

Medical marijuana numbers decline

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While Colorado is smoking pot — medical and recreational — by the ton, according to a recent report, the number of medical marijuana patients in Livingston County has decreased.

Proponents of medical marijuana say this is due to intimidation by law enforcement.

“Individual communities within each county are permissive or restrictive based on their own beliefs,” said Rick Thompson, editor and blogger for The Compassion Chronicles. “Howell

is not pleasant toward medical marijuana patients, but Livingston County rural areas are not quite as difficult.”

Thompson said his opinion is based on “patient testimonials” and statistics.

Some of those statistics can be found in the Michigan Department of Licensing and Regulatory Affairs’ annual report, which shows that the number of medical marijuana patients decreased to 1,786 in 2013 — a 4 percent drop from the prior year and a 22 percent drop from 2011.

However, the use of the illegal drug appears to be alive and well, as Michigan State Police statistics show that an estimated 73 percent of all 2012 drug arrests in Livingston County were marijuana-related, which Thompson said bolsters the perception law enforcement is unduly targeting marijuana, which he calls a “victimless crime.”

“It’s not an addiction issue like heroin,” he explained. “I would rather have police concentrate on drugs that lead to death and violence, not marijuana. ...

“If I were a drug officer, I can choose to pursue marijuana operations or methamphetamine operations,” Thompson added. “I’m not saying marijuana is something they should not pay attention to, but on a grand scheme of things, pursuing marijuana to 74 percent means there must be other dangerous drugs not being given attention.”

LAWNET — the Livingston and Washtenaw Narcotics Enforcement Team — is the multijurisdictional agency tasked with investigating illegal drugs in Livingston County.

Commanders and officers of undercover drug units like LAWNET typically do not provide information to the media about their investigations and seizures because they say it will compromise an ongoing investigation or their ability to work confidential informants.

According to LAWNET statistics, the group in 2013 seized about 2,452 pounds — including plants — of marijuana, a 13 percent decrease from the prior year and a 41 percent decrease from 2009.

The perception in the medical marijuana community, Thompson noted, is that LAWNET officers are specifically targeting medical marijuana patients and/or caregivers.

However, Livingston County Prosecutor William Vaillencourt said that is not true.

“They respond to complaints. If they get a complaint someone is growing (marijuana or) ... selling a controlled substance, they will look at it and investigate,” he said. “I think most people appreciate knowing (LAWNET) is investigating a drug house in their neighborhood.”

Enforcing the law

Vaillencourt said when officers encounter someone who claims he or she is a registered patient or caregiver under the Michigan Medical Marijuana Act, they have a duty to investigate that the person is following the law.

If the person is in compliance with the law — which limits the amount of marijuana a person can possess, who has access and how it's stored — then the officers have the discretion “to say, ‘Have a nice day,’ and be on their way,” Vaillencourt said.

“If they're not in compliance ... then that's a violation, and police will seize (the marijuana),” he added. “We'll look to see if it's truly in compliance, and if not, how significant the violation — if it's a few plants over or not properly segregated.”

Vaillencourt said there have been instances where officers presented a medical marijuana case, but his office has declined to issue charges either because it's within the law or it's a “technical violation.” If the latter, Vaillencourt said his office may not authorize charges if it's not an appropriate use of resources.

The bottom line with the existing Michigan law, Vaillencourt said, is it's premised on conduct that is “ultimately illegal under federal law.”

“That's something that can't be overcome as long as federal law and state law is inconsistent,” he noted.

Attorney Michael Komorn, whose Southfield practice focuses on defending medical marijuana patients and caregivers, said the state law was written “with a broad shield of protection in mind,” but what lawyers are seeing is a “strict, limited application” of the law.

“I think it's silly,” he said. “There's a lack of education and no real programs to educate the law enforcement community. ... There is no legitimate attempt by the government or law enforcement to look at it different.”

Komorn, a board member of the Michigan Medical Marijuana Association, said he believes teams like LAWNET continue to misapply the law because “forfeitures continue to fund them.”

As an example, Komorn cites a client's situation in which undercover officers went to the client's home, but his son, who was home alone, denied them access. Komorn said the undercover officers, who were looking for someone wanted on a warrant, threatened to call Child Protective Services. When that didn't work, he said, they returned the next morning with a search warrant based on the allegation they “smelled marijuana.”

Komorn said his client, a registered medical marijuana caregiver, “was in compliance” with the state law when officers “kicked his door in.”

“They were looking to turn it into a crime,” the attorney said.

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