



# Americans for Safe Access

Activist Newsletter

*Defending Patients' Access to Medical Marijuana*

May 2011

Volume 6, Issue 5

## Maryland Poised to Be 16th Medical Cannabis State *Legislature Passes Bill, Governor Says He'll Sign*

Maryland should soon join 15 other states in saying patients who use cannabis on the advice of their doctors are not criminals. The Maryland House of Delegates this month passed SB 308, an amended version of an earlier bill that was sent to them by the state Senate. Aides to Governor Martin O'Malley have said that he will sign the measure.

SB 308 provides an affirmative defense at trial for qualified patients charged with the non-public use or possession of one ounce or less of marijuana.

"With the passage of this bill, the General Assembly has let seriously ill patients know they are not criminals for seeking relief from their pain and suffering," Senator David Brinkley, the primary sponsor of the Senate bill, told the media.

Currently, patients who are charged with possession or use of cannabis can present a limited "medical necessity" defense that can reduce their conviction to a misdemeanor with a \$100 fine. Medical cannabis patients testified before that Maryland legislature that they suf-

fered hardship as the result of having a criminal record, including losing their jobs.

Patients who don't qualify for the full affirmative defense under the new law will still have the opportunity to present evidence of medical necessity under the old one.

Americans for Safe Access and other patient advocates urged legislators to pass a more robust version of the bill that would have protected patients from arrest and established a state-run production and distribution system. That version was diluted due to objections from the new administration's Department of Health and Mental Hygiene and House committee members.

ASA helped craft the compromise bill, including a provision that creates a state work group to develop a model program for future legislation that would protect patients from arrest and establish a system of licensed cultivation and distribution.

"Maryland medical cannabis patients shouldn't fear the shame of arrest or the cost of pros-

ecution," said Kristen Ford of Americans for Safe Access. "We are eager to work with the health department and the legislature to craft a more patient-friendly bill next year."

Once signed by Gov. O'Malley, Maryland's new medical cannabis law will take effect June 1.

## SAN DIEGO FACES SUIT OVER ORDINANCE

After San Diego officials last month created a de facto ban on distribution facilities in the city, Americans for Safe Access notified the city attorney that the new ordinance violates due process rights of medical marijuana collectives and cooperatives. The ordinance would force more than 100 facilities to close within 30 days and leaves few options for relocation.

The letter from ASA Chief Counsel Joe Elford formally asked the city to amend the ordinance to allow "medical marijuana collectives to operate in most commercial and all industrial zones" and increase "the period to obtain a conditional use permit to one year."

"The city of San Diego has an obligation to allow qualified patients to obtain their medicine," said Elford. "If they don't ease the restrictions, we'll take them to court."

In passing the restrictive ordinance, the city council ignored virtually all of the requests for changes, including those of its own medical cannabis task force.

The council and mayor received nearly 4,000 letters in support of allowing distribution centers for patients, more than city officials had ever received on any issue.

Members of ASA San Diego delayed the council's action with civil disobedience that led law enforcement to close the chambers and cut off power. The activists dumped empty medicine bottles in front of councilmembers, linked arms on the floor, chanting "we demand safe access" and singing "We Shall Overcome."

The council voted 5-2 for the ordinance, which went into effect without the mayor's signature.

## Two Calif. Patients to Begin Federal Prison Terms

On Monday, May 2, at 2pm, medical cannabis patients Dr. Mollie Fry and her husband, attorney Dale Schafer, will turn themselves in to federal authorities in Sacramento, California to begin serving five year prison terms for cultivating cannabis.

Their family and friends, advocates from Americans for Safe Access, and other supporters will hold a rally and press conference at the federal courthouse in Sacramento beginning at 1pm.

A clemency petition was filed at the end of April on their behalf in the federal Eastern District Court of Sacramento and sent to President Obama in an effort to avoid or shorten their imprisonment.

Dr. Fry and Mr. Schafer were prosecuted in federal court for cultivating cannabis, though they were both qualified patients and never had more than 44 plants. Federal prosecutors

successfully argued that they were guilty of felony cultivation and conspiracy that carries five-year mandatory minimum sentences because the number of plants they would have grown over several years added up to more than 100.

Dr. Fry used cannabis to ease the effects of chemotherapy used to treat breast cancer; she had a radical mastectomy in 1997. Her experience led her to start a specialized clinic for medical cannabis patients.

Mr. Schafer, an attorney, used cannabis to manage chronic back pain and symptoms related to his hemophilia. A candidate for district attorney in Eldorado County in 2001 and a contributor to the county's guidelines on cultivation, Schafer also taught cultivation classes for other patients and provided free medicine.

On September 28, 2001, more than 20 state  
*(continued page 2)*

# Federal Raids in Washington State

## ASA Training Becomes Rapid Response

Federal raids on medical cannabis patients continued in April, with agents from the federal Drug Enforcement Administration staging simultaneous raids on three medical cannabis distribution centers in Spokane, Washington.

The raids came as state lawmakers considered SB 5073, a bill to modify the state's medical cannabis law to establish a licensed system of distribution for qualified patients. Federal agents also conducted simultaneous raids in Montana a month ago as lawmakers there considered a bill to modify the state's medical cannabis program.

