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July 24, 2001

To: Members of the Oakland City Council

From: Council President Ignacio De La Fuente

Re: Oakland's Medical Cannabis Policy

The attached Policy outlines a compromise reached during a series of meetings that included my office, Jeff Jones, Executive Director of the Oakland Cannabis Buyers Cooperative, and Stacie Traylor, Legislative Representative for the Medical Cannabis Association. The additions or changes to Oakland's existing policy are underlined in the attachment, but, in summary, they include:

- Changing the assumed annual need per patient from 6 lbs. to 3 lbs.;
- Changing the amount of dried cannabis a patient may possess from 1.5 lbs. or 6 lbs. if grown outdoors, to 3 lbs. regardless of growing method;
- Changing the limit on indoor plants from 48 flowering and 96 immature to a growing area of no more than 32 square feet, containing a maximum of 72 plants;
- Changing the limit for outdoor plants from 30 flowering and 30 immature to 20 plants at any stage of development;
- Adding privacy protections that expressly allow patients to redact or blackout any diagnosis or personal medical information on required documentation;
- Adding a Medical Necessity Exception that allows patients who have a doctor's statement to exceed the Oakland Policy limits;
- Allowing Primary Caregivers and Growing Collectives to continue growing quantities justified by the number of patients they can prove they represent, but now also requiring them to post or keep such proof available on the premises; and
- Urging the Police Department to develop an appropriate training bulletin to implement these policies.

Additionally, I have committed to meet quarterly with these individuals and others they may designate to monitor this policy. To give Oakland patients time to transition to the new policy, it will not take effect until November 15, 2001.

Item 9-C  
ORA/Council  
July 24, 2001

# City of Oakland's Medical Cannabis Low Law Enforcement Policy

July 24, 2001 Compromise Proposal - to take effect November 15, 2001

The Police Services Agency implements the low-priority policy as follows:

- I. Cannabis-related activities are not targeted by the Police Services Agency. The Agency investigates and becomes involved in cannabis-related activities (1) as a result of citizen complaints, (2) incident to law enforcement activities related to violation of laws unrelated to cannabis activities, or (3) due to public activity involving cannabis that provides provable case for investigation.
- II. Persons who come into contact with law enforcement will *not* be cited or arrested and cannabis in their possession will not be seized if all of the following conditions are met:
  - A. **Status as Caregiver or Patient:** The person establishes medicinal use or primary caregiver status to the satisfaction of the officer who makes the initial contact. A Primary Caregiver means a person who has been designated by the patient as his or her Primary Caregiver and has consistently assumed responsibility for the housing, health or safety of that patient. Proof of status as Caregiver or Patient must include a doctor's recommendation, but patients may redact or blackout any diagnosis or personal medical information on the required documentation.
  - B. **Amount of Cannabis:**
    1. **Particle Form (Dried)**
      - a. The medical cannabis patient may possess no more than three pounds of processed medical cannabis.
      - b. The caregiver may possess no more than the amount specified above for each patient as to whom proof of primary caregiver status is posted or available on the premises.
    2. **Plants**
      - a. The medical cannabis patient may possess either indoor plants contained within a growing area of no more than 32 square feet, which in no case may contain more than 72 indoor plants; OR
      - b. 20 outdoor plants.

- c. A primary caregiver or growing collective may possess the amounts specified above for each of the patients for whom proof of primary caregiver or medicinal use status is posted or available on the premises. Proof must include a doctor's recommendation, but patients may redact or blackout any diagnosis or personal medical information on the required documentation.
- 3. Medical Need Exception:** Patients who have a doctor's statement that Oakland's Medical Cannabis guidelines do not meet the patient's medical needs (i.e., the equivalent of 3 pounds a year) may possess dried cannabis and plants consistent with those needs. Patients are encouraged to record their usage with their physician and match their garden yield with their documented usage.
- C. The person completes a statement admitting ownership, possession and amount.
  - D. The person is not taken into custody for violation of laws unrelated to medical cannabis activities.
- III. A patient will not be cited and/or arrested and medical cannabis in his/her possession will not be seized if:
- A. The patient does not establish medicinal use status to the officer's satisfaction, but based on the totality of the circumstances the officer determines that there is no evidence of criminal activity (e.g., intent to sell, informants, witnesses, sales records, etc.) and that the patient's claim of medical use is credible;
  - B. The patient completes a statement admitting ownership, possession and amount;
  - C. The patient provides proof of medicinal use to the satisfaction of the Police Department within two business days after the police contact; and
  - D. The patient possesses less than the amounts specified in the applicable provision of II, above.
  - E. The above provision does not apply to Caregivers or Growing Collectives to the extent they must keep proof available on the premises according to Section II.B.2.(c).
- IV. Consistent with the low-priority policy, the Police Department does not pursue law enforcement activities with respect to the Cannabis Buyers' Cooperative's

operations unless citizen complaints or other reports or information dictates such action.

- V. Persons who fail to establish medicinal use or primary caregiver status to the satisfaction of the officer and whose claim of such status is not determined by the officer to be credible, may be cited and arrested and medical cannabis in their possession may be seized and turned into Criminalistics Division in accordance with standard police procedure.
- VI. No law enforcement action will be taken without the consultation and approval of a Command Officer.
- VII. The purpose of the foregoing policy guidelines is to assist the Police Services Agency in implementing the City's low-priority policy. These policy guidelines are not intended to and shall not be interpreted to override an officer's judgement and discretion based on a case-by-case evaluation of the totality of the circumstances or to interfere with the officer's sworn duty to enforce applicable law. It is understood by the City's policy makers that the low-priority policy does not guarantee that every individual who is a patient or caregiver within the meaning of Proposition 215, will not be arrested, cited or have his/her medical cannabis seized.
- VIII. The Police Department is urged to develop an appropriate training bulletin to implement the policies adopted by the Council.