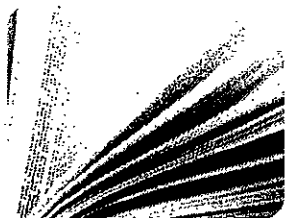


Americans For Safe Access

AN ORGANIZATION OF MEDICAL PROFESSIONALS, SCIENTISTS, AND PATIENTS HELPING PATIENTS

MEDICAL CANNABIS DISPENSING COLLECTIVES AND LOCAL REGULATION



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California's original medical cannabis law, the Compassionate Use Act (Prop. 215), directs local officials to implement ways for qualified patients to access their medicine. With the passage of state legislation (SB 420) in 2003, and the 2005 court ruling in *People v. Urziceanu*, medical cannabis dispensing collectives (or dispensaries) are now recognized as legal entities. Since most of the more than 150,000 cannabis patients in California (NORML 2005 estimate) rely on dispensaries for their medicine, communities across the state are facing requests for business licenses or zoning decisions related to the operation of dispensaries.

Americans for Safe Access, the leading national organization representing the interests of medical cannabis patients and their doctors, has undertaken a study of the experience of those communities that have dispensary ordinances. The report that follows details those experiences, as related by local officials; it also covers some of the political background and current legal status of dispensaries, outlines important issues to consider in drafting dispensary regulations, and summarizes a recent study by a University of California, Berkeley researcher on the community benefits of dispensaries. In short, this report describes why:

Regulated dispensaries benefit the community by:

- providing access for the most seriously ill and injured

- offering a safer environment for patients than having to buy on the illicit market
- improving the health of patients through social support
- helping patients with other social services, such as food and housing
- having a greater than average customer satisfaction rating for health care

Creating dispensary regulations combats crime because:

- dispensary security reduces crime in the vicinity
- street sales tend to decrease
- patients and operators are vigilant
- any criminal activity gets reported to police

Regulated dispensaries are:

- legal under California state law
- helping revitalize neighborhoods
- bringing new customers to neighboring businesses
- not a source of community complaints

This report concludes with a section outlining the important elements for local officials to consider as they move forward with regulations for dispensaries. ASA has worked successfully with officials in Kern County, Los Angeles, San Francisco and elsewhere to craft ordinances that meet the state's legal requirements, as well as the needs of patients and the larger community. Please contact ASA if you have questions: 888-929-4367.

For more information, see www.AmericansForSafeAccess.org or contact the ASA office at 1-888-929-4367 or 510-251-1856.

OVERVIEW OF MEDICAL CANNABIS DISPENSARIES

"As the number of patients in the state of California who rely upon medical cannabis for their treatment continues to grow, it is increasingly imperative that cities and counties address the issue of dispensaries in our respective communities. In the city of Oakland we recognized this need and adopted an ordinance which balances patients' need for safe access to treatment while reassuring the community that these dispensaries are run right. A tangential benefit of the dispensaries has been that they have helped to stimulate economic development in the areas where they are located."

- Desley Brooks, Oakland City Councilmember

ABOUT THIS REPORT

Land-use decisions are now part of the implementation of California's medical marijuana, or cannabis, laws. As a result, medical cannabis dispensing collectives (dispensaries) are the subject of considerable debate by planning and other local officials. Dispensaries have been operating openly in many communities since the passage of Proposition 215 in 1996. As a compassionate, community-based response to the problems patients face in trying to access cannabis, dispensaries are currently used by more than half of all patients in the state and are essential to those most seriously ill or injured. Since 2003, when the legislature further implemented state law by expressly addressing the issue of patient collectives and compensation for cannabis, more dispensaries have opened and more communities have been faced with questions about business permits and land use options.

In an attempt to clarify the issues involved, Americans for Safe Access has conducted a survey of local officials in addition to continuously tracking regulatory activity throughout the state. (safeaccessnow.org/regulations.) The report that follows outlines some of the underlying questions and provides an overview of the experiences of cities and counties around the state. In many parts of California, dispensaries have operated responsibly and provided essential services to the most needy without local intervention, but

city and county officials are also considering how to arrive at the most effective regulations for their community, ones that respect the rights of patients for safe and legal access within the context of the larger community.

ABOUT AMERICANS FOR SAFE ACCESS

Americans for Safe Access (ASA) is the largest national member-based organization of patients, medical professionals, scientists and concerned citizens promoting safe and legal access to cannabis for therapeutic uses and research. ASA works in partnership with state, local and national legislators to overcome barriers and create policies that improve access to cannabis for patients and researchers. We have more than 30,000 active members with chapters and affiliates in more than 40 states.

THE NATIONAL POLITICAL LANDSCAPE

A substantial majority of Americans support safe and legal access to medical cannabis. Public opinion polls in every part of the country show majority support cutting across political and demographic lines. Among them, a Time/CNN poll in 2002 showed 80% national support; a survey of AARP members in 2004 showed 72% of older Americans support legal access, with those in the western states polling 82% in favor.

This broad popular consensus, combined with an intransigent federal government which

refuses to acknowledge medical uses for cannabis, has meant that Americans have turned to state-based solutions. The laws voters and legislators have passed are intended to mitigate the effects of the federal government's prohibition on medical cannabis by allowing qualified patients to use it without state or local interference. Beginning with California in 1996, voters passed initiatives in eight states plus the District of Columbia -- Alaska, Colorado, Maine, Montana, Nevada, Oregon, and Washington. State legislatures followed suit, with elected officials in Hawaii, Maryland, Rhode Island, and Vermont taking action to protect patients from criminal penalty, and the California legislature amending its voter initiative in 2003.

Momentum for these state-level provisions for compassionate use and safe access has continued to build as more research on the therapeutic uses of cannabis is published. And the public advocacy of well-known cannabis patients such as the Emmy-winning talkshow host Montel Williams has also increased public awareness and created political pressure for compassionate state and local solutions.

Twice in the past decade the U.S. Supreme Court has taken up the question. In the most recent case, *Gonzales v. Raich*, a split court upheld the ability of federal officials to prosecute patients if they so choose, but did not overturn state laws. In the wake of that decision, the attorneys general of California, Hawaii, Oregon, and Colorado all issued legal opinions or statements reaffirming their state's medical cannabis laws. The duty of state and local law enforcement is to the enforcement and implementation of state, not federal, law.

HISTORY OF MEDICAL CANNABIS IN CALIFORNIA

Local officials and voters in California have recognized the needs of medical cannabis patients in their communities and have taken action, even before voters made it legal in 1996. In 1991, 80% of San Francisco voters

supported Proposition P, a ballot initiative which recommended a non-enforcement policy for the medical use, cultivation and distribution of marijuana. In 1992, citing both the interests of their constituency and the endorsement of therapeutic use by the California Medical Association, the San Francisco Board of Supervisors adopted a resolution urging the mayor and district attorney to accept letters from recommending physicians (Resolution No. 141-98). In 1993, the Sonoma Board of Supervisors approved a resolution mirroring a Senate Joint Resolution passed earlier that year, noting that a UN committee had called for cannabis to be made available by prescription and calling on "Federal and State representatives to support returning [cannabis] preparations to the list of available medicines which can be prescribed by licensed physicians" (Resolution No. 93-1547).

Since 1996 when 56% of California voters approved the Compassionate Use Act (CUA), public support for safe and legal access to medical cannabis has only increased. A statewide Field poll in 2004 found that "three in four voters (74%) favors implementation of the law. Voter support for the implementation of Prop. 215 cuts across all partisan, ideological and age subgroups of the state." (field.com/fieldpollonline/subscribers/RIs2105.pdf)

Even before the release of that Field poll, state legislators recognized that there is both strong support among voters for implementing the safe and legal access promised by the Compassionate Use Act (CUA) and little direction as to how local officials should proceed. This led to the drafting and passage of Senate Bill 420 in 2003, which amended the CUA to spell out more clearly the obligations of local officials for implementation.

WHAT IS A CANNABIS DISPENSARY?

The majority of medical marijuana (cannabis) patients cannot cultivate their medicine for themselves or find a caregiver to grow it for them. Most of California's estimated 200,000 patients obtain their medicine from a Medical

Cannabis Dispensing Collective (MCDC), often referred to as a "dispensary." Dispensaries are typically storefront facilities that provide medical cannabis and other services to patients in need. There are more than 200 dispensaries operating in California as of August 2006. Dispensaries operate with a closed membership that allow only patients and caregivers to obtain cannabis and only after membership is approved (upon verification of patient documentation). Many dispensaries offer on-site consumption, providing a safe and comfortable place where patients can medicate. An increasing number of dispensaries offer additional services for their patient membership, including such services as: massage, acupuncture, legal trainings, free meals, or counseling. Research on the social benefits for patients is discussed in the last section of this report.

RATIONALE FOR CANNABIS DISPENSARIES

While the Compassionate Use Act does not explicitly discuss medical cannabis dispensaries, it calls for the federal and state governments to "implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana." (Health & Safety Code § 11362.5) This portion of the law has been the basis for the development of compassionate, community-based systems of access for patients in various parts of California. In some cases, that has meant the creation of patient-run growing collectives that allow those with cultivation expertise to help other patients obtain medicine. In most cases, particularly in urban settings, that has meant the establishment of medical cannabis dispensing collectives, or dispensaries. These dispensaries are typically organized and run by groups of patients and their caregivers in a collective model of patient-directed health care that is becoming a model for the delivery of other health services.

