

TUNE IN TO THE
SOUND OF DEMOCRACY

Justice Talking Radio Transcript

Medical Marijuana – Airdate Oct. 17, 2005

When Californians passed a statewide referendum allowing the use of marijuana for medical purposes, they defied a federal ban, challenged the nation's war on drugs and embarked on a legal battle that has landed in the U.S. Supreme Court. The U.S. government has argued that the federal Controlled Substances Act forbids any manufacture, possession or sale of drugs that make the list of taboo products. But those involved with cancer and AIDS treatment and several states rights advocates say that individual states have the responsibility -- and a constitutional right -- to make decisions impacting the health and safety of their own citizens. Hosted by the Annenberg School for Communication at the University of Southern California.

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MARGOT ADLER: From NPR, this is Justice Talking.

UNIDENTIFIED FEMALE: Marijuana allowed me to live somewhat normally, and that was freedom. That was like a miracle for me.

UNIDENTIFIED FEMALE: Is this crude plant, has it been put here by the great creator to cure everything that ails us or is it a cruel hoax that is using the pain and suffering of sick and dying patients in order to move another agenda?

UNIDENTIFIED FEMALE: My youngest didn't get to spend as much time with me as my son did, and she would often cry at night, and that's the reason why I use

cannabis. That's the reason why I'm out here fighting so hard. It's because I want to be here for my kids. I made that promise.

UNIDENTIFIED MALE: I'm certainly not a physician, don't pretend to be. My personal opinion however is any doctor who tells you to smoke something for your health is a fool.

MARGOT ADLER: I'm Margot Adler. Medical marijuana, compassionate care, or gateway to addiction: is marijuana a medicine? Stay with us.

MARGOT ADLER: This is NPR's Justice Talking. I'm Margot Adler. The Supreme Court has spoken on medical marijuana. In a six to three decision, the justices sided with the U.S. Department of Justice, which had asked them to favor federal anti-drug laws over state marijuana initiatives. In the wake of that decision, people who grow, distribute and use marijuana, even in states where voters have approved its medicinal use, may now face federal drug charges. This winter we traveled to the University of Southern California, to the state in the forefront of the medical marijuana fight. People with a documented medical need in California can easily obtain the drug. Several cities there issue picture IDs for users who have a note from their doctor, and some even encourage pot-smoking patients to register with the local police. What will happen in the wake of the Supreme Court's decision is anybody's guess. Before our debate, we visited one of the women at the center of the Supreme Court case, Angel Rache.

ANGEL RACHE: I really want people to understand that this case is no laughing matter. This really is a serious issue. This is really a serious thing for me. My life is literally at stake here. And I could very well lose my life fighting this fight.

MARGOT ADLER: Angel Rache is 39. She's so thin and gaunt her cheekbones seem to poke through her skin. She says she has suffered from a series of debilitating conditions: an inoperable brain tumor; wasting disease; paralysis from an allergic reaction to birth control pills. She says marijuana is the only thing that's helped and is her lifeline.

ANGEL RACHE: A lot of people don't really understand why I'm doing this. A lot of people seem to think that I'm out here trying to legalize drugs. That's not what it's about for me. My daughter, who is my youngest, would often times cry at night, because, you know, I went from being the soccer mom, you know, the mom that was teaching the kids how to rollerblade, managing a farm-league baseball team, you know, doing baked goods, doing arts and crafts with all the neighborhood kids, all of these kinds of thing, to doing nothing. And, my youngest didn't get to spend as much time with me as my son did. And she would often cry at night. In her tears, she was saying, why can't you do the things that other mommies do? Why can't you play with me anymore? Why can't we do

this? You know, I mean, seven year olds can't comprehend why these things are happening. My daughter would hit me, trying to beat the disease out of me, because she just wanted her mom. And that's the reason why I use cannabis. That's the reason why I'm out here fighting so hard. It's because I want to be here for my kids. I made that promise.

MARGOT ADLER: Rache thought her use of marijuana was permitted under California law. The law allows some sick people to obtain marijuana with a doctor's recommendation. But the federal government started cracking down on cannabis clubs and cooperatives that were distributing the drug to patients. So Rache, along with her husband, a lawyer, and then another California patient, Diane Monson, developed a legal strategy, with the aim of taking this battle to the Supreme Court.

ANGEL RACHE: I had this idea that maybe what we could do was file a lawsuit to try to stop them from doing this. And what did we need to do to file such a suit? We actually started researching it, and we found out that what we had to do was we had to wait for them to raid patients. And three weeks after 9/11, the federal government came in into the state of California and started raiding the medical cannabis community. So instead of going after Bin Laden, the federal government was wasting taxpayers' dollars in the state of California, sticking guns in sick peoples' faces, trying to make people in wheelchairs get up when they're not physically capable of doing so. This is terror. This is absolutely heinous. It was really scary.

