

FROM DAVID EVANS WHO WORKS ON THE MEDICAL MARIJUANA ISSUE ACROSS THE COUNTRY

The advocates of "medical" marijuana claim that the Obama administration will no longer prosecute "medical" marijuana sellers because US Attorney General Holder made a statement that was interpreted to mean that they would not. This is not true as the below case indicates. A document from the Justice Department in the case is attached. Please note that the document states:

The enforcement policies of the Department of Justice ("DOJ"), including those expressed by the United States Attorney's Office ("USAO"), or by Attorney General Holder on this topic, do not confer any rights or defenses on any person.

DOJ Stonewalls Judge Wu in Charles Lynch Medical Cannabis Case
by [Brinna](#) | April 17, 2009 at 09:56 pm

When incoming Attorney General Eric Holder was asked during a news conference, whether he would continue the Bush policy of raiding Medical Cannabis clinics, **he said no**, and then later on elaborated that cannabis dispensaries that were in compliance with state law would not be targeted.

This statement came a little late for **Charles C. Lynch**, the Moro Bay businessman who ran a medical cannabis dispensary which was raided and shut down by the DEA. Though the clinic was licensed by the city of Moro Bay, and operated in full compliance with California State law, a **local sheriff**, who **"did not believe in Medical Marijuana"** staked out the clinic for over a year, looking for illegal activity. When he couldn't find any, he called in the DEA. According to Federal law, all sales of cannabis, even for medical purposes, are illegal. The DEA arrested Lynch. He was brought to trial in Federal Court, where no mention of medical cannabis is allowed. Lynch was convicted on all five counts of trafficking in an illicit substance, and selling to minors (although the only minors he sold to were legitimate medical cannabis patients with physician's recommendations who were over 18 years of age, or accompanied by parents). For this, Lynch faces 5 – 100 years in Federal prison.

After Holder's statement which indicated an apparent softening of Federal policy, Judge George Wu, who is presiding over the trial of dispensary owner Charles C. Lynch, wrote to the Justice Department asking for clarification of the Justice Department position, prior to sentencing. Not wanting to let go of this fish, Department of Justice director H. Marshall Jarrett, wrote a carefully worded statement, that was anything but a clarification. In a letter, sent to the prosecuting attorneys, Jarrett says:

"In response to your request, the Office of the Deputy Attorney General reviewed the facts of this case to determine whether the prosecution of Mr. Lynch comports with the Department of Justice's policies with respect to marijuana prosecutions. Based on the facts of this case, the Office of the Deputy Attorney General concurs with your office that the investigation, prosecution, and conviction of Mr. Lynch are entirely consistent with Department policies as well as public statements made by the Attorney General. Accordingly, you should seek to proceed with the sentencing recommendations which your office has filed with the court."

The content of the Holder's statement was not referenced in the above, nor were any DOJ policies clarified. Basically, Jarrett blatantly ignored Wu's request for elaboration, and made sure that the sentencing would simply go ahead as planned.

Additionally, a court brief entitled, *Government's Response to Inquiry by the Court Regarding Sentencing*, dated April 17th, and filed by the prosecution, stated the following:

The enforcement policies of the Department of Justice (“DOJ”), including those expressed by the United States Attorney's Office (“USAO”), or by Attorney General Holder on this topic, do not confer any rights or defenses on any person.

The rest of the brief was a reiteration of Jarrett's letter, plus a statement that sentencing would proceed on April 23rd.

If Judge Wu hoped the DOJ response would shed additional light on the conflict between state and federal law, he must be sorely disappointed.