MEDICAL CANNABIS DISPENSARIES ARE LEGAL UNDER STATE LAW

In an effort to clarify the voter initiative of 1996 and aid in its implementation across the

state, the California legislature enacted Senate Bill 420 in 2004, which expressly states that qualified patients and primary caregivers may collectively or cooperatively cultivate cannabis for medical purposes (Cal. Health & Safety Code section 11362.775). This provision has been interpreted by the courts to mean that dispensing collectives, where patients may buy their medicine, are legal entities under state law. California's Third District Court of Appeal affirmed the legality of collectives and cooperatives in 2005 in the case of *People v. Urziceanu*, which held that SB 420, which the court called the Medical Marijuana Program Act (MMPA), provides collectives and cooperatives a defense to marijuana distribution charges. Drawing from the Compassionate Use Act's directive to implement a plan for the safe and affordable distribution of medical marijuana, the court found that the MMPA and its legalization of collectives and cooperatives represented the state government's initial response to this mandate. By expressly providing for reimbursement for marijuana and services in connection with collectives and cooperatives, the Legislature has abrogated earlier cases, such as *Trippett*, *Peron*, and *Young*, and established a new defense for those who form and operate collectives and cooperatives to dispense marijuana. (See *People v. Urziceanu* (2005) 132 Cal.App.4th 747, 33 Cal.Rptr.2d 859, 881.)

This new case law parallels the interpretation of SB 420 provided to the League of Cities last year by Berkeley Assistant City Attorney Matthew J. Orebic, in his presentation "Medical Marijuana: The conflict between California and federal law and its effect on local law enforcement and ordinances." As he states in that report:

In the 2004 legislation, Section 11362.775 ... expressly allow[s] medical marijuana to be cultivated collectively by qualified patients and primary caregivers, and by necessary implication, distributed among the collective's members... Under the collective model, qualified patients who are unwilling or unable to cultivate marijuana

on their own can still have access to marijuana by joining together with other qualified patients to form a collective.

Orebic also notes that the law allows for those involved to "receive reimbursement for services rendered in supplying the patient with medical marijuana."

WHY PATIENTS NEED CONVENIENT DISPENSARIES

While some patients with long-term illnesses or injuries have the time, space, and skill to cultivate their own cannabis, the majority in the state, particularly those in urban settings, do not have the ability to provide for themselves. For those patients, dispensaries are the only option for safe and legal access. This is all the more true for those individuals who are suffering from a sudden, acute injury or illness.

Many of the most serious and debilitating injuries and illnesses require immediate relief. A cancer patient, for instance, who has just begun chemotherapy will typically need immediate access for help with nausea, which is why a Harvard study found that 45% of oncologists were already recommending cannabis to their patients, even before it had been made legal in any state. It is unreasonable to exclude those patients most in need simply because they are incapable of gardening or cannot wait months for relief.

WHAT COMMUNITIES ARE DOING TO HELP PATIENTS

Many communities in California have recognized the essential service that dispensaries provide and have either tacitly allowed their creation or, more recently, created ordinances or regulations for their operation. Dispensary regulation is one way in which the city can exert local control over the policy issue and ensure the needs of patients and the community at large are being met. As of August 2006, twenty-six cities and seven counties have enacted regulations, and many more are considering doing so soon. See appendix D.)

Officials recognize their duty to implement state laws, even in instances when they may not have previously supported medical cannabis legislation. Duke Martin, mayor pro tem of Ridgecrest said during a city council hearing on their local dispensary ordinance, "it's something that's the law, and I will uphold the law."

"Because they are under strict city regulation, there is less likelihood of theft or violence and less opposition from angry neighbors. It is no longer a controversial issue in our city."

-Mike Rotkin, Santa Cruz

This understanding of civic obligation was echoed at the Ridgecrest hearing by Councilmember Ron Carter, who said, "I want to make sure everything is legitimate and above board. It's legal. It's not something we can stop, but we can have an ordinance of regulations."

Similarly, Whittier Planning Commissioner R.D. McDonnell spoke publicly of the benefits of dispensary regulations at a city government hearing. "It provides us with reasonable protections," he said. "But at the same time provides the opportunity for the legitimate operations."

Whittier officials discussed the possibility of an outright ban on dispensary operations, but Greg Nordback said, "It was the opinion of our city attorney that you can't ban them; it's against the law. You have to come up with an area they can be in." Whittier passed its dispensary ordinance in December 2005.

Placerville Police Chief George Nielson commented that, "The issue of medical marijuana continues to be somewhat controversial in our community, as I suspect and hear it remains in other California communities. The issue of 'safe access' is important to some and not to others. There was some objection to the dispensary ordinance, but I would say it was a vocal minority on the issue."

IMPACT OF DISPENSARIES AND REGULATORY ORDINANCES ON COMMUNITIES IN CALIFORNIA

DISPENSARIES REDUCE CRIME AND IMPROVE PUBLIC SAFETY

Some reports have suggested that dispensaries are magnets for criminal activity or other behavior that is a problem for the community, but the experience of those cities with dispensary regulations says otherwise. Crime statistics and the accounts of local officials surveyed by ASA indicate that crime is actually reduced by the presence of a dispensary. And complaints from citizens and surrounding businesses are either negligible or are significantly reduced with the implementation of local regulations.

This trend has led multiple cities and counties to consider regulation as a solution. Kern County, which passed a dispensary ordinance in July 2006, is a case in point. The sheriff there noted in his staff report that "regulatory oversight at the local levels helps prevent crime directly and indirectly related to illegal operations occurring under the pretense and protection of state laws authorizing Medical Marijuana Dispensaries." Although dispensary-related crime has not been a problem for the county, the regulations will help law enforcement determine the legitimacy of dispensaries and their patients.

The sheriff specifically pointed out that, "existing dispensaries have not caused noticeable law enforcement of secondary effects and problems for at least one year. As a result, the focus of the proposed Ordinance is narrowed to insure Dispensary compliance with the law" (Kern County Staff Report, Proposed Ordinance Regulating Medical Cannabis Dispensaries, July 11, 2006).

The presence of a dispensary in the neighborhood can actually improve public safety and reduce crime. Most dispensaries take security

for their members and staff more seriously than many businesses. Security cameras are often used both inside and outside the premises, and security guards are often employed to ensure safety. Both cameras and security guards serve as a general deterrent to criminal activity and other problems on the street. Those likely to engage in such activities will tend to move to a less-monitored area, thereby ensuring a safe environment not only for dispensary members and staff but also for neighbors and businesses in the surrounding area.

Residents in areas surrounding dispensaries have reported improvements to the neighborhood. Kirk C., a long time San Francisco resident, commented at a city hearing, "I have lived in the same apartment along the Divisadero corridor in San Francisco for the past five years. Each store that has opened in my neighborhood has been nicer, with many new restaurants quickly becoming some of the city's hottest spots. My neighborhood's crime and vandalism seems to be going down year after year. It strikes me that the dispensaries have been a vital part of the improvement that is going on in my neighborhood."

Oakland's city administrator for the ordinance regulating dispensaries, Barbara Killey, notes that "The areas around the dispensaries may be some of the most safest areas of Oakland now because of the level of security, surveillance, etc...since the ordinance passed."

Likewise, Santa Rosa Mayor Jane Bender noted that since the city passed its ordinance, there appears to be "a decrease in criminal activity. There certainly has been a decrease in complaints. The city attorney says there have been no complaints either from citizens nor from neighboring businesses."

Those dispensaries that go through the permitting process or otherwise comply with local ordinances tend, by their very nature, to be those most interested in meeting community standards and being good neighbors. Cities enacting ordinances for the operation of dispensaries may even require security measures, but it is a matter of good business practice for dispensary operators since it is in their own best interest. Many local officials surveyed by ASA said dispensaries operating in their communities have presented no problems, or what problems there may have been significantly diminished once an ordinance or other regulation was instituted.

Mike Rotkin, fifth-term councilmember and former four-term mayor in the City of Santa Cruz, says about his city's dispensary, "It provides a legal (under State law) service for people in medical need. Because it is well run and well regulated and located in an area acceptable to the City, it gets cooperation from the local police. Because they are under strict city regulation, there is less likelihood of theft or violence and less opposition from angry neighbors. It is no longer a controversial issue in our city."

Regarding the decrease in complaints about existing dispensaries, several officials said that ordinances significantly improved relations with other businesses and the community at large. An Oakland city council staff member noted that they, "had gotten reports of break ins. That kind of activity has stopped. That danger has been eliminated."

WHY DIVERSION OF MEDICAL CANNABIS IS TYPICALLY NOT A PROBLEM

One of the concerns of public officials is that dispensaries make possible or even encourage the resale of cannabis on the street. But the experience of those cities which have instituted ordinances is that such problems, which are rare in the first place, quickly disappear. In addition to the ease for law enforcement of monitoring openly operating facilities, dispensaries universally have strict rules about how

members are to behave in and around the dispensary. Many have "good neighbor" trainings for their members that emphasize sensitivity to the concerns of neighbors, and all absolutely prohibit the resale of cannabis to anyone. Anyone violating that prohibition is typically banned from any further contact with the dispensary.

"The areas around the dispensaries may be some of the most safest areas of Oakland now because of the level of security, surveillance, etc. since the ordinance passed."