Earlier in the month, the US Attorney for the area, Michael Ormsby, threatened landlords who rent space to medical cannabis distribution centers with federal seizure of their properties if they didn't evict the tenants. Ormsby also sent a letter to Gov. Chris Gregoire threatening state officials with criminal prosecution if a distribution licensing system was adopted.

"Federal intimidation tactics are nothing new in states with medical cannabis programs," said ASA Executive Director Steph Sherer, who

was in Spokane for meetings with local activists when the raids took place. "But tampering with the democratic process and threatening state officials is simply outrageous."

Word of the raids came in as Sherer was conducting a training in Spokane on raid preparedness and response in conjunction with the Cannabis Defense Coalition. Sherer and the assembled activists immediately went to the locations to lead protests. Further training and stakeholder meetings with Sherer followed over the next two days.

Gov. Gregoire subsequently vetoed the portions of the bill that would have established a system of uniform regulation of distributing medical cannabis, citing the federal threat to state employees. In doing so, she called on federal officials to place cannabis in the same category as other prescribed medications.

The Justice Department has directly threatened public officials in California, Colorado, Hawaii, Montana and Washington in attempts to block the implementation of state and local regulations on medical cannabis.

*(Dr. Fry, continued from page 1)*

and federal agents raided their home and offices, seizing 34 plants and less than 2 pounds of cannabis. Dr. Fry's private patient records were also seized.

Nearly four years later, in June 2005, Dr Fry and Mr. Schafer were arrested on federal charges of manufacturing and conspiracy to

manufacture and distribute marijuana. They were convicted at trial in August 2007 and sentenced by U.S. District Court Judge Frank Damrell to 5 years each. They also had their licenses to practice medicine and law revoked.

They lost their appeal in November 2010, and in March Judge Damrell ordered them to surrender on May 2nd.

### ACTION ALERT: Clemency for Mollie & Dale!

Dr. Mollie Fry and Dale Schafer don't deserve to go to prison for treating their conditions or helping other patients. Mollie and Dale are asking the U.S. government for clemency, and they need your help. President Obama holds the key to their freedom. Go to [AmericansForSafeAccess.org/clemency](http://AmericansForSafeAccess.org/clemency) and ask him to end this injustice today.

## OBAMA GETS "F" ON ASA REPORT CARD

ASA last month released its report card on President Obama's medical cannabis policy. He received an "F".

As evidence that the Obama Administration has failed to live up to the President's promises, the report card highlights ongoing raids, continuing prosecution of patients and providers, new strategies aimed at distribution centers, continuing threats to property owners, and intimidation of state officials.

"While the prevailing public perception is that President Obama has addressed the issue of medical cannabis," the report notes, "that perception could not be further from the truth."

The report card was issued in conjunction with protests organized by ASA in San Francisco, as President Obama launched his re-election campaign. Patients and supporters rallied at a breakfast fundraiser with the President.

Since a Justice Department memo telling prosecutors to reconsider cases in medical cannabis states, there have been nearly 100 raids and 30 prosecutions of patients, growers, dispensaries and laboratories in California, Colorado, Michigan, Montana and Nevada. US Attorneys have also sent letters to state officials threatening them with criminal prosecution if they implement state laws to regulate distribution to patients.

The Obama Administration is now using the Treasury Department to interfere with safe access as well. Treasury has told banks to close accounts of medical cannabis-related businesses and individuals. The IRS has targeted distribution centers by disallowing their deductions and claiming back taxes.

## MONTANA LAWMAKERS GUT VOTER INITIATIVE

State lawmakers in Montana have again passed a bill targeting the medical cannabis program voters approved by 62%. Just weeks after a repeal was vetoed by Gov. Brian Schweitzer, the legislature passed SB 423, a bill that would sharply restrict patients' access.

Gov. Schweitzer is reported as saying he will neither sign nor veto the latest measure, which eliminates distribution centers, limits qualifying conditions, and imposes other restrictions. Without action, the bill becomes law.

Gov. Schweitzer says he believes the bill is largely unconstitutional and will be overturned by the courts.

"The will of the voters and rights of patients deserve respect," said ASA Executive Director Steph Sherer, who met with activists and conducted trainings after federal raids last month.

## Become a Member

(check one)  Monthly  One-time  \$100  \$50  \$35  Other Amount \$\_\_\_\_\_

Name \_\_\_\_\_  Check or Money Order Enclosed.

Address \_\_\_\_\_  Visa  Mastercard  AMEX  Discover

City, State, Zip \_\_\_\_\_ Card Number: \_\_\_\_\_

Phone \_\_\_\_\_ Signature: \_\_\_\_\_

Email \_\_\_\_\_ Exp. Date: \_\_\_\_\_ CVV Security Code \_\_\_\_\_

Mail to: Americans for Safe Access, 1322 Webster St., Suite 402, Oakland, CA 94612

[www.AmericansForSafeAccess.org](http://www.AmericansForSafeAccess.org)

### YES! Please accept my donation