

WASHTENAW COUNTY: Law enforcement has remained consistent despite growth of medical marijuana dispensaries

Published: Monday, October 03, 2011

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Medical marijuana or employment - a tough decision for some

Legislature, Attorney General propose fixes to medical marijuana law

Steve Hiller's job at the Washtenaw County's Prosecutor's Office is to evaluate cases brought forth by law enforcement, determine whether criminal charges can be brought and then see it through the courts.

That job hasn't changed since Michigan voters approved the **2008 Medical Marijuana Act allowing for medicinal use of the drug for qualified patients.**

Despite the growing network of medical marijuana dispensaries in Washtenaw County, Hiller said he hasn't noticed a trend upward or downward for marijuana-related cases and, for the most part, he sees law enforcement evaluating arrests on a case-by-case basis like they have always done.

"I don't know that there is a trend or any kind of large difference between what we were seeing before, what we're now seeing after the act was approved in 2008," said Hiller, an assistant prosecuting attorney.

"And I don't see any kind of changes since **the McQueen decision.**"

The Court of Appeals ruling in State of Michigan vs. Brandon McQueen and Matthew Taylor, owners of Compassionate Apothecary, has disrupted the landscape for medical marijuana cooperatives by effectively outlawing patient-to-patient sales, of medical marijuana. The Mount Pleasant dispensary is now closed as the court ruled that McQueen and Taylor were operating outside of the boundaries of the Michigan Medical Marijuana Act and were in violation of the state's Public Health Code.

Hiller said they, like everybody else, are going to be monitoring the progression of various court cases that will hopefully better define a statute that, he says, "... you could drive trucks through."

"It's a confusing statute," said Hiller. "I don't know whether it was written to be confusing, but if that is the case than they did an excellent job of it."

Hiller expects the Michigan Supreme Court to uphold the Court of Appeals ruling. He said the court issued a measured and well-reasoned opinion.

While raids on two Ann Arbor dispensaries happened just a few days after the Aug. 23 Court of Appeals decision was issued, Lt. Wynonia Sturdivant from the Livingston and Washtenaw Narcotics Enforcement Team, or LAWNET, said those actions were not in any way connected to the court ruling.

As with all cases involving the hazy guidelines between the legal, medical use of marijuana and the abuse of the 2008 Michigan Medical Marijuana Act, Sturdivant said every case is based on investigation and taken one at a time.

"Those were cases that were initiated weeks prior to that Court of Appeals ruling," Sturdivant said. "I can tell you that the dispensaries operated outside the guidelines of the state law selling their product, and on that avenue it was addressed."

There have been no raids conducted since.

Sturdivant echoed Hiller's comments that in Washtenaw County, at least, she hasn't noticed an uptick in marijuana-related arrests despite the explosion of dispensaries throughout the state.

Statewide numbers, however, do indicate an upward trend from 2008 to 2009. After the Michigan Medical Marijuana Act was passed, there were approximately 1,000 more marijuana-related arrests in Michigan, according to statistics from the FBI.

But Sturdivant is quick to point out that LАWNET has not dedicated any more resources toward monitoring the growing medical marijuana culture and those who abuse the Medical Marijuana Act.

"We still address narcotics in all areas whether being street sales or whatever," she said. "It's not like as if the focus has changed or shifted."

Michael Komorn, a Southfield attorney and board member of the Michigan Medical Marijuana Association, says there are other concerns proponents of the Medical Marijuana Act have with law enforcement not the least of which being some police agencies attempting to enforce federal law. The use of any marijuana is still illegal, according to the federal government, and continues to be listed as a Schedule 1 drug, according to the Drug Enforcement Agency.

"It amazes me about the judges and police officers that think they're enforcing federal law. That's not the case," Komorn said. "They are sworn to uphold state law, and they cannot waiver by their own personal or philosophical beliefs as to which one they're going to enforce. That's not what this law was designed for, that's not what they took an oath to do.

"Those things go on all the time."

In an attempt to educate, Komorn said those in the medical marijuana community have been reaching out to law enforcement rather than protesting. And what gets lost in the legal shuffle is the fact that this mechanism that allows qualified patients to ease pain and suffering is a basic human rights issue, not a legal issue, said Komorn.

"I can tell you that the medical marijuana community has been trying to show that this actually works," he said. "The challenges for cultivators, the challenges for patients, the various methods of ingestion, the forms of ingestion and things like that.

"There has been a tremendous effort, but a lot of it falls on deaf ears, and much of the approach by the state has been to not be responsive."

Komorn does say, however, that supporters of the legal use of medical marijuana as defined in guidelines provided in the Medical Marihuana Act and law enforcement totally agree that those operating outside of the law should be arrested and prosecuted.

"There are people who engage in illegal activity and try to hide behind the MM act, but we do not embrace those people," Komorn said. "We want those people prosecuted."

If there is one sentiment everybody can agree on whether it be patients, caregivers, law enforcement or state legislators, the Michigan Medical Marijuana Act needs to be addressed and more clearly defined.

There are a dozen pieces of legislation currently working their way through the House and Senate that seek to amend the Medical Marihuana Act. Most of the bills offer stricter guidelines to the framework of the patient-caregiver system, including establishing qualifications for medical marijuana caregivers, outlining the bona fide patient-physician relationship when it comes to medical marijuana, prohibiting felons from being primary medical marijuana caregivers, require photos on medical marijuana registration cards, and restricting transfers of medical marijuana and limit the legal defenses among others.

There is also a bill proposed to outlaw medical marijuana bars and clubs, or dispensaries.

Hiller said there always is an initial period of time when a new law gets more clearly defined in the courts and through legislation and the Medical Marihuana Act is no different. In the meantime, they will continue to enforce the law as it currently stands.

"It will take some time. (The McQueen decision) is the law in the state right now. If the Supreme Court overrules that, which I think is very unlikely, or if the Legislature amends the statute then we will adjust for that."