-Barbara Killey, Oakland

As Oakland's city administrator for the regulatory ordinance explains, "dispensaries themselves have been very good at self policing against resale because they understand they can lose their permit if their patients resell."

In the event of street or other resale, local law enforcement has at its disposal all the many legal penalties the state provides. This all adds up to a safer street environment with fewer drug-related problems than before dispensary operations were permitted in the area. The experience of the City of Oakland is a good example of this phenomenon. The city's legislative analyst, Lupe Schoenberger, stated that, "...[P]eople feel safer when they're walking down the street. The level of marijuana street sales has significantly reduced."

Dispensaries operating with the permission of the city are also more likely to appropriately utilize law enforcement resources themselves, reporting any crimes directly to the appropriate agencies. And, again, dispensary operators and their patient members tend to be more safety conscious than the general public, resulting in great vigilance and better pre-emptive measures. The reduction in crime in areas with dispensaries has been reported anecdotally by law enforcement in several communities.

DISPENSARIES CAN BE GOOD NEIGHBORS

Medical cannabis dispensing collectives are typically positive additions to the neighborhoods in which they locate, bringing additional customers to neighboring businesses and reducing crime in the immediate area.

Like any new business that serves a different customer base than the existing businesses in the area, dispensaries increase the revenue of other businesses in the surrounding area simply because new people are coming to access services, increasing foot traffic past other establishments. In many communities, the opening of a dispensary has helped revitalize an area. While patients tend to opt for dispensaries that are close and convenient, particularly since travel can be difficult, many patients will travel to dispensary locations in parts of town they would not otherwise visit. Even if patients are not immediately utilizing the services or purchasing the goods offered by neighboring businesses, they are more likely to eventually patronize those businesses because of convenience.

ASA's survey of officials whose cities have passed dispensary regulations found that the vast majority of businesses adjoining or near dispensaries had reported no problems associated with a dispensary opening after the implementation of regulation.

Kriss Worthington, longtime councilmember in Berkeley, said in support of a dispensary there, "They have been a responsible neighbor and vital organization to our diverse community. Since their opening, they have done an outstanding job keeping the building clean, neat, organized and safe. In fact, we have had no calls from neighbors complaining about them, which is a sign of respect from the community. In Berkeley, even average restaurants and stores have complaints from neighbors."

Mike Rotkin, fifth term councilmember and former four term mayor in the City of Santa Cruz said about the dispensary that opened there last year, "The immediately neighboring businesses have been uniformly supportive or neutral. There have been no complaints either

about establishing it or running it."

Mark Keilty, Planning and Building director of Tulare, when asked if the existence of dispensaries affected local business, said they had "no effect or at least no one has complained."

And Dave Turner, mayor of Fort Bragg, noted that before the passage of regulations there were "plenty of complaints from both neighboring businesses and concerned citizens," but since then, it is no longer a problem. Public officials understand that, when it comes to dispensaries, they must balance both the humanitarian needs of patients and the concerns of the public, especially those of neighboring residents and business owners.

"Dispensaries themselves have been very good at self policing against resale because they understand they can lose their permit if their patients resell." -Barbara Killey, Oakland

Oakland City Councilmember Nancy J. Nadel wrote in an open letter to her fellow colleagues across the state, "Local government has a responsibility to the medical needs of its people, even when it's not a politically easy choice to make. We have found it possible to build regulations that address the concerns of neighbors, local businesses law enforcement and the general public, while not compromising the needs of the patients themselves. We've found that by working with all interested parties in advance of adopting an ordinance while keeping the patients' needs foremost, problems that may seem inevitable never arise."

Mike Rotkin of Santa Cruz stated that since Santa Cruz enacted an ordinance for dispensary operations, "Things have calmed down. The police are happy with the ordinance, and that has made things a lot easier. I think the fact that we took the time to give people who wrote us respectful and detailed explanations of what we were doing and why made a real difference."

BENEFITS OF DISPENSARIES TO THE PATIENT COMMUNITY

DISPENSARIES PROVIDE MANY BENEFITS TO THE SICK AND SUFFERING

Safe and legal access to cannabis is the reason dispensaries have been created by patients and caregivers around the state. For many people, dispensaries remove significant barriers to their ability to obtain cannabis. Patients in urban areas with no space to cultivate cannabis, those without the requisite gardening skills to grow their own, and, most critically, those who face the sudden onset of a serious illness or who have suffered a catastrophic illness - all tend to rely on dispensaries as a compassionate, community-based solution that is an alternative to potentially dangerous illicit market transactions.

Many elected officials around the state recognize the importance of dispensaries for their constituents. As Nathan Miley, former Oakland City councilmember and now Alameda County supervisor said in a letter to his colleagues, "When designing regulations, it is crucial to remember that at its core this is a healthcare issue, requiring the involvement and leadership of local departments of public health. A pro-active healthcare-based approach can effectively address problems before they arise, and communities can design methods for safe, legal access to medical marijuana while keeping the patients' needs foremost."

Likewise, Abbe Land, mayor of West Hollywood says safe access is "very important" and long-time councilmember John Duran agreed, adding, "We have a very high number of HIV-positive residents in our area. Some of them require medical marijuana to offset the medications they take for HIV." Jane Bender, mayor of Santa Rosa, says, "There are legitimate patients in our community, and I'm glad they have a safe means of

obtaining their medicine."

Oakland's city administrator for ordinances, said safe access to cannabis is "very important" for the community. "In the finding the council made to justify the ordinance, they say 'have safe and affordable access'."

And Mike Rotkin, the longtime Santa Cruz elected official, said that this is also an important matter for his city's citizens: "The council considers it a high priority and has taken considerable heat to speak out and act on the issue."

It was a similar decision of social conscience that led to Placerville's city council putting a regulatory ordinance in place. Councilmember Marian Washburn told her colleagues that "as you get older, you know people with diseases who suffer terribly, so that is probably what I get down to after considering all the other components."

While dispensaries provide a unique way for patients to obtain the cannabis their doctors have recommended, they typically offer far more that is of benefit to the health and welfare of those suffering both chronic and acute medical problems.

Dispensaries are often called "clubs" in part because many of them offer far more than a clinical setting for obtaining cannabis. Recognizing the isolation that many seriously ill and injured people experience, many dispensary operators chose to offer a wider array of social services, including everything from a place to congregate and socialize to help with finding housing and meals. The social support patients receive in these settings has far-reaching benefits that is also influencing the development of other patient-based care models.

RESEARCH SUPPORTS THE DISPENSARY MODEL

A 2006 study by Amanda Reiman, Ph.D. of the School of Social Welfare at the University of California, Berkeley examined the experience of 130 patients spread among seven different dispensaries in the San Francisco Bay Area. Dr. Reiman's study cataloged the patients' demographic information, health status, consumer satisfaction, and use of services, while also considering the dispensaries' environment, staff, and services offered. The study found that "medical cannabis patients have created a system of dispensing medical cannabis that also includes services such as counseling, entertainment and support groups, all important components of coping with chronic illness." She also found that levels of satisfaction with the care received at dispensaries ranked significantly higher than those reported for health care nationally.

Patients who use the dispensaries studied uniformly reported being well satisfied with the services they received, giving an 80% satisfaction rating. The most important factors for patients in choosing a medical cannabis dispensary were: feeling comfortable and secure, familiarity with the dispensary, and having a rapport with the staff. In their comments, patients tended to note the helpfulness and kindness of staff and the support found in the presence of other patients.

Patients in Dr. Reiman's study frequently cited their relationships with staff as a positive factor. Comments from six different dispensaries include:

"I love this spot because of the love they give, always! They treat everyone like a family loved one!"

"This particular establishment is very friendly for the most part and very convenient for me."

"The staff and patients are like family to me!"

"The staff are warm and respectful."

"The staff at this facility are always cordial

and very friendly. I enjoy coming."

"This is the friendliest dispensary that I have ever been to and the staff is always warm and open. That's why I keep coming to this place. The selection is always wide."

MANY DISPENSARIES PROVIDE KEY SOCIAL SERVICES

Dispensaries offer many cannabis-related services that patients cannot otherwise obtain. Among them is an array of cannabis varieties, some of which are more useful for certain afflictions than others, and staff awareness of what types of cannabis other patients report to be helpful. In other words, one variety of cannabis may be effective for pain control while another may be better for combating nausea. Dispensaries allow for the pooling of information about these differences and the opportunity to access the type of cannabis likely to be most beneficial.

"There are legitimate patients in our community, and I'm glad they have a safe means of obtaining their medicine."

-Jane Bender, Santa Rosa

Other cannabis-related services include the availability of cannabis products in other forms than the smokeable ones. While most patients prefer to have the ability to modulate dosing that smoking easily allows, for others, the effects of edible cannabis products are preferable. Dispensaries typically offer edible products such as brownies or cookies for those purposes. Many dispensaries also offer classes on how to grow your own cannabis, classes on legal matters, trainings for health-care advocacy, and other seminars.

Beyond providing safe and legal access to cannabis, the dispensaries studied also offer important social services to patients, including counseling, help with housing and meals, hospice and other care referrals, and, in one case,

even doggie daycare for members who have doctor appointments or work commitments. Among the broader services the study found in dispensaries are support groups, including groups for women, veterans, and men; creativity and art groups, including groups for writers, quilters, crochet, and crafts; and entertainment options, including bingo, open mike nights, poetry readings, internet access, libraries, and puzzles. Clothing drives and neighborhood parties are among the activities that patients can also participate in through their dispensary.

