Marijuana arrests at pivotal moment

Council to consider dispensary rules

By Greg Moran, UNION-TRIBUNE STAFF WRITER

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The region’s medical marijuana conflicts took another turn two weeks ago when federal agents fanned out across San Diego County and arrested 12 people who they said were connected to a large-scale pot dealer.

That suspect, Joshua Hester, was arrested by agents in a spacious West Hollywood home he was renting. In court papers, agents said Hester, 29, distributed 3,000 pounds of marijuana he purchased from a major Los Angeles dealer in 2007 and 2008.

But it is Hester’s role in San Diego beginning in 2009 that makes the case against him more than another big-time drug-ring arrest.

Agents say Hester was the silent owner of two collectives that sold medical marijuana in downtown San Diego and Mission Beach. He purchased a $2 million mansion in Rancho Santa Fe using a straw buyer and paid the $10,000 monthly mortgage in part with proceeds from the collectives, court papers say.

Federal authorities say Hester essentially used the state law that permits medical marijuana use as a shield to operate what they contend was nothing more than an illegal retail drug sales operation.

Hester’s arrest comes at a pivotal moment locally, just after the county approved zoning laws that would restrict dispensaries to a handful of locations. The city of San Diego is on the cusp of proposing its own rules.

And in the past year in state court, juries acquitted two operators of medical marijuana collectives after District Attorney Bonnie Dumanis charged them with illegal drug sales.

If the allegations against Hester are true, he would be Exhibit A for opponents of medical marijuana — someone using a law intended to help the sick as a vehicle for illegal dealing.

But advocates of using marijuana to help the sick say the Hester case shows something else that has been lacking so far: regulations and rules that govern how collectives and cooperatives can operate, allowing everyone to know what the rules are.

“This is the kind of thing that happens if you don’t have regulation,” said Alex Kreit, a law professor at the Thomas Jefferson School of Law and the head of San Diego’s medical
marijuana task force.

That group recently completed a set of proposed guidelines for regulating collectives and cooperatives in the city. They would require background checks for employees, steep fees to cover regulatory expenses, and strict packaging and labeling requirements that would list the patient’s name and dispensing date.

“If there is not a system to distinguish between folks operating legitimately and those operating illegitimately, that is what creates the space for people to come in and try to take advantage of the law for illegal means,” Kreit said.

The arrests of Hester and the others has drawn sharp reaction from medical marijuana advocates, who condemn the federal raids on the dispensaries that occurred along with the arrests.

Federal law does not recognize medical marijuana as a legal usage, though California voters approved the use of marijuana for medical purposes in 1996. The Obama administration said this year it would not use federal laws to prosecute people involved with medical marijuana if they were in compliance with state laws, but it left open the possibility of pursuing cases when warranted.

Hester is apparently one of those. Federal agents outlined in court papers that he became involved with the Green Kross Collective on Mission Boulevard in Mission Beach in early 2009, though another man — Joseph Nunes — was listed as the owner on official business records.

Nunes was arrested in September as part of a wide raid conducted by local law enforcement. He pleaded guilty in federal court and was sentenced to a year in prison. Authorities say Hester also owned the Downtown Kush Lounge on Sixth Avenue between F and G streets in downtown San Diego.

Some advocates said the timing of the Hester arrest was suspicious, coming just after the county adopted an ordinance and before the city debate began.

“This is politics, sadly,” said Adela Falk of Wisdom Organics, a medical marijuana dispensary in Linda Vista. “I think it was to make bad publicity and hope the City Council will say. ‘Look, everyone involved is bad.’ ”

Eugene Davidovich of Americans for Safe Access sounded a similar criticism and said that if there were something illegal going on, it should be handled in state court, not federal.

“This is a state issue,” Davidovich said.

In San Diego, 127 known locations provide medical marijuana, according to the city code enforcement department. And much to the ire of advocates, that department has recently begun a campaign of citing establishments for violating city zoning laws. Falk’s location was inspected last week, she said.

She echoed Kreit’s call for regulations that let everyone know what is allowed and what is not. Kreit said rules requiring background checks for operators, regular audits and other measures would deter criminals from trying to set up shop under the protection of
the law.

The other 11 people arrested in the case had varying involvement with Hester. Some are accused of being runners for him, one was a real estate agent accused of helping him buy property fraudulently, and others worked in the collectives.

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