MARGOT ADLER: Angel Rache, who along with Diane Monson is challenging federal drug policy in the Supreme Court. Rache's case raises important questions about medical treatment options, states' rights, and federal drug policy. And we have two wonderful advocates to explore these issues with us. Rob Kampia is co-founder and executive director of the Marijuana Policy Project, an advocacy organization which seeks to change marijuana laws. Rob drafted the medical marijuana bill signed into law in Hawaii in 2000. Rob has testified before state legislatures and congressional subcommittees on this issue. Also with us is Robert Stutman, a 25 year veteran of the Drug Enforcement Administration. Stutman was in charge of the DEA's New York office, where he launched more than 5,000 drug investigations. After leaving the government he established his own substance abuse prevention program for business and industry. We're going to go crazy with keeping the names Robert and Rob straight during this debate, but just remember that Robert is the guy New York Magazine once called the foremost narc in America, and we'll call him Bob. And Rob is probably public enemy number one at the DEA and the ONDCP, that's the Office of National Drug Control Policy, in case it comes up later. Please join me in welcoming our guests, Rob Kampia and Bob Stutman to Justice Talking.

MARGOT ADLER: Rob, in 1996, California voters passed Proposition 215. It allowed seriously ill Californians to possess and to grow marijuana for personal use. What does the law do?

ROB KAMPPIA: The law protects patients and caregivers from state level prosecution for possessing and growing marijuana for medical purposes. The law was later expanded, a couple years ago, in California.

MARGOT ADLER: That was in 2003.

ROB KAMPPIA: Right, by the California legislature to allow for cooperatives to exist and for the small-scale sale of marijuana between caregivers and patients.

MARGOT ADLER: Now, according to this law, a doctor can recommend marijuana to anyone who, as I read the law, has a chronic or persistent medical symptom, that if not alleviated, may cause serious harm to the patient's safety or physical or mental health. Now, isn't that everybody? I mean, doesn't that simply legalize marijuana?

ROB KAMPPIA: No. I mean, if you look at it in the broadest perspective, what it does is that it treats marijuana like any prescription medicine. Right now in our society when a prescription medicine is approved by the FDA for a particular medical condition, physicians are still allowed to prescribe it off-label for anything they want, right? So if you want to look at the California law as allowing marijuana to be recommended for any medical condition, then it's just the same as any other drug. I would point out a difference, of course, which is that marijuana in California and the nine other states where it's legal is recommended by physicians, not prescribed, because prescriptions by physicians would be illegal under federal law. But the courts have found that doctors discussing treatment options with patients and recommending marijuana is protected by the First Amendment.

MARGOT ADLER: But of course, marijuana isn't approved by the FDA.

ROB KAMPPIA: That's correct.

MARGOT ADLER: Bob, do you accept the idea that marijuana can be used safely for any medical purpose?

BOB STUTMAN: I accept the idea. In fact, I endorse the idea that cannabinoids, one of the chemicals in marijuana, indeed may be good medicine. I wholeheartedly endorse what the Institute of Medicine said, that if you extract the chemicals from smoking marijuana, cannabis...

MARGOT ADLER: In other words, something like Marinol.

BOB STUTMAN: Well, that's synthetic. You extract the chemicals, Delta-9-THC being the major one, although there are a couple of others, and give those to patients. Indeed, that may be good medicine. What I don't accept as good medicine is smoking a plant and in-taking 435 other extraneous chemicals along with the two that indeed may do you good. If Rob were being fair in this subject, he and I would probably agree and the show would be very short, indeed that cannabinoids may be good medicine for lots of diseases. I think we've only begun the true medical research in that area.

MARGOT ADLER: Now, how can we tell whether or not the smoking, the smoke form of marijuana can be used effectively for medical purposes when, as I understand it, so many attempts to create research protocols involving marijuana have been denied or delayed by the FDA and other government agencies?

BOB STUTMAN: Yeah, two questions. First, I'm certainly not a physician; I don't pretend to be. My personal opinion, however, is any doctor who tells you to smoke something for your health is a fool. Anything. I just don't think that is good medicine, smoking something. To the extent that the government has held up fair and rational research, that's wrong. This issue should be researched. Rob and I should not be debating this issue two or three years from now, because the decision should have been made by the people who should make the decision. Not the population, not Rob and I, not lawyers, not marketing people, not advertising people, but scientists and physicians should make this decision. And if the government holds up that decision-making process, that's wrong.

MARGOT ADLER: I'm sure there are many people in the audience who have their own personal stories and might want to become part of this conversation right now on Justice Talking, where we're talking about medical marijuana. Is there anyone who would like to begin this conversation?

AUDIENCE MEMBER: Hi, my name is Bryce from Albuquerque, New Mexico. I have a question for Bob. You said that you feel that there is some potential medical benefit to the cannabinoids in marijuana. I'm curious, if that's how you feel, what's your opinion on the government's stance with marijuana use, classified as a Schedule 1 drug, which says that it doesn't have any kind of medicinal benefit? The propaganda concerning it is always extremely negative and not allowing for any kind of possible good and even showing what many would say was a lot of false negatives about it. How do you feel about that?