Social services such as counseling and support groups were reported to be the most commonly and regularly used service, with two-thirds of patients reporting that they use social services at dispensaries 1-2 times per week. Also, life services, such as free food and housing help, were used at least once or twice a week by 22% of those surveyed.

"Local government has a responsibility to the medical needs of its people, even when it's not a politically easy choice to make. We have found it possible to build regulations that address the concerns of neighbors, local businesses law enforcement and the general public, while not compromising the needs of the patients themselves. We've found that by working with all interested parties in advance of adopting an ordinance while keeping the patients' needs foremost, problems that may seem inevitable never arise." -Nancy Nadel, Oakland

Dispensaries offer chronically ill patients even more than safe and legal access to cannabis and an array of social services. The study found that dispensaries also provided other social benefits for the chronically ill, an important part of the bigger picture:

[T]he multiple services provided by the

social model are only part of the culture of social club facility. Another component of this model ... is the possible benefit that social support has for one diagnosed with a chronic and/or terminal physical or psychological illness. Beyond the support that medical cannabis patients receive from services is the support received from fellow patients, some of whom are experiencing the same or similar physical/psychological symptoms.... It is possible that the mental health benefits from the social support of fellow patients is an important part of the healing process, separate from the medicinal value of the cannabis itself.

Several researchers and physicians who have studied the issue of the patient experience with dispensaries have concluded that there are other important positive effects stemming from a dispensary model that includes a component of social support groups.

Dr. Reiman notes that, "support groups may have the ability to address issues besides the illness itself that might contribute to long-term physical and emotional health outcomes, such as the prevalence of depression among the chronically ill."

For those who suffer the most serious illness, such as HIV/AIDS and terminal cancer, these groups of like-minded people with similar conditions can also help patients through the grieving process. Other research into the patient experience has found that many patients have lost or are losing friends and partners to terminal illness. These patients report finding solace with other patients who are also grieving or facing end-of-life decisions. A medical study published in 1998 concluded that the patient-to-patient contact associated with the social club model was the best therapeutic setting for ill people.

CONCLUSION

Dispensaries are proving to be an asset to the communities they serve, as well as the larger community within which they operate.

ASA's survey of local officials and monitoring of regulatory activity throughout the State of California has shown that, once working regulatory ordinances are in place, dispensaries are typically viewed favorably by public officials, neighbors, businesses, and the community at large, and that regulatory ordinances can and do improve an area, both socially and economically.

Dispensaries - now expressly legal under California state law - are helping revitalize neighborhoods by reducing crime and bringing new customers to surrounding businesses. They improve public safety by increasing the security presence in neighborhoods, reducing illicit market marijuana sales, and ensuring that any criminal activity gets reported to the appropriate law enforcement authorities.

More importantly, dispensaries benefit the community by providing safe access for those who have the greatest difficulty getting the

medicine their doctors recommend: the most seriously ill and injured. Many dispensaries also offer essential services to patients, such as help with food and housing.

Medical and public health studies have also shown that the social-club model of most dispensaries is of significant benefit to the overall health of patients. The result is that cannabis patients rate their satisfaction with dispensaries as far greater than the customer-satisfaction ratings given to health care agencies in general.

Public officials across the state, in both urban and rural communities where dispensary regulatory ordinances have been adopted, have been outspoken in praise of what. Their comments are consistent on and favorable to the regulatory schemes they enacted and the benefits to the patients and others living in their communities.

As a compassionate, community-based response to the medical needs of more than 150,000 sick and suffering Californians, dispensaries are working.

APPENDIX A

RECOMMENDATIONS ON DISPENSARY REGULATIONS

Cannabis dispensaries have been operating successfully around California for a decade with very few problems. But since the legislature and courts have acted to make their legality a matter of state law more than local tolerance, the question of how to implement appropriate zoning and business licensing is coming before local officials all across the state. What follows are recommendations on matters to consider, based on adopted code as well as ASA's extensive experience working with community leaders and elected officials.

COMMUNITY OVERSIGHT

In order to appropriately resolve conflict in the community and establish a process by which complaints and concerns can be reviewed, it can often be helpful to create a community oversight committee. Such committees, if fair and balanced, can provide a means for the voices of all affected parties to be heard, and to quickly resolve problems.

The Ukiah City Council created such a task force in 2005; what follows is how they defined the group:

The Ukiah Medical Marijuana Review and Oversight Commission shall consist of seven members nominated and appointed pursuant to this section. The Mayor shall nominate three members to the commission, and the City Council shall appoint, by motion, four other members to the commission. Each nomination of the Mayor shall be subject to approval by the City Council, and shall be the subject of a public hearing and vote within 40 days. If the City Council fails to act on a mayoral nomination within 40 days of the date

the nomination is transmitted to the Clerk of the City Council, the nominee shall be deemed approved. Appointments to the commission shall become effective on the date the City Council adopts a motion approving the nomination or on the 41st day following the date the mayoral nomination was transmitted to the Clerk of the City Council if the City Council fails to act upon the nomination prior to such date.

Of the three members nominated by the Mayor, the Mayor shall nominate one member to represent the interests of City neighborhood associations or groups, one member to represent the interests of medical marijuana patients, and one member to represent the interests of the law enforcement community.

Of the four members of the commission appointed by the City Council, two members shall represent the interests of City neighborhood associations or groups, one member shall represent the interests of the medical marijuana community, and one member shall represent the interests of the public health community.

DISPENSARIES REGULATIONS ARE BEST HANDLED THROUGH THE HEALTH OR PLANNING DEPARTMENTS, NOT LAW ENFORCEMENT AGENCIES

Reason: To ensure that qualified patients, caregivers, and dispensaries are protected, general regulatory oversight duties - including permitting, record maintenance and related protocols - should be the responsibility of the local department of public health (DPH) or planning department. Given the statutory mission and responsibilities of DPH, it is the

natural choice and best-suited agency to address the regulation of medical cannabis dispensing collectives. Law enforcement agencies are ill-suited for handling such matters, having little or no expertise in health and medical affairs.

Examples of responsible agencies and officials:

- Angels Camp - City Administrator
- Atascadero - Planning Commission
- Citrus Heights - City Manager
- Los Angeles - Planning Department
- Plymouth - City Administrator
- San Francisco - Department of Public Health
- Selma - City Manager
- Visalia - City Planner

ARBITRARY CAPS ON THE NUMBER OF DISPENSARIES CAN BE COUNTER-PRODUCTIVE

Reason: Policymakers do not need to set arbitrary limitations on the number of dispensing collectives allowed to operate because, as with other services, competitive market forces and consumer choice will be decisive. Dispensaries which provide quality care and patient services to their memberships will flourish, while those that do not will fail.

Capping the number of dispensaries limits consumer choice, which can result in both decreased quality of care and less affordable medicine. Limiting the number of dispensing collectives allowed to operate may also force patients with limited mobility to travel farther for access than they would otherwise need to.

Artificially limiting the supply for patients can result in an inability to meet demand, which in turn may lead to such undesirable effects as lines outside of dispensaries, increased prices, and lower quality medicine.

Examples of cities and counties without numerical caps on dispensaries:

- Dixon
- Elk Grove
- Fort Bragg

- Placerville
- Ripon
- Selma
- Tulare
- Calaveras County
- Kern County
- Los Angeles County
- City and County of San Francisco.

RESTRICTIONS ON WHERE DISPENSARIES CAN LOCATE ARE OFTEN UNNECESSARY AND CAN CREATE BARRIERS TO ACCESS

Reason: As described in this report, regulated dispensaries do not generally increase crime or bring other harm to their neighborhoods, regardless of where they are located. And since for many patients travel is difficult, cities and counties should take care to avoid unnecessary restrictions on where dispensaries can locate. Patients benefit from dispensaries being convenient and accessible, especially if the patients are disabled or have conditions that limit their mobility.

It is unnecessary and burdensome for patients and dispensaries, to restrict dispensaries to industrial corners, far away from public transit and other services. Depending on a city's population density, it can also be extremely detrimental to set excessive proximity restrictions (to schools or other facilities) that can make it impossible for dispensaries to locate anywhere within the city limits. It is important to balance patient needs with neighborhood concerns in this process.

PATIENTS BENEFIT FROM ON-SITE CONSUMPTION AND PROPER VENTILATION SYSTEMS

Reason: Dispensaries that allow members to consume medicine on-site have positive psychosocial health benefits for chronically ill people who are otherwise isolated. On-site consumption encourages dispensary members to take advantage of the support services that improve patients' quality of life and, in some cases, even prolong it. Researchers have shown that support groups like those offered

by dispensaries are effective for patients with a variety of serious illnesses. Participants active in support services are less anxious and depressed, make better use of their time and are more likely to return to work than patients who receive only standardized care, regardless of whether they have serious psychiatric symptoms. On-site consumption is also important for patients who face restrictions to off-site consumption, such as those in subsidized or other housing arrangements that prohibit smoking. In addition, on-site consumption provides an opportunity for patients to share information about effective use of cannabis and to use specialized delivery methods, such as vaporizers, which do not require smoking.

