



**DISTRICT ATTORNEY**  
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Chief Deputy District Attorney  
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Director of Administrative Services  
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Chief Investigator  
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Fax (209) 827-2029

April 12, 2010

Richard Berger, Esq.  
Merced County Public Defender's Office



Mr. Berger:

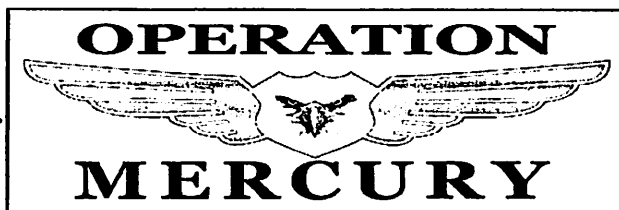
I am in receipt of your client's request dated August 6, 2009 requesting return of the property taken as evidence in this case. Specifically, your client requested the return of the marijuana seized as evidence. I can not agree nor disagree to the release of any marijuana. **I will take no position in a motion filed by you for the return of property** and you may feel free to attach this letter to your motion if you so desire. As far as convenient dates are concerned for the motion, any Wednesday or Friday (with the exception of the court furloughs mandated for the third Wednesday of every month) at either 9:30 a.m. or 1:30 p.m. would be acceptable.

As you are acutely aware, there exists a significant conflict between United States and California Laws in regards to marijuana. **I can not agree** to the release of the marijuana as doing so may be considered aiding and abetting a violation of federal law under 21 U.S.C. 841 and related provisions. However, in pursuing my obligation to uphold both United States and California laws, I am confronted by the voter approved provision of the Compassionate Use Act of 1996 codified in California Health and Safety Code § 11362.5 et. seq. and **I can not oppose** the release of the marijuana.

This conflict in the law is not pleasant and places me in a precarious position concerning my ethical obligation to uphold the laws of both the United States and the State of California. This conflict could be resolved by the United States Congress or the Supreme Court of the United States if either were to take up the very apparent conflict, and I hope they do soon for the sake of uniformity and consistency in the application of criminal laws. Until then, I can take no position in your clients request to return seized marijuana.

Very Truly Yours,

Travis M. Colby  
Deputy District Attorney



Bureau of Land  
Management

Central Valley  
HIDTA

California  
Fish & Game

DEA

Fresno County  
Sheriff

Fresno County  
District Attorney

Kern County  
Sheriff

Kern County  
District Attorney

Kings County  
Sheriff

Kings County  
District Attorney

Homeland Security  
Investigations

IRS

Madera County  
Sheriff

Madera County  
District Attorney

Merced County  
Sheriff

Merced County  
District Attorney

National Park  
Service

Tulare County  
Sheriff

Tulare County  
District Attorney

U.S. Attorney's  
Office

U.S. Forest Service

Date: May 9, 2012

«AddressBlock»

RE: «Grow\_Property\_Address»

Dear Tenant, Homeowner or Lien Holder,

This office has obtained information that the above-referenced property has been or is being used to cultivate and/or distribute marijuana in violation of federal law, and that you are an owner, lien holder, or have management or control, of the property. This letter is formal notice that continued use of the property in violation of federal law may result in seizure, forfeiture, and criminal or civil penalties.

Cultivation and distribution of marijuana are felony crimes under the federal Controlled Substances Act. It is also a felony for a property owner to rent, lease or otherwise make a place available for cultivation or distribution of marijuana. **Violations can result in imprisonment and a fine of up to \$10,000,000.; or a civil penalty of \$250,000. or twice the gross receipts, whichever is greater.**

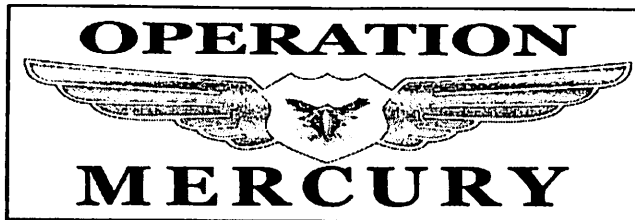
**In addition, any property used to cultivate or distribute marijuana may be seized and forfeited to the United States without compensation, along with any proceeds of the illegal activity.** Under federal forfeiture law, the "innocent owner" defense is unavailable to those who know or have reason to know of the illegal use of their property. This letter puts you on notice.

It is not a defense to claim the property is providing so-called "medical marijuana." Congress has determined that marijuana is a dangerous drug, and that the manufacture and distribution of marijuana are serious crimes. The United States Department of Justice remains firmly committed to enforcing the Controlled Substances Act in all states. Accordingly, we will vigorously enforce the prohibitions against cultivation and distribution of marijuana, even if such activities are permitted by state law. Those who allow their property to be used for such activities do so at their peril. If you do not halt the criminal activity related to your property within fourteen (14) days, the Sheriff's Office will work with the United States Department of Justice to commence criminal and forfeiture proceedings against you and your property. **All residents, homeowners, and lien holders associated with this address may receive copies of this notification.**

If you believe you have received this notification in error and there is no such activity taking place at above described property, please disregard this letter and no further action is needed on your part. Follow up enforcement actions will only take place at confirmed grow sites that fail to comply with Federal Law and fail to eradicate any illegal marijuana grows. For any further assistance please call (209)381-5680.

Sincerely,

\_\_\_\_\_  
Sheriff



Bureau of Land  
Management

Central Valley  
HIDTA

California  
Fish & Game

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Merced County  
District Attorney

National Park  
Service

Tulare County  
Sheriff

Tulare County  
District Attorney

U.S. Attorney's  
Office

U.S. Forest Service

Date: May 24, 2012

Dear: Tenant, Homeowner or Lien Holder,

It has come to our attention that you have mistakenly received a letter regarding your property being used to cultivate and/or distribute marijuana in violation of federal law. The Merced County Sheriff's Office apologizes for any unnecessary concern this letter may have caused you.

Any third parties associated with your property and erroneously notified will also receive a letter of correction.

The Merced County Sheriff's Office is committed to insuring all county residents are as safe as possible from the nuisance and dangers of marijuana grow sites and genuinely appreciate your understanding in this matter.

If you have any questions about Operation Mercury, please contact: Sergeant Rich Howard at (209) 381-5699

Sincerely,

\_\_\_\_\_  
Sheriff/Coroner