BOB STUTMAN: I guess I would repeat once again that we should let cannabinoids go through the process, and I don't think it would take very long. There are a number of fairly new studies that have been done, most of them in Europe, in countries where marijuana is de facto legal, and one could look at whether cannabinoids are good or bad. I think—I may be wrong—that Rob and my big argument is not on the drug itself, but on the delivery system. And I guess I would ask Rob, if a drug like Sativex, which is a spray that you spray under your

tongue and is available now in England and Germany, etc. It is a natural extract of cannabis. It is not a synthetic. It has all of the pluses and none of the negatives. If that were approved in the United States, would that indeed solve your problem or would you still push for smoking marijuana?

ROB KAMPPIA: Yeah, Sativex actually is about to be approved as a prescription medicine in Canada. In England it'll be about a year, and then soon thereafter through the E.U. In the U.S. it's going to be minimum four years and it could be decades, knowing our government. Your question about whether we would support that: absolutely. If patients could benefit from a sublingual spray that's derived from the marijuana plant, then that's great, and doctors should prescribe it and patients should use it. However, my concern, and the concern of the Marijuana Policy Project is that if there are patients out there who don't benefit from Sativex, but they do benefit from smoking marijuana or eating it or using a vaporizer, we definitely do not want the patients to be using whole marijuana to be put in prison, just because Sativex was approved by the FDA.

MARGOT ADLER: This is Justice Talking from NPR. I'm Margot Adler. Andrea Barthwell is a doctor who has treated people with addictions for over thirty years.

ANDREA BARTHWELL: The question that people have to ask themselves about marijuana is, is this crude plant that we have on this earth, has it been put here by the great creator to cure everything that ails us, or is it a cruel hoax that is using the pain and suffering of sick and dying patients in order to move another agenda?

MARGOT ADLER: More of the case for and against medical marijuana coming up.

MARGOT ADLER: I'm Margot Adler. You're listening to NPR's Justice Talking. We're at the Annenberg School for Communication at the University of Southern California. We're talking about medical marijuana. Does the federal government's war on drugs trump the will of voters in ten states who have permitted patients to smoke pot? Should it? Let's go back to our audience and find out what they think.

AUDIENCE MEMBER: Hi. I'm Claudia Little. I'm actually a nurse practitioner, and I have a master of public health degree. I heard a doctor speaking, actually several doctors in San Francisco a few years ago, talking about the medicinal benefits of marijuana, and I was just really kind of blown away by the science of it all. It's quite overwhelming. And I, at the time, was taking cortisone shots for arthritis in my shoulders. So, I started using it as an anti-arthritic treatment, and it has worked wonders. I was really happy to hear Bob Stutman say that he approved of marijuana, of the cannabinoids, I mean, that are in them, but he didn't

approve of smoking. Well, most patients that are using medical marijuana these days don't smoke it. They use a vaporizer. And a vaporizer lifts the cannabinoids from the leaf by hot air flowing over it in a small device, and they are then inhaled without any products of combustion. There's been quite a lot of good research on this. We've actually found, actually, that the science is that there is no increase in mortality found in even long-term, heavy marijuana smokers.

MARGOT ADLER: Can I ask you how long you have been using medical marijuana yourself?

AUDIENCE MEMBER: About two and a half years.

MARGOT ADLER: Last question before I let Bob respond to you—I'm wondering, you look, you know, we're on radio, but if I were to look at you, you look like an extremely upstanding, well-dressed middle-class woman, and I'm just wondering what your friends and your associates think if you tell them about this.

AUDIENCE MEMBER: Well, a few of my friends were very surprised, because I don't look the part. But, I actually am very good friends with a very well-known lawyer in San Diego, the head of a department of an ER—these are daily marijuana users and they use it for medical purposes, and they have very good jobs. I think there are a lot of people in my category, in the community, afraid of losing their jobs or losing their reputation, which, I found, didn't happen at all. In fact, it has empowered me to speak out because I'm now looked at as an authority. And actually because of my own research, I really have kind of become an authority on this, in my own little way.

MARGOT ADLER: Bob Stutman, how do you respond to what she said?

BOB STUTMAN: There are a whole bunch of issues there. Let me make, from my perspective, a couple of things clear. I think there are enough stupid policies on both sides of this issue to fill this room. I think the government arresting and jailing people for the use of any drug is a stupid public policy. I don't think it does any good for anything. At the same time, I think opening up to a vote of the public whether or not you would like to use this as a medicine is a foolish public policy. Since 1935 or 36, we have had a process where scientists and doctors look at the claims and the good and the bad of something purported to be medicine, and they hopefully make an objective judgment. Do they make mistakes? Of course, you and I know the mistakes. But as a whole, the system has worked very well. Marijuana is not the first drug that advocates have said this drug is too important to go through that process. I can give you a quote that said: "This medicine is so important that we do not have time to go through the bureaucratic FDA process and must make it available immediately to the people in the United States." That was said in 1967 about Thalidomide. Let's move ahead, go through the process. At the same time, I think Rob and I would agree that you don't throw people in prison for the use of a drug.

MARGOT ADLER: Rob, the question that seems to be sort of swirling around here is this whole question about whether the medical marijuana initiatives that you are pushing is sort of just a foot in the door toward the legalization of all marijuana. You know, do you support decriminalization; do you support legalization of all marijuana?

