

Marijuana Production Facility Hangs in Balance: DEA Administrative Law Judge Recommendation Expected... Any Day



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WE'RE ON PINS AND NEEDLES. Any day, perhaps by the time you read this, we will know a lot more about the future course of medical marijuana research and policy reform for the coming years.

When lawyers representing Professor Lyle Craker, Ph.D., and the DEA submitted final legal briefs on May 8 after a nine-month hearing, we anticipated a recommendation from DEA Administrative Law Judge (ALJ) Mary Ellen Bittner in three to six months. At the time of this writing, it has now been six months. Craker's MAPS-sponsored medical marijuana production facility, and, more importantly, the ability to conduct FDA-approved clinical trials investigating marijuana's potential as a federally-approved prescription medicine, hang in the balance. Prof. Craker and MAPS have been attempting for over five years to obtain a Schedule I license from the DEA, the only regulatory hurdle blocking us from ending the federal government's long-standing monopoly on the supply of research-grade marijuana.

Currently, the National Institute on Drug Abuse (NIDA) has a monopoly on the supply of research-grade marijuana, but no other Schedule I drug, that can be used in FDA-approved research. NIDA uses its monopoly power to obstruct research that conflicts with its vested interests. MAPS had two of its FDA-approved medical marijuana protocols rejected by NIDA, preventing the studies from taking place. MAPS has also been trying without success for almost four years to purchase 10 grams of marijuana from NIDA for research into the constituents of the vapor from marijuana vaporizers, a non-smoking drug delivery method that has already been used in one FDA-approved human study.

If DEA ALJ Bittner makes a favorable recommendation, it will be an extraordinarily unique window of opportunity to break NIDA's marijuana monopoly and take the first steps toward developing

marijuana into a federally-approved medicine. Unfortunately, though, a positive recommendation is not a guarantee that Prof. Craker will receive his license, because the DEA can still choose to accept or reject the ALJ's recommendation. That's right, the DEA does NOT have to follow the recommendations of the Administrative Law Judge appointed to oversee its decisions.

That's why we're now focused on preparing to pressure the DEA to accept Judge Bittner's recommendation if she does recommend that the DEA should issue a Schedule I license to Prof. Craker. We already have support from 38 Congressional Representatives, Massachusetts Senators Kerry and Kennedy, and numerous key medical and public health organizations. Now that Democrats control both the House and the Senate, we're in a great position to pressure DEA to accept a positive recommendation, if that is the outcome of our lawsuit.

For the last several months, MAPS has been working with David Ostrow, M.D., director of the Medical Marijuana Policy Advocacy Project, funded by the Marijuana Policy Project (MPP), to lobby the AMA to pass a two-fold resolution that would both urge DEA to approve private production facilities for marijuana and stop arresting patients in states that have approved the medical use of marijuana. Success at the AMA was beyond our reach, but worth the effort.

If we do receive a positive recommendation from Judge Bittner, we will need all supporters to contact their Congressional Representatives, so look out for an important announcement soon, if it hasn't come already! •

For background information, media coverage, and the latest updates:
www.maps.org/mmj/DEAlawsuit.html