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## Federal Judge Suggests U.S. Change Anti-Marijuana Law

In sentencing a California pot shop owner to a year behind bars on federal charges of cultivating and selling marijuana, a U.S. district court judge based in Los Angeles suggested that the federal government change marijuana's outlaw status.

Judge George H. Wu was [very sympathetic](#) to the plight of 47-year-old Charles Lynch, who was convicted in 2008 after federal authorities moved against his Morro Bay dispensary despite his bending over backwards to abide by California's medical marijuana law. "Individuals such as Lynch are caught in the middle of the shifting positions of governmental authorities" vis-a-vis pot, the judge wrote.

Lynch was also caught in between presidential administrations: After Barack Obama took office he ordered the U.S. Drug Enforcement Administration to stand down on enforcing federal drug laws in states where medical marijuana is legal.

Wu wrote that ([PDF](#)) " ... much of the problems [in the Lynch case] could be ameliorated...by the reclassification of marijuana from Schedule I," which is the government's highest, outlaw-drug category.

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## Federal Judge George Wu: Reclassify Medical Marijuana

LOS ANGELES --- Federal District Court Judge George H. Wu issued a 41-page written sentencing order yesterday, stating that medical marijuana provider Charles C. Lynch was "caught in the middle of the shifting positions" on the issue and that, "Much of the problems could be ameliorated...by the reclassification of marijuana from Schedule I." Lynch gained notoriety as a federal medical marijuana defendant, who was prosecuted and convicted in 2008, under the Bush Administration, then sentenced after President Obama signaled a change in federal enforcement policy.

Judge Wu's call for the reclassification of marijuana comes as the Drug Enforcement Administration (DEA) is considering a petition, filed in 2002 by the Coalition for Rescheduling Cannabis. After a years-long review by the Department of Health and Human Services, the petition was recently sent to DEA, the final stage of the process. Acting DEA Administrator Michele Leonhart, who still must be confirmed by the U.S. Senate, has the authority to grant or deny the rescheduling petition.

"Yet another federal judge has called on the government to reconsider the current status of marijuana as a dangerous drug with no medical value," said Joe Elford, Chief Counsel with Americans for Safe Access, the country's largest medical marijuana advocacy organization. "Judge Wu's sentencing order also begs the question of why the federal government is still

prosecuting medical marijuana cases." Elford argued before Judge Wu last year that Lynch should be shown leniency as no state laws had been violated.

It has been more than ten months since Judge Wu sentenced Lynch to one year and a day, and four years of supervised release, despite the 5-year mandatory minimum being sought by the Justice Department. Four months after the June 11th sentencing hearing, the Justice Department issued a directive in October to U.S. Attorneys, discouraging them from arresting and prosecuting medical marijuana patients and providers. Lynch remains released on bail pending his appeal, but cannot use medical marijuana according to the terms of his release.

Before his medical marijuana dispensary was raided by Drug Enforcement Administration (DEA) agents in March of 2007, Lynch had operated for 11 months without incident, and with the blessing of the Morro Bay City Council, the local Chamber of Commerce, and other community members. Two months after Lynch closed his dispensary, Central Coast Compassionate Caregivers, he was indicted and charged with conspiracy to possess and possession with intent to distribute marijuana and concentrated cannabis, manufacturing more than 100 plants, knowingly maintaining a drug premises, and sales of marijuana to a person under the age of 21. None of the federal charges Lynch was convicted of constituted violations of local or state law.

Currently, patients and providers are prevented from using a medical necessity or a state law defense in federal court. The Justice Department policy has failed to deter the prosecution of more than two dozen pending federal cases. In response, ASA is advocating for the passage of Congressional legislation -- HR 3939, the Truth in Trials Act -- which would give state law-compliant defendants a fighting chance in federal court.