ROB KAMPPIA: Yeah, the marijuana policy project supports changes in the laws so that no responsible adult marijuana users go to jail or are arrested for that matter. In terms of this idea of medical marijuana being a smokescreen or something for the broader issue, I'd point out that the national polling has shown that 34 percent of the American people think that marijuana should be legalized, period. 73 percent think that medical marijuana should be made legally available. And the American people are split on the issue. So I don't actually see how it could possibly be a smokescreen when the American people are quite divided on the issue of legalization.

BOB STUTMAN: I think the problem that Rob just pointed out is, I think the folks such as Marijuana Policy Project probably to a lesser extent than NORML, and a couple of the other groups, in fact are doing the sick folks who are using marijuana a disservice, because they are clearly using it as a political front. Let me quote Dick Cowen, the former executive director of NORML, who said a few years ago: "Medical marijuana is our strongest suit. It is our point of leverage which will move us toward the legalization of marijuana for personal use." I think that does a disservice to the sick people who indeed do marijuana. I think recreational use of marijuana is an important enough issue to be argued on its merits and not try to use sick folks.

ROB KAMPPIA: I agree that it's a disservice to patients to use them as pawns in some larger chess game to legalize marijuana. But, I hope you're not saying that we're doing a service to patients by arresting them and putting them in prison.

MARGOT ADLER: Okay, now, one of the things that we talked about a minute ago that I was wondering about, was this whole question of scheduling. Why? Why Bob, is marijuana a Schedule 1 drug? Why is it in the same category as cocaine and heroin?

BOB STUTMAN: Because the FDA has said that it has no proven medical value, and the potential for abuse is there. Do I believe it should remain Schedule 1? I do not believe that cannabinoids should remain Schedule 1.

MARGOT ADLER: But Bob isn't marijuana less addictive than alcohol and tobacco?

BOB STUTMAN: It probably is. And one of course will say well nobody ever died from an overdose of marijuana, probably absolutely true. Nobody ever died from an overdose of tobacco, either. One dies from long-term use of any of these

drugs. And so indeed, I think that's the issue. The real issue is smoking, and I certainly don't speak for the government. I haven't been with the government for a lot of years. If the other side were willing to say smoking cannabis is not good, and we don't advocate...

MARGOT ADLER: Okay, smoking is bad, but Bob, what about brownies?

BOB STUTMAN: Uh, what's the issue?

MARGOT ADLER: I'm sorry, I mean, what about, I mean, you know, okay, if we say smoking is bad, there still are all kinds of other ways that you can take the weed and...

BOB STUTMAN: Well great. And if Rob stood up and said we advocate Sativex, or a number of other ways of taking medicinal marijuana, my guess is the FDA could go through the process in one year and we could reach a compromise.

ROB KAMPPIA: Alright.

BOB STUTMAN: The problem is, most people on Rob's side of the issue will never agree to that, because indeed for them, the issue of recreational marijuana use is far bigger, and this is just one small piece.

MARGOT ADLER: We're going to go back into the audience, but I want to say we're talking with, with Bob Stutman, a former DEA official, and we're talking with Rob Kampia, from the Marijuana Policy Project. And now another question.

AUDIENCE MEMBER: My name's John. I'm from Los Angeles. You say no one's ever died from tobacco, but what about alcohol use?

BOB STUTMAN: No I said from overdose.

AUDIENCE MEMBER: Well from overdose—what about alcohol? People have died from overdose from alcohol and numerous—I don't know how many it is—was it 700,000 people a year die from alcohol-related deaths? Yet still none from marijuana. And alcohol doesn't help in any, you know, in any ways, forms, medically, and marijuana does. What do you got to say about that?

BOB STUTMAN: Well of course most doctors will tell you that's not true. In fact, most doctors now advocate that males over age 50 who are in a high risk proposition indeed drink a glass of wine a day for heart and cardiovascular issues. We're arguing a fair point. The reason cannabis is not legal in this country and alcohol is, in my opinion, it is strictly historical happenstance. Alcohol has generally been accepted by Judeo-Christian culture. Cannabis has not. I'm not going to be put in the position of defending alcohol. I think it's a horrible drug that kills about 300,000 people a year. I don't understand how saying putting

another drug into that category, making it available, because people want it as their recreational drug of choice, makes the alcohol issue any better. It simply adds to an already terrible problem.

ROB KAMPPIA: I want to get to this core issue of Schedule 1 status for marijuana. Marijuana right now is classified in Schedule 1 along with LSD and heroin. Marijuana is classified more restrictively than morphine and cocaine. I think that sends a terrible message, that cocaine and morphine are better for you than marijuana. What kind of message does that send to the children?

BOB STUTMAN: Rob, I think that of all the stretches you've made tonight, that's probably the longest.

ROB KAMPPIA: Oh wait, but doctors prescribe morphine and cocaine but not marijuana.

BOB STUTMAN: Rob, if you really think that the message of a doctor prescribing morphine for a terminally ill patient or a patient lying in a hospital bed gives approval for kids on the street to use the drug.

ROB KAMPPIA: That's not what I'm saying.

