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BULLETIN TO ALL CALIFORNIA LAW ENFORCEMENT AGENCIES

On Monday, June 6, 2005, the United States Supreme Court issued its decision in *Gonzales v. Raich*. The Supreme Court held that the Ninth Circuit Court of Appeals had erred in reversing a District Court decision that had denied plaintiff marijuana users' request for a preliminary injunction. The preliminary injunction would have prohibited the enforcement of the federal Controlled Substances Act to the extent that Act prevented the plaintiffs from possessing, obtaining, or manufacturing marijuana for their personal medical use as authorized under California's Compassionate Use Act of 1996 (Proposition 215). In its decision, the Supreme Court found the federal law to be a valid exercise of Congress' legislative power, but did not address the validity of California's Compassionate Use Act.

Legal staff in our office have reviewed carefully the *Raich* decision, and it is our opinion that California's Compassionate Use Act is not preempted by federal law (the Controlled Substances Act) as a result of this decision. Therefore, it is our conclusion that the use of medicinal marijuana under state law is unaffected by *Raich*. Accordingly, California law enforcement agencies should not, because of *Raich*, change their current practices for the non-arrest and non-prosecution of individuals who are within the legal scope of California's Compassionate Use Act.

If warranted by further developments, we will send out additional bulletins on this important subject.

If you have any questions about this subject, please contact Special Assistant Attorney General Scott Thorpe at (916) 324-5294.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Anderson".

ROBERT ANDERSON
Chief Assistant Attorney General

For **BILL LOCKYER**
Attorney General