Examples of localities that permit on-site consumption (many stipulate ventilation requirements):

- Berkeley
- San Francisco
- Alameda County
- Kern County
- Los Angeles County

DIFFERENTIATING DISPENSARIES FROM PRIVATE PATIENT COLLECTIVES IS IMPORTANT

Reason: Private patient collectives, in which several patients grow their medicine collectively at a private location, should not be required to follow the same restrictions that are placed on retail dispensaries, since they are a different type of operation. A too-broadly written ordinance may inadvertently put untenable restrictions on individual patients and caregivers who are providing either for themselves or a few others.

Example: Santa Rosa's adopted ordinance, provision 10-40.030 (F)

"Medical cannabis dispensing collective," hereinafter "dispensary," shall be construed to include any association, cooperative, affiliation, or collective of persons where multiple "qualified patients" and/or "primary care givers," are organized to provide education,

referral, or network services, and facilitation or assistance in the lawful, "retail" distribution of medical cannabis. "Dispensary" means any facility or location where the primary purpose is to dispense medical cannabis (i.e., marijuana) as a medication that has been recommended by a physician and where medical cannabis is made available to and/or distributed by or to two or more of the following: a primary caregiver and/or a qualified patient, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A "dispensary" shall not include dispensing by primary caregivers to qualified patients in the following locations and uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq., or a qualified patient's or caregiver's place of residence.

PATIENTS BENEFIT FROM ACCESS TO EDIBLES AND MEDICAL CANNABIS CONSUMPTION DEVICES

Reason: Not all patients smoke cannabis. Many find tinctures (cannabis extracts) or edibles (such as baked goods containing cannabis) to be more effective for their conditions. Allowing dispensaries to carry these items is important to patients getting the best level of care possible. For patients who have existing respiration problems or who otherwise have an aversion to smoking, edibles are

essential. Conversely, for patients who do choose to smoke or vaporize, they need to procure the tools to do so. Prohibiting dispensaries from carrying medical cannabis consumption devices, often referred to as paraphernalia, forces patients to go elsewhere to procure these items. Additionally, when dispensaries do carry these devices, informed dispensary staff can explain their usage to new patients.

Examples of localities allowing dispensaries to carry edibles and delivery devices:

- Angels Camp
- Berkeley
- Citrus Heights
- Santa Cruz
- Sutter Creek
- West Hollywood
- Alameda County
- Kern County
- Los Angeles County.

APPENDIX B

MEDICAL CANNABIS DISPENSARY ORDINANCE EVALUATION SURVEY QUESTIONS

1. What is your name and position?
2. How important is safe access to medical marijuana in your community?
3. On what date did your city/county pass its ordinance?
4. Were there medical cannabis dispensaries in your district before the ordinance? How many?
5. If any, were there any complaints against them before the ordinance was passed? If yes, who made the complaints? What were the specific complaints that were made? How frequently were complaints made?
6. Were there any objections to passing an ordinance to regulate medical cannabis dispensaries?
7. If so, what were the primary objections? Who were the main objectors?
8. Has the ordinance implementation allayed or amplified those concerns?
9. How many medical cannabis dispensaries are there now? What is the estimated population of the area that may utilize them? Do you think the current number of dispensaries is enough to address the needs of the community?
10. Has there been an increase or decrease in criminal activity related to dispensaries since the regulations were implemented?
11. How has the ordinance improved the public safety in your community? Has it worsened the public safety? How?
12. Has the existence of dispensaries affected local business? How do neighboring businesses view dispensaries?
13. What would you advocate be changed in the current regulations?
14. Do you have anything else you would like to say in evaluation of the medical cannabis ordinance?

APPENDIX C

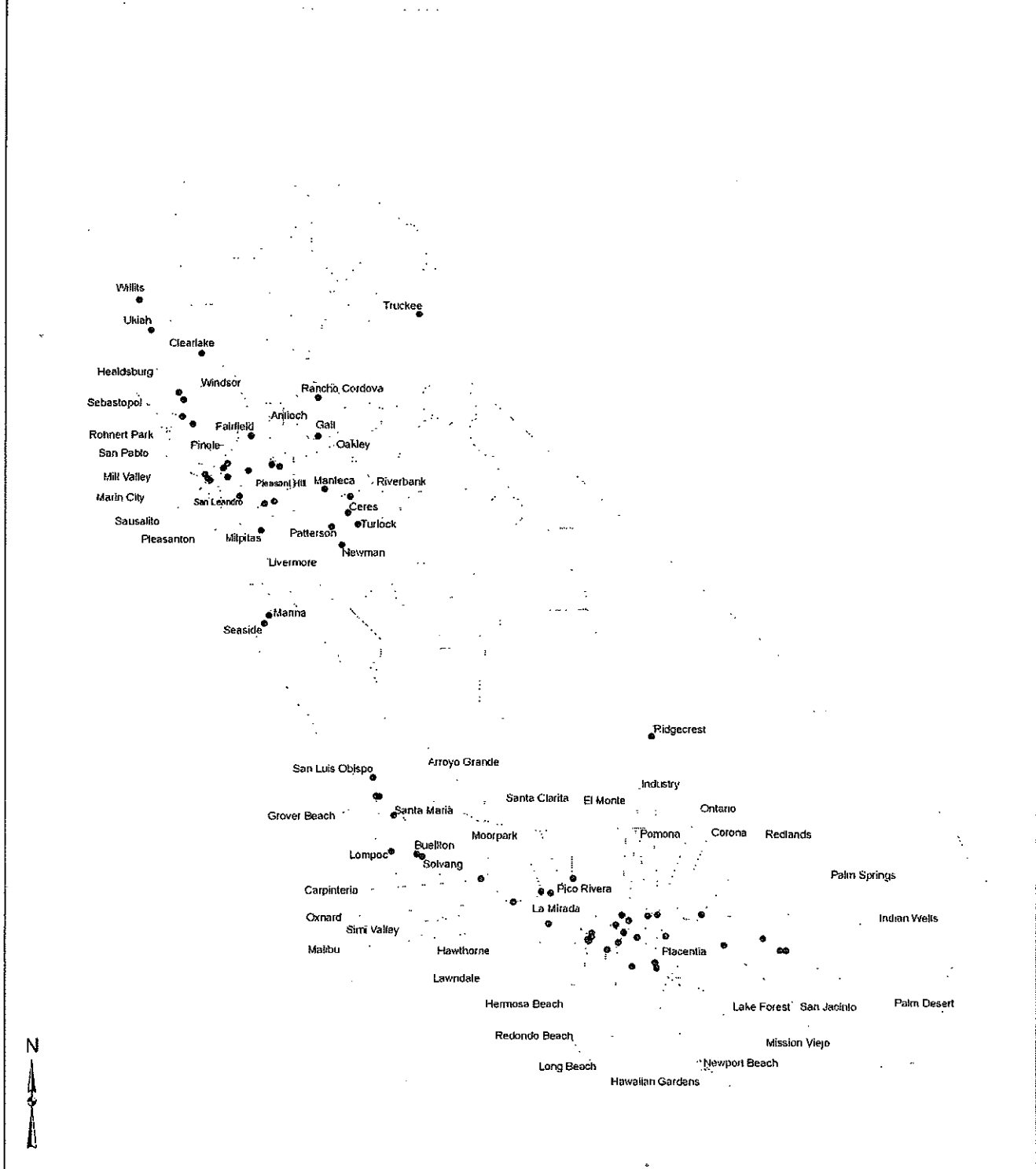
SURVEY ANSWER AND DATA ANALYSIS

Summary

- The majority of responses were positive.
- Safe access is important to every community.
- Complaints of dispensaries generally decrease after regulation.
- Objections to the ordinance were allayed after implementation.
- Regulation improved public safety.
- Crime decreases or shows no effect affect after regulations
- Most businesses are either supportive of or neutral about neighboring dispensaries.