BOB STUTMAN: I thought it was.

ROB KAMPPIA: What I'm saying is if you allowed a cancer patient to use marijuana in a hospital, it does not give approval to teenagers.

MARGOT ADLER: If you're just joining us, I'm Margot Adler and this is NPR's Justice Talking. What do you think about medical marijuana? Is it an oxymoron? Tell us at justicetalking.org. On our site you can also listen to past programs, you can get tickets to join us in Philadelphia, and watch the nation's top advocates wrestle with tough issues. Once again, that's justicetalking.org.

I'd like to ask both of you to paint a picture of who is using marijuana these days. Is marijuana use on the rise? Is it decreasing? I've heard it's decreasing. In the states that have legalized medical marijuana, has illegal use increased or decreased? I'll start with you Bob.

BOB STUTMAN: Certainly the jury is out on the medical marijuana states. There are some preliminary studies that are great. I've seen two studies that show growth. I've seen two studies that show no growth. Marijuana use is down about 40 percent from 1967 to 70, which are probably the base years for the beginning of the modern drug era. So it's down about 40 percent in the United States from those years.

MARGOT ADLER: Rob?

ROB KAMPPIA: Well to add to that, right now, in our country, about half of the adult population has used marijuana at least once. The statistic that alarms us the most is that more than half of all high school seniors have actually used marijuana by the time they get out of high school. So what that shows us is that marijuana prohibition has not succeeded in its goal. Marijuana prohibition is supposed to keep marijuana out of the hands of young people, and in fact, more young people are smoking it and younger people have more access to it than the elderly who actually need it.

MARGOT ADLER: Well we're going to go to someone who says that even if marijuana use has decreased, that those who are using it, as you said, are younger and younger. Dr. Andrea Barthwell has worked with addicts for more than thirty years. She served as a deputy director in the White House Office of National Drug Control Policy. Prior to that she served as president of the American Society of Addiction Medicine. I asked her how she responds to the charge that she's insensitive to the suffering of terminally ill AIDS and cancer patients who might benefit from the use of marijuana.

ANDREA BARTHWELL: Those individuals who would take this narrow slice and say, well there's a person who's...my 96 year old grandmother is dying of cancer and modern medicine has nothing better to offer her, I reject that notion to begin with. I think that we do have a lot better than marijuana to offer. And if someone is not having their needs met by modern medicine, it's an issue of going back in there and working to find out what's the best array of medications and other treatments to resolve that problem.

MARGOT ADLER: I said to Barthwell that many people who came of age in the '60s and '70s used marijuana when they were younger. They and their friends did not become addicted, and they are skeptical of claims that the drug is dangerous. She said these personal experiences give people an incomplete view.

ANDREA BARTHWELL: The issue is that lens of experience was one where the average potency of purity of marijuana was less than 1 percent. Today, children can buy, if it is a sensimilla, or a female-only plant, that is highly producing marijuana that may be 30 percent active ingredient in contrast to the 1 percent, the average marijuana, you know, either seized in drug raids today or from eradication programs is around 6 to 7 percent. That's about a 764 percent increase since 1975 in the potency of marijuana.

MARGOT ADLER: Wow.

ANDREA BARTHWELL: The other thing was, our generation was initiating 17, 18 to 21, after much of the brain formation had occurred. Our children are now initiating between 9 and 12, and we know from a good ten years' worth of studies

from the monitoring of the future survey that there's a doubling of use between eighth grade and tenth grade.

MARGOT ADLER: Rob, first of all, would you agree with that idea that younger and younger children are using it, and if younger and younger children are experimenting with it in middle school, for example, isn't that frightening and how can you tell kids that marijuana is good for cancer patients but bad for them?

ROB KAMPPIA: I think the stats are pretty clear that more and more young people are using marijuana. What I think of when I hear Andrea Barthwell talking about eighth graders using marijuana is that marijuana prohibition doesn't work. I mean, every time that she and people like her say that eighth graders are smoking a lot of pot, I say it's time for a new policy.

MARGOT ADLER: Let's go back into our audience here on Justice Talking, where Bob Stutman and Rob Kampia are debating medical marijuana.

AUDIENCE MEMBER: Hi, my name is Susan, and I'm from Los Angeles. I've been listening to you guys talk and go back and forth...

MARGOT ADLER: They're so reasonable, aren't they?

AUDIENCE MEMBER: Very reasonable, yes. I've been struck by Bob sort of going back to if the FDA would let the studies happen, and I'm confused. I don't understand why the FDA doesn't let the studies happen and how that can be if the FDA...

BOB STUTMAN: I don't know that they aren't. I didn't say that. I said if they are not, that's wrong.

AUDIENCE MEMBER: Okay, so, if they are not—which they are not, right?—then why are they not?—is my question.

MARGOT ADLER: Well, maybe Rob can answer that.

ROB KAMPPIA: Well, in fairness to the FDA, even though they do approve drugs that end up causing tens of thousands of deaths, in fairness to the FDA, they are actually not blocking the research. It's the DEA that is. Most recently, the latest DEA stunt was to block some folks at the University of Massachusetts from being able to start up a private medical marijuana production facility. It's important to know that right now, we can't actually get marijuana approved by the FDA without having a private supply, and so, we need the supply to then do the research then get approved. The DEA has cut us off at the knees by actually restricting that supply.

MARGOT ADLER: You're listening to NPR's Justice Talking. I'm Margot Adler. In Santa Cruz, California, Val Corral and her husband Mike grow marijuana in their garden for a local medical cannabis cooperative. Val herself uses the plant for relief from seizures and headaches.

VALERIE CORRAL: Marijuana allowed me to live somewhat normally, and that was freedom. That was like a miracle for me. You know, what is a miracle but something just didn't think would ever happen? And so, when other people asked us for the same thing, well it was easy to share, in abundance. We have an abundance.

MARGOT ADLER: Marijuana in buds, capsules, brownies, tinctures and a product called Mother's Milk, when Justice Talking returns.

MARGOT ADLER: This is NPR's Justice Talking. I'm Margot Adler. We're talking about medical marijuana. In a few moments, we're going to continue our debate between Bob Stutman and Rob Kampia, but first we take you to Santa Cruz, about 75 miles south of San Francisco, where WAMM, the Women's and Men's Alliance for Medical Marijuana, is run by Valerie and Mike Corral. Justice Talking producer Steve Mencher brings us this report.

STEVE MENCHER: It's a beautiful late winter day in Santa Cruz. The hills are at their greenest this time of year here on the coast. Valerie Corral and her husband Mike grow enough marijuana in a small garden on their hundred acre property to supply 200 patients, mostly terminal patients with AIDS and cancer, others with chronic pain and seizures. Since it's winter, nothing but a ground cover of fava beans is growing, but spring is on the way, and with it, hope that a new crop of 200 plants can be cultivated, and that the federal government will allow WAMM, part therapy group, part medical dispensary, part social safety net, to continue its operations. As part of the processing routine on the property, Val Corral works the marijuana buds through a set of screens.

VALERIE CORRAL: It's a very fine screen. We have three different grades of screens, and this one will process it more quickly, and make a really beautiful and fine grade of flour.

STEVE MENCHER: If you think of marijuana as something you smoke, you might be surprised at the variety of products that come from WAMM's garden.

VALERIE CORRAL: We have the bud, of course, which can be smoked. And we make out of the leaf and what we call bud shake different products and different grades of products. We make two types of capsules, number 6 and number 8, arbitrarily assigned numbers. And of course the number 8 is stronger, and people often take those for pain, to help reduce pain. We make a tincture made from

high grade alcohol, and infused in that alcohol is the marijuana. We also make baked goods. We hope that by making the baked goods it can be fattening and tasty for folks. And we make also something called Mother's Milk.

STEVE MENCHER: The Mother's Milk is marijuana extract, mixed with soy milk, but the metaphor isn't accidental. Val Corral says that, as much as anything else, what her group has to offer is nurturing and a sense of community.

VALERIE CORRAL: When you get sick and especially if you're facing death, it's not that your friends don't love you, they do. But it's difficult to watch somebody suffer, and it's difficult because it brings up observing, being present, and our own mortality as well. And that's a scary prospect. So, for us, we're used to it. Are we used to people dying? You don't get used to people dying, but we're used to watching. We're used to being present. And, we're used to feeling not well ourselves. So that when we have the opportunity to be with each other, we take that opportunity.

STEVE MENCHER: As the sun sets over the Pacific, Valerie Corral talks about being at peace with death and loss. If Angel Rache and Diane Munson lose their Supreme Court case, the federal government might well seize Val and Mike Corral's property and WAMM might be forced out of the medical marijuana business. For NPR's Justice Talking, I'm Steve Mencher.

MARGOT ADLER: Bob, would you want this cooperative shut down?

BOB STUTMAN: I would certainly want the decision to come forth from the Supreme Court. The problem is certainly that every state isn't the same. You asked an interesting question at the beginning of the show, Margot. We're in California. In California, if one reads the law, a doctor can recommend marijuana for virtually anything to any person of any age without ever seeing that person, and that person under state law has immunity from possession.

MARGOT ADLER: Now, Bob, do you believe marijuana is addictive?

BOB STUTMAN: Yeah, I believe for some people it's addictive, probably at about the same rate as alcohol having addiction. Maybe a little less, but it's in the category of alcohol.

MARGOT ADLER: Rob? How would you answer that question?

ROB KAMPPIA: The National Institute on Drug Abuse has answered the question, which is that about 9 percent of marijuana users are dependent on it. I think it's about 15 percent of alcohol users are dependent. It's important to make a distinction between dependence and addiction. Dependence is sort of a psychological need for a drug, whereas addiction is actually a physical addiction

where you actually, if you don't have the drug, then you actually suffer physical repercussions. Marijuana is not physically addictive. Alcohol is.

MARGOT ADLER: Does that pose a problem in regard to medical...

BOB STUTMAN: Rob I'm sorry, but that's simply not true. There are a whole bunch of studies that show it does cause a physical dependence, much milder withdrawal and over a longer term. But I would agree with you on one thing. I don't think addiction is an important term. I think the real important term is dependence. You put a heroin addict in prison for ten years, and assume he or she doesn't get heroin, a big assumption, but assume he or she doesn't get heroin, and if they don't go into treatment, they will still go out and score heroin their first day out. So I think one of the areas where Rob and I can agree is the problem is not really physical dependence. The problem is the psychological dependence.

MARGOT ADLER: Now we actually have an email letter from a listener. His name is Michael Brewster. He's from Anaheim, California, and he asked us this question on the internet. By the way, if anyone visits justicetalking.org, they too can ask a question for a future show. Michael writes: "Why is it that you are willing to trust doctors with the administration of derivatives and relatives of heroin and opium, such as Demerol, codeine, morphine, and you are willing to trust dentists to use relatives of cocaine, like Lidocaine, but you won't let doctors manage a patient's care using marijuana, despite recommendations from various medical associations?" I guess that's for you, Bob.

BOB STUTMAN: I think it probably is. I do trust doctors. And again, I go back to the issue. Rob and I probably wouldn't have an intellectual fight if the folks on his side of the issue said, look, smoking cannabis is not good. Let us look seriously at deriving the chemicals in cannabis that may be good and put those through a quick process and make those available.

MARGOT ADLER: Rob?

ROB KAMPPIA: I'd just like to point out, the FDA was not created by God, alright? The FDA was given to us by Congress in the beginning of the 20th century. And the FDA makes mistakes. More importantly, Congress makes mistakes. Congress actually declared in 1970 that marijuana has no medical value. When Congress did that in 1970 under the Nixon administration, it was a political decision. It wasn't a bunch of doctors hanging out in Congress making this decision. It was politicians making the decision, creating a system that's causing the problems today. Congress made a political decision, our solution is political. We're passing initiatives.

BOB STUTMAN: And by the way, I support and not only support, applaud Rob's right to do what he's doing. And support his right. He's doing it the right way.

Anybody that argues with the way he's doing it is foolish. If it was a political decision, then vote and get people in who are willing to change that decision.

MARGOT ADLER: Robert Stutman, who was with the DEA for 25 years, thanks for being part of our program.

BOB STUTMAN: Thank you for having me here.

MARGOT ADLER: Rob Kampia, director of the Marijuana Policy Project, thanks so much for joining us on Justice Talking.

ROB KAMPPIA: Thank you.

MARGOT ADLER: This is Justice Talking, I'm Margot Adler. I wanted to see how advocacy groups on both the right and the left are mobilizing around the Supreme Court nomination of Harriet Miers. I first called Ralph Neas, president of People for the American Way. Hi Ralph.

RALPH NEAS: Hello.

MARGOT ADLER: Thanks for joining me again on Justice Talking.

RALPH NEAS: Oh, it's always an honor to be with you.

MARGOT ADLER: Ralph, People for the American Way has said that the Miers nomination requires close scrutiny, that you have advised the Senate to proceed with care. These are pretty tame ways of suggesting that another nominee might be a better choice. Why hasn't your organization come out and blatantly opposed the Miers nomination like you did with Roberts?

RALPH NEAS: With Roberts, we actually did not take a position for about five weeks. We looked at the 70,000 pages of documents, especially the documents pertaining to his record in the Bush and Reagan White Houses back in the 1980s, and then decided to oppose the nomination. We started out, as we are starting out with Harriet Miers, expressing concerns and asking Democratic and Republican senators not to take any position until after the Senate Judiciary Committee hearings.

MARGOT ADLER: What do you know about Harriet Miers that makes you think she would not carry on in the voting tradition of Sandra Day O'Connor?

RALPH NEAS: Well again, we don't know for sure anything right now. My instincts of course are anyone who spent the last 12 years with Karl Rove and George W. Bush, they probably know a lot about her, and want her to move the Court to the

right. The other thing that we're concerned about is that she has been so close to the president and to Karl Rove—will she be independent when she gets on the Court? With respect to her competence and character, the other two qualifications that the Senate should look at, I do think that she seems, as was Judge Roberts, to be a person of integrity. With respect to the experience issue, I think the right is being a little bit hypocritical.

Compared to Clarence Thomas she brings a lot of legal credentials to the table, in terms of her law firm experience, her clerking with the Federal District Court judge, in terms of the Bar Association. The big question here of course is how will she handle issues during the hearings that relate to the Constitution? That's her weak area, and as Senator Arlen Specter, the Republican chairman said, she needs more than the murder boards, more than the questions and answers. She needs a crash course on the Constitution. And I think that's where she's vulnerable with respect to the hearings.

MARGOT ADLER: The Miers nomination has created interesting splits. Democrats, including Nevada Senator Harry Reid, the Democratic whip are in favor of her nomination, while many conservative Republicans are opposed to the nomination. How has this nomination affected President Bush's standing with his base?

RALPH NEAS: I have been fortunate enough to have worked on about a dozen Supreme Court nominations, going back to my days as a Republican Chief Counsel to Republican Senator Edward W. Brooke. I've never seen anything like this. I'm not sure I've seen any time, with respect to a Democratic or Republican president, the base turning so swiftly and so strongly against the President of their own party. And the rebellion seems to be growing. I don't think she's going to withdraw. And I don't think the Senate—the president will ask her to withdraw.

