEA spokesperson has stated publicly that California may actually invite additional attention in federal marijuana enforcement efforts precisely because its medicinal marijuana law is poorly written compared to the laws of other states. While I believe it is essential that the federal government review, reconsider and revise its regulation of medicinal marijuana soon, it is within the power of California lawmakers to solve our own problems now, and we should do so.

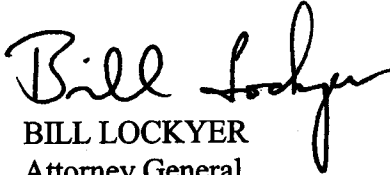
I can assure you from my own discussions and correspondence with hundreds of California police chiefs, sheriffs and other law enforcement leaders over the last three years, that a powerful majority in California law enforcement supports the effort to correct the flaws in Proposition 215 and make it work. Law enforcement was well-represented on the Proposition 215 Task Force convened under the auspices of my office in 1999. Their consensus recommendations are the basis for clean-up legislation carried by Senator John Vasconcellos in the last two legislative sessions. Much preparatory work has thus already been completed.

Today, I invite you to join with me in exercising our leadership roles by proposing comprehensive legislation to address the problems created by the ambiguities of Proposition 215. By reviewing the legislation of other states, and once again seeking the input of various knowledgeable, interested persons and groups, we will be able to better express the intent of the voters, provide the statewide consistency reasonably expected by law enforcement and the citizens of California, and ensure that valuable law enforcement resources are being expended on preventing, investigating and prosecuting serious criminal conduct. I would be happy to meet with you or you could designate a lead person from your office to contact Special Assistant Attorney General W. Scott Thorpe at (916) 324-5294, or by e-mail at scott.thorpe@doj.ca.gov.

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I look forward to our joint effort in addressing and solving these significant issues.

Sincerely,


BILL LOCKYER
Attorney General