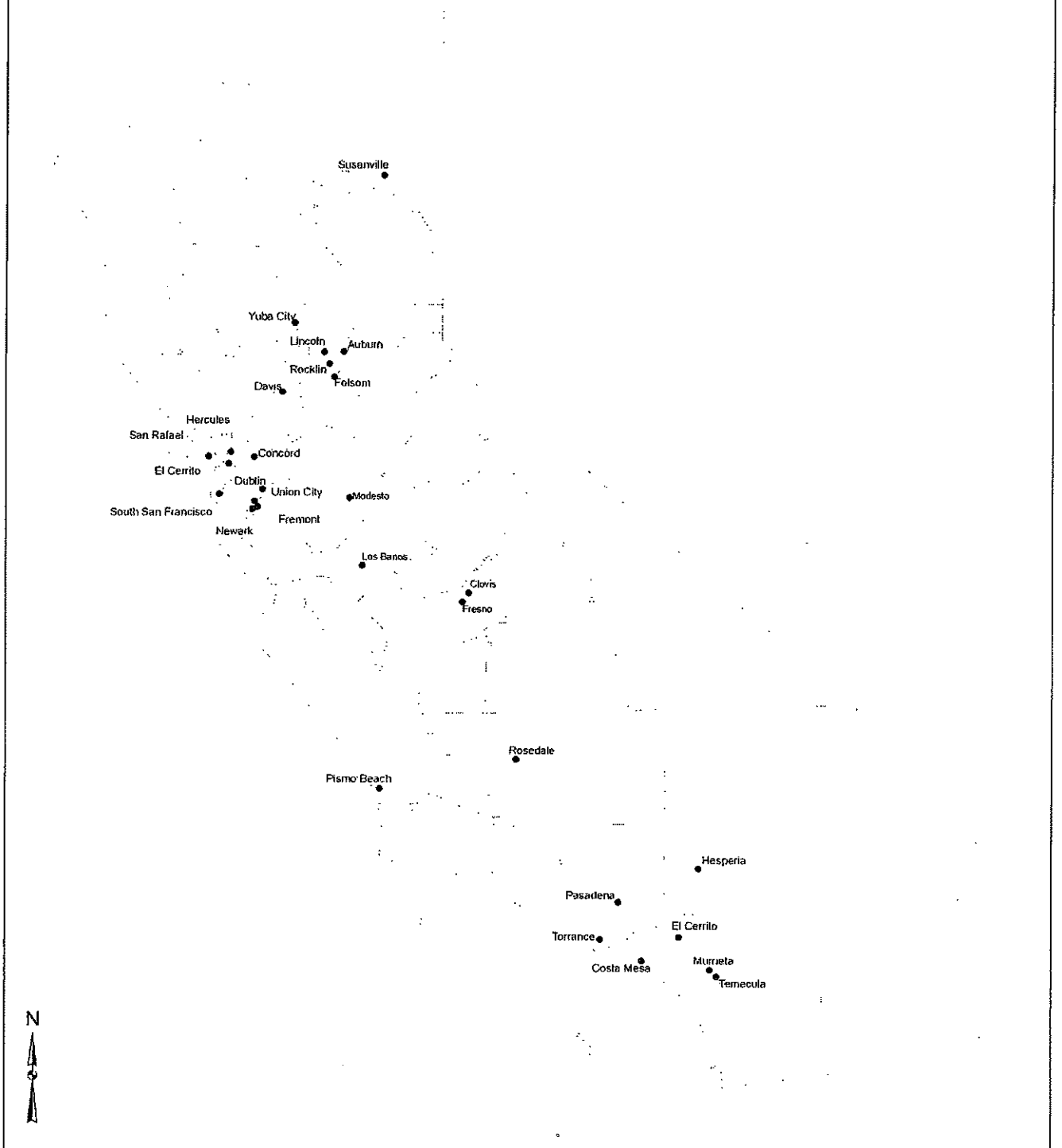
	Safe access important to local community	Dispensaries existed prior to regulation	Complaints of existing dispensaries prior to ordinance	Complaints decreased after passage of ordinance	Community objections to the ordinance	Regulation implementation allayed ordinance objections	Regulation improved public safety	Regulation resulted in decrease of crime around dispensaries	Positive effects on business post-regulation	Responses
Fort Bragg		√	√	√						Yes
	√									No
					√	√	√	√	√	Neutral
Oakland	√	√	√	√	√	√	√	√	√	Yes
										No
										Neutral
Placerville		√			√					Yes
										No
	√		√	√		√	√	√	√	Neutral
San Francisco	√	√	√		√				√	Yes
										No
				√		√	√	√		Neutral
Santa Cruz	√	√	√	√	√	√	√	√	√	Yes
										No
										Neutral
Santa Rosa	√	√	√	√	√	√	√	√		Yes
										No
									√	Neutral
Tulare	√	√			√					Yes
			√			√				No
				√			√	√	√	Neutral
West Hollywood	√	√					√			Yes
			√		√					No
				√		√		√	√	Neutral

California Cities with Dispensary Moratoriums



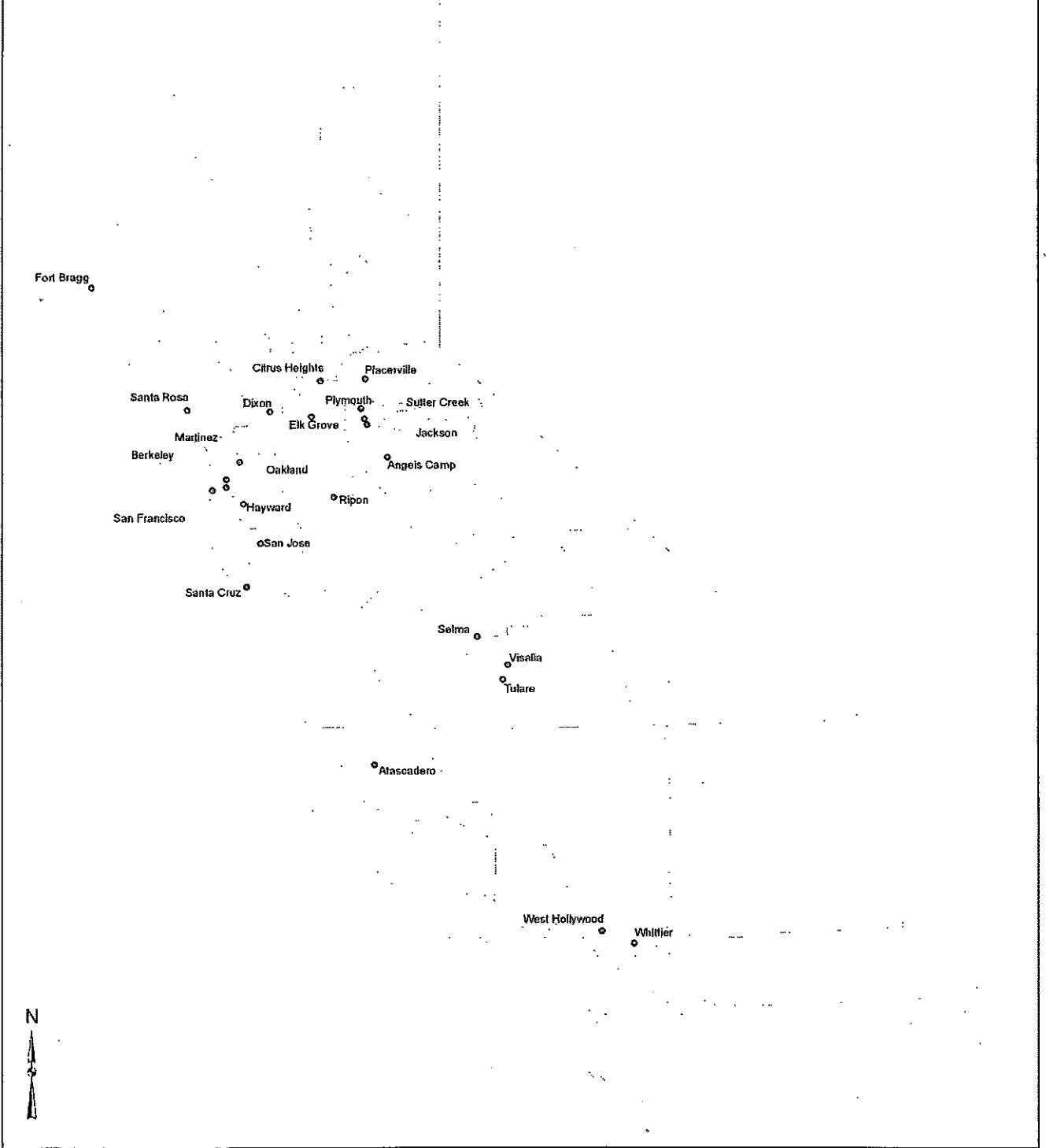
For more information, see www.AmericansForSafeAccess.org or contact the ASA office at 1-888-929-4367 or 510-251-1856.

California Cities with Dispensary Bans



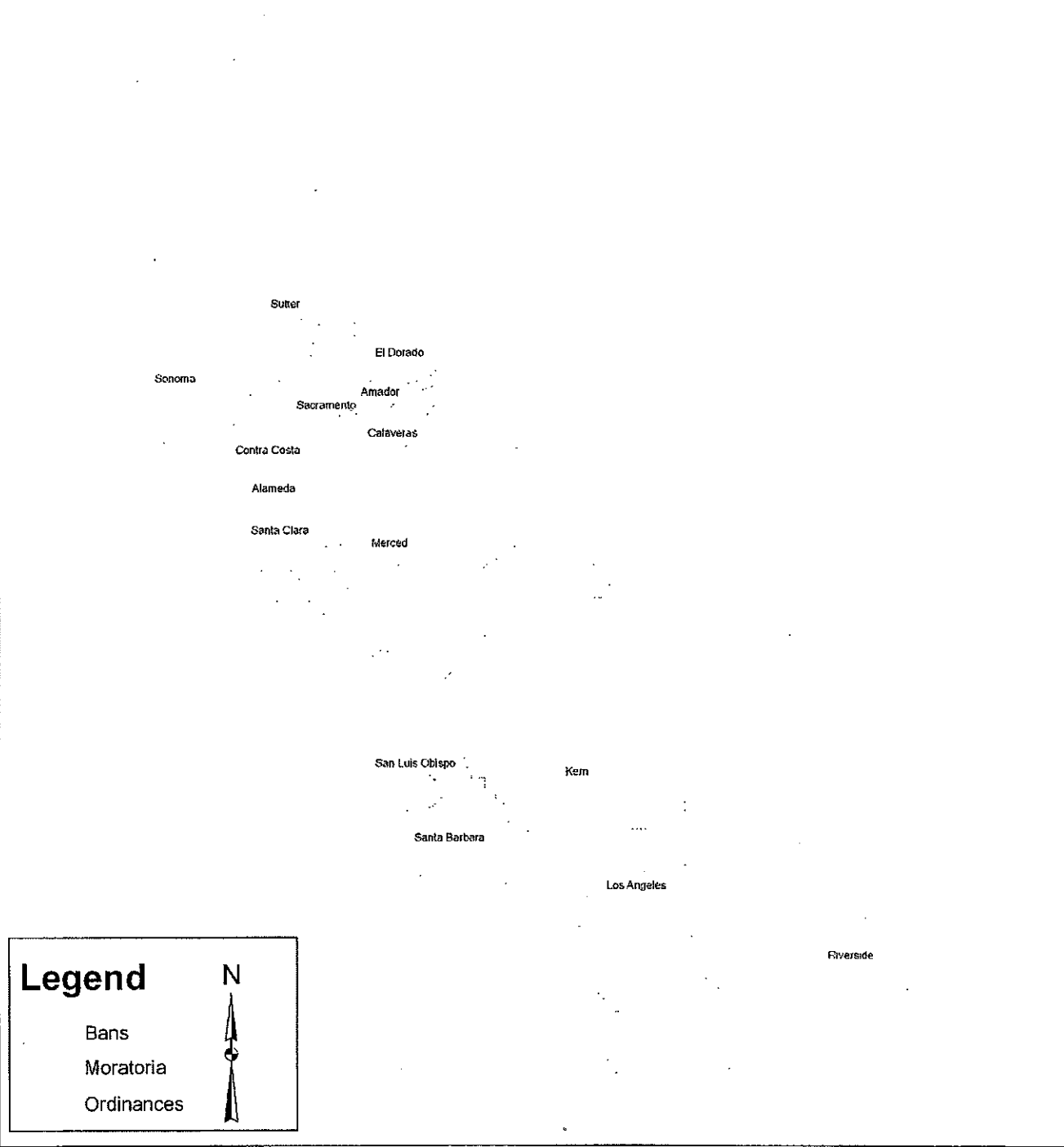
For more information, see www.AmericansForSafeAccess.org or contact the ASA office at 1-888-929-4367 or 510-251-1856