MARGOT ADLER: Last question. How is your approach different this time as opposed to the nomination of John Roberts?

RALPH NEAS: Right now, it's not different, insofar as we've asked the Senators not to take a position. We certainly are doing a public education campaign to make sure the American people know what's at stake, the magnitude of what's at stake, because if Harriet Miers is not in the mode of Sandra Day O'Connor but in the mode of Antonin Scalia and Clarence Thomas, she could push the Court far to the right. So this is a very dangerous moment for America, and we're going to make sure that we have this exhaustive examination of her record, and see what happens during the hearings.

MARGOT ADLER: Thank you so much Ralph.

RALPH NEAS: Stay in touch.

MARGOT ADLER: Ralph Neas is president of People for the American Way.

I called Jay Sekulow to get his perspective and to talk about what some conservatives are saying about the Miers nomination. He is chief counsel of the American Center for Law and Justice. Jay, good to talk with you again.

JAY SEKULOW: Well thanks for having me.

MARGOT ADLER: I understand that you participated in a recent telephone call with White House staffers and leading conservatives to talk about the Miers nomination. Could you tell us about the purpose of the call and what people were saying?

JAY SEKULOW: Well the purpose of the call was to let people know who Harriet Miers was, because people don't know. She's had a distinguished career in Texas and she's done great in Washington as the White House counsel. But people didn't know who Harriet Miers was, what she stood for, what her positions are, and what her judicial philosophy is. So part of the call was to educate a lot of grassroots activists. I think there were 600 on that call. Because I've worked with Harriet Miers over the last year and I have come to know her and respect her tremendously.

MARGOT ADLER: Now you support Miers. Jerry Falwell, James Dobson, Pat Robertson all support Miers, yet some conservatives have been very angered by the President's nomination. They say she's not as strong of a candidate as they expected, that her views on important issues like abortion are not well-known, and that the President owed them a more noted, experienced conservative nominee. How do you respond to those concerns?

JAY SEKULOW: Well I think, look, I think that some of the criticism is quite legitimate in the sense of they didn't know a lot about Harriet Miers, and they were asking real questions. But this idea that she's not good enough, which is what one commentator said, or that her LSAT score obviously wasn't high enough or else she wouldn't have gone to SMU but instead Harvard. That not only smacks of an elitism that I don't think is appropriate whether in a liberal camp or in a conservative camp, but it also is degrading. And I'll tell you something, from a bit of a personal perspective on that. I think when she goes through the judicial confirmation hearings people are going to see a side of Harriet Miers that they've not yet seen, and this is one very smart, very cool-under-fire lawyer, who is going to be a good Supreme Court justice. But part of what you've got here, Margot, is that President Bush did not go to the bench, so to speak. He didn't go to the bench that some of the people that have been criticizing the president wanted him to go to. But look, it's his prerogative. He's the president of the United States.

MARGOT ADLER: So, are we talking about a split between religious conservatives and what we might call think tank ideological conservatives?

JAY SEKULOW: Well, it's a hard line to draw, although it's interesting that, you're right, that the religious conservatives have tended to coalesce around Harriet Miers. Not all of them have. And some of the think tank conservatives, called the neo-conservatives, have not done so, although there's been a few that have as well, so it kind of crosses lines on a couple points. But there does seem a bit of a line here. Part of it is a trust factor. The President has appointed great nominees, and a lot of the religious conservatives trust the President's judgment. He knows what's at stake with the legacy of the Supreme Court of the United States, and there's a trust factor. Some of the neo-conservatives have said, you know, we've heard "trust me" before and we ended up with justices that were not palatable. The difference here of course is that this president has known Harriet Miers for over a decade.

MARGOT ADLER: The American Center for Law and Justice has said that it's prepared to meet the opposition's challenges head on in the fight to get Harriet Miers on the Supreme Court. What's your organization planning to do in the weeks ahead?

JAY SEKULOW: You know, what's interesting, Margot, is the opposition I've had to hit head on is our friends. The groups that are normally so proactive in these confirmation fights, People for the American Way, NARAL and others, are pretty much laying back right now, which is probably not for them a bad strategy. I understand why they're doing that. And the head on right now is—I mean, we're doing a lot of media, obviously—where I'm talking with friends of mine, who disagree on this nomination and we have a civil discussion about it. But we have sent out about a million emails. So right now it's a big educational process. But look, these hearings are going to start; before we blink the hearings are going to be here. And, you know, I'm expecting a tough week at the confirmation hearings. But I'm also expecting that at the end of the day Harriet Miers is going to do really well.

MARGOT ADLER: Thanks Jay for talking with me. We may check in with you in the future about this.

JAY SEKULOW: Thank you very much for having me.

MARGOT ADLER: Jay Sekulow is chief counsel of the American Center for Law and Justice. Be sure to tune in to Justice Talking for the latest updates on the Supreme Court nomination of Harriet Miers. I'm Margot Adler. Thanks for listening.