California Cities Allowing for and Regulating Dispensaries



For more information, see www.AmericansForSafeAccess.org or contact the ASA office at 1-888-929-4367 or 510-251-1856.

California Counties with Moratoriums, Bans and Ordinances



For more information, see www.AmericansForSafeAccess.org or contact the ASA office at 1-888-929-4367 or 510-251-1856.



RESOLUTION NO. 940

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF AGOURA HILLS
RECOMMENDING APPROVAL OF A ZONING ORDINANCE AMENDMENT
PROHIBITING MEDICAL MARIJUANA DISPENSARIES IN ALL ZONES
(CASE NO. 08-ZOA-005)**

**THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS DOES HEREBY
RESOLVE, FIND, DETERMINE AND ORDER AS FOLLOWS:**

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5, et seq., and entitled the Compassionate Use Act of 1996 ("the Act"). The Act decriminalized the use of marijuana for medical purposes; and

WHEREAS, on January 1, 2004, SB 420 went into effect. SB 420 was enacted by the Legislature to clarify the scope of the Act. On May 22, 2008, the constitutionality of SB 420 was called into question by the California Court of Appeal in *People v. Kelly*, -- Cal. Rptr. 3d -- (2 Dist. 2008); and

WHEREAS, notwithstanding the status of SB 420, neither the Act nor its implementing legislation authorizes medical marijuana dispensaries nor requires the City to provide for medical marijuana dispensaries; and

WHEREAS, on September 27, 2006, the City Council adopted a forty-five (45) day interim Ordinance prohibiting the establishment of medical marijuana dispensaries in any zoning district within the city; and

WHEREAS, on November 8, 2006, the City Council adopted a second and final interim Ordinance, extending the moratorium on medical marijuana dispensaries in the City for an additional 22 months and 15 days; and

WHEREAS, the Planning Commission has considered an amendment to the Zoning Ordinance to add Title IX, Chapter 6, Part 2, Division 10, Section 9660, of the Agoura Hills Municipal Code to prohibit medical marijuana dispensaries in all zoning districts. A public hearing was duly held on July 17, 2008, in the Council Chambers of City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the public hearing was duly given; and

WHEREAS, the allowance of medical marijuana dispensaries in the City could increase the likelihood that parties would traffic in illegal drugs in the City, thereby endangering the public health, safety and welfare; and

WHEREAS, it would be inconsistent and contrary to the public health, safety, and general welfare to permit the establishment of medical marijuana dispensaries, as defined herein, with in the City insofar as such activities would constitute illegal activity under federal law; and

WHEREAS, the proposed Ordinance is consistent with the City General Plan and each element thereof; and

WHEREAS, the proposed Ordinance has no likelihood of causing a significant negative effect on the environment and the effects derivative from the adoption of the Ordinance are found to be exempt from the application of the California Environmental Quality Act of 1970, as amended, pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Title 14 CCR. 15061.(b)(3).) This finding is premised on the fact that the adoption of this Ordinance will maintain the current environmental conditions arising from the current land use regulatory structure as adopted by the City without change or alteration.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Agoura Hills recommends the City Council adopt the attached amendment (addition) to Title IX, Chapter 6, Part 2, Division 10, Section 9660, of the Agoura Hills Municipal Code to prohibit medical marijuana dispensaries in all zoning districts.

PASSED, APPROVED and ADOPTED this 17th day of July, 2008, by the following vote to wit:

AYES: (5) Buckley Weber, Nouzille, O'Meara, Rishoff, Zacuto
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)



John O'Meara, Chairperson

ATTEST:



Doug Hooper, Secretary

ORDINANCE NO. 08-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA AMENDING TITLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE PROHIBITING MEDICAL MARIJUANA DISPENSARIES IN ALL ZONES

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA does ordain as follows:

SECTION 1. Findings.

The City Council of the City of Agoura Hills, as the legislative body of the City, makes the following findings in support of this zoning ordinance regulating land use within the City of Agoura Hills.

A. In 1996, the voters of the State of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5, et seq., and entitled the Compassionate Use Act of 1996 ("the Act"). The Act decriminalized the use of marijuana for medical purposes.

B. On January 1, 2004, SB 420 went into effect. SB 420 was enacted by the Legislature to clarify the scope of the Act. On May 22, 2008, the constitutionality of SB 420 was called into question by the California Court of Appeal in *People v. Kelly*, -- Cal. Rptr. 3d -- (2 Dist. 2008).

C. Notwithstanding the status of SB 240, neither the Act nor its implementing legislation authorizes medical marijuana dispensaries nor requires the City to provide for medical marijuana dispensaries.

D. On September 27, 2006, the City Council adopted a forty-five (45) day interim zoning ordinance prohibiting the establishment of medical marijuana dispensaries in any zoning district within the city.

E. On November 8, 2006, the City Council adopted a second and final interim zoning ordinance, extending the moratorium on medical marijuana dispensaries in the City for an additional 22 months and 15 days.

F. Some California cities that have permitted the establishment of medical marijuana dispensaries have witnessed an increase in crime, such as burglaries, robberies, and sales of illegal drugs in the areas immediately surrounding such dispensaries, as shown in the studies and reports from the California Chiefs of Police Association, the Riverside County District Attorney's Office, the City of Rocklin, and reports of various news agencies. Furthermore, the United States Department of Justice's California Medical Marijuana Information report has advised that large-scale drug traffickers have been posing as "caregivers" to obtain and sell marijuana. A medical marijuana dispensary opened briefly in the City after providing false information regarding the nature of the use to the City in a business license application and to its landlord in an application to

rent business space. If any of these circumstances were repeated in Agoura Hills, it could increase the likelihood that parties would traffic in illegal drugs in the City, thereby endangering the public health, safety and welfare.

G. In May 2001, the United States Supreme Court issued its decision in *United States v. Oakland Buyers' Cooperative*, 532 U.S. 483 (2001), holding that distribution of medical marijuana is illegal under the Federal Controlled Substances Act and that there is no medical necessity defense allowed under federal law. On June 6, 2005, the United States Supreme Court issued its decision in *Gonzales v. Raich*, 545 U.S. 1 (2005), which held that Congress, under the Commerce Clause of the United States Constitution, has the authority and, under the Federal Controlled Substances Act, 21 USC Section 841, the power to prohibit local cultivation and use of marijuana even though it would be in compliance with California law. Further, the federal Drug Enforcement Agency has continued to enforce federal law by raiding and prosecuting medical marijuana dispensaries in other California cities. In light of these decisions and actions, it would be inconsistent and contrary to the public health, safety, and general welfare to permit the establishment of medical marijuana dispensaries, as defined herein, within the City insofar as such activities would constitute illegal activity under federal law.

H. This Ordinance is necessary to preserve the public health, safety and general welfare of the City and is not in conflict with the general laws.

I. This Ordinance is consistent with the City's General Plan and each element thereof.

J. California Environmental Quality Act (CEQA). It can be seen with certainty that this ordinance has no likelihood of causing a significant negative effect on the environment and accordingly both the City Council's action of adopting this ordinance and the effects derivative from that adoption are found to be exempt from the application of the California Environmental Quality Act of 1970, as amended, pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Title 14 CCR. 15061.(b)(3).) This finding is premised on the fact that the adoption of this ordinance will maintain the current environmental conditions arising from the current land use regulatory structure as adopted by the City without change or alteration.

K. On July 17, 2008, the Planning Commission of the City of Agoura Hills held a duly noticed public hearing to consider Ordinance No. 08-____. Following the close of the public hearing, the Planning Commission adopted Resolution No. ____ recommending approval of Ordinance No. 08-____.

L. On _____, 2008, the City Council held a duly noticed public hearing on Ordinance No. 08-____.

Title IX, Chapter 6, Part 2, Division 10, Section 9660, of the Agoura Hills Municipal Code is hereby adopted to read as follows:

DIVISION 10 MEDICAL MARIJUANA DISPENSARIES PROHIBITED.

9660

(A) Purpose and Findings.

The City Council finds that Federal and State laws prohibiting the possession, sale and distribution of marijuana would preclude the lawful opening and operation of Medical Marijuana Dispensaries sanctioned by the City, and in order to serve public health, safety, and welfare of the residents and businesses within the City, the declared purpose of this chapter is to prohibit the operation or establishment of Medical Marijuana Dispensaries within the City, as provided in this section.

(B) *Definitions.*

For purposes of this section, the following term is defined:

(1) Medical Marijuana Dispensary: is any location, structure, facility, vehicle, store, co-op, residence, or similar facility used, in full or part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located, stored, placed, or cultivated, including any of the foregoing if used in connection with the delivery of marijuana.

(C) *Medical Marijuana Dispensaries Prohibited.*

A Medical Marijuana Dispensary is not a permitted use anywhere in the City. It shall be unlawful for any person or entity to own, manage, establish, conduct, or operate, or permit to be established, conducted, operated, owned or managed as a landlord or property owner, any Medical Marijuana Dispensary, or to participate as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any Medical Marijuana Dispensary, in the City. The issuance of business license or other City permit to any business prohibited by federal law is prohibited and void.

(D) *Use or Activity Prohibited by State or Federal Law.*

Nothing contained in this chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any State or Federal law.”

SECTION 2. Existing Nonconforming Uses. Any Medical Marijuana Dispensary, or Marijuana Dispensary, Store, or Co-Op, existing within the City on the effective date of this ordinance shall cease operations immediately.

SECTION 3. No Conflict With Existing Law. This zoning ordinance shall in no way limit qualified individuals' right to possess, use or cultivate marijuana for their own medicinal purposes as is presently authorized by the laws of the State of California as set forth in the applicable provisions of the Health and Safety Code. Any court called upon to construe this ordinance shall do so in a way that does not conflict with state law while preserving the intent of the City Council in enacting this ordinance.

SECTION 4. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of the this ordinance. The City Council hereby declares it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. Savings Clause. Neither the adoption of this Ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution of any violation of any City ordinance or provision of the Agoura Hills Municipal Code, committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof.

SECTION 6. The City Clerk shall certify to the passage of this Ordinance and shall cause same to be published pursuant to state law within fifteen (15) days after its passage, and said Ordinance shall become effective 30 days after its passage.

INTRODUCED this ____ day of _____, 2008.

PASSED, APPROVED, AND ADOPTED this ____ day of _____ 2008 by the following vote:

AYES:

NOES:

ABSTAINED:

EXCUSED:

Ordinance No. ____

Page 5

ATTEST:

BY:

Kimberly M. Rodrigues, CMC, City Clerk
City of Agoura Hills

John M. Edelston, Mayor
City of Agoura Hills

APPROVED AS TO FORM:

CRAIG A. STEELE, City Attorney
City of Agoura Hills

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DEPARTMENT OF PLANNING AND
COMMUNITY DEVELOPMENT

ACTION DATE: July 17, 2008

TO: Planning Commission

APPLICANT: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301

CASE NO.: 08-ZOA-005

LOCATION: Citywide

REQUESTS: A request for the Planning Commission to provide a recommendation to the City Council regarding a proposed Ordinance to amend (add) Title IX, Chapter 6, Part 2, Division 10, Section 9660, of the Agoura Hills Municipal Code to prohibit medical marijuana dispensaries in all zones.

ENVIRONMENTAL DETERMINATION: Exempt from CEQA, pursuant to Section 15061(b)(3)

RECOMMENDATION: Staff recommends the Planning Commission recommend the City Council approve Zoning Ordinance Amendment Case No. 08-ZOA-005.

I. BACKGROUND

In 1996, California voters approved Proposition 215 - the Compassionate Use Act of 1996. The Act decriminalized the use of marijuana for medical purposes. On January 1, 2004, SB 420 was enacted by the State Legislature to clarify the scope of the Act. However, on May 22, 2008, the constitutionality of SB 420 was called into questions by the California Court of Appeal in *People v. Kelly*, -- Cal. Rptr. 3d - (2 Dist. 2008).

Beginning in 2006, the City received inquiries regarding the establishment of medicinal marijuana dispensaries, or co-ops, in the City. One such establishment attempted to do business in the City without a business registration and under signage that may have been designed to

conceal the true nature of the establishment. Although State law, in conflict with federal law, makes limited allowance for the personal possession and use of marijuana for medicinal purposes when prescribed by a doctor, it is not clear that the distribution of marijuana products to numerous individuals from an establishment such as this would be lawful.

On September 13, 2006, the City Council adopted a 45-day temporary moratorium on the establishment of marijuana dispensaries in the City. At the time, medical marijuana dispensaries were not permitted uses under the Municipal Code, although not specifically prohibited either, and might be argued to follow under some catch-all classification. The City Council took this action to ensure that such dispensaries are not established in the City while the City studied whether such uses should be allowed and, if so, in which zoning districts, and awaiting the resolution of litigation over this issue in a number of different jurisdictions.

Pursuant to Government Code Section 65858, and after conducting a public hearing on November 8, 2006, the City Council extended the moratorium to a total period of up to two years from its adoption, until September 26, 2008, allowing staff to further review this issue. The moratorium is a way to preserve the status quo for a brief period while the City studies ways to protect public health and safety, and ensures that development projects that would be inconsistent with the actions and programs to the city is considering do not occur before the City is able to complete its planning process.

Based on staff's review and direction regarding this issue, the City Attorney has drafted an Ordinance to preclude medical marijuana dispensaries in all zones. The Planning Commission is requested to conduct a public hearing and provide a recommendation on the Ordinance to the City Council, who will be taking final action after conducting a public hearing.

II. STAFF ANALYSIS

Staff found that some California cities that have permitted the establishment of medical marijuana dispensaries have witnessed an increase in crime, such as burglaries, robberies, and sales of illegal drugs in the areas immediately surrounding such dispensaries, as shown in studies and reports from the California Chiefs of Police Association, the Riverside County District Attorney's Office, the City of Rocklin, and reports of various news agencies. Also, the United States Department of Justice's California Medical Marijuana Information report advised that large-scale drug traffickers have been posing as "caregivers" to obtain and sell marijuana.

As noted above, in 2006 a medical marijuana dispensary opened briefly in the City after providing false information regarding the nature of the use to the City in a business registration application and to its landlord in an application to rent business space. The business has since left the site after investigations and enforcement by City staff, the City Attorney and the Los Angeles County Sheriff's Department.

Staff is currently investigating another business in the City for possible violations with the City's current interim ordinance regarding the establishment of a medical marijuana dispensary. This investigation has also required extensive investigative time from City code enforcement staff, the Los Angeles County Sheriff's Department, the City Attorney and the City Prosecutor.

In May of 2001, the United States Supreme Court issued its decision in *United States v. Oakland Buyers' Cooperative*, 532 U.S. 483 (2001), holding that distribution of medical marijuana is illegal under the Federal Controlled Substances Act and that there is no medical necessity defense allowed under federal law. On June 6, 2005, the United States Supreme Court issued its decision in *Gonzales v. Raich*, 545 U.S. 1 (2005), which held that Congress, under the Commerce Clause of the United States Constitution, has the authority and, under the Federal Controlled Substances Act, 21, USC Section 841, the power to prohibit local cultivation and use of marijuana even though it would be in compliance with California law. Also, the federal Drug Enforcement Agency has continued to enforce federal law by raiding and prosecuting medical marijuana dispensaries in other California cities.

To date, staff is aware of two (2) cities in California that currently allow medical marijuana dispensaries and at least sixteen (16) other cities that prohibit the dispensaries. At least twenty (20) other cities have adopted a moratorium to temporarily prohibit the dispensaries. Notwithstanding the status of SB 420, neither the Compassionate Use Act of 1996 nor its implementing legislation authorizes medical marijuana dispensaries nor requires the City to provide dispensaries in any zoning district in the City. Staff finds that marijuana dispensaries could increase the likelihood that parties would traffic in illegal drugs in the City, thereby endangering the public health, safety and welfare. Also, in light of recent court decisions and actions, staff finds that it would be inconsistent and contrary to the public health, safety, and general welfare to permit the establishment of medical marijuana dispensaries within the City as such activities would constitute illegal activity under federal law.

In the course of evaluating these facilities, several cities have noted secondary neighborhood impacts from the operation of medical marijuana dispensaries. Memoranda from the City of Rocklin, the City of Concord, the Riverside County District Attorney's Office, and the California Chiefs of Police Association, attached hereto, summarized some of the secondary impacts of dispensaries operating in several cities. The secondary impacts indicated in that study included the following:

- Street level dealers trying to sell to those going to the dispensary at a lower price;
- People smoking marijuana in public around the facility;
- People coming into the community from out of town to obtain marijuana;
- Marijuana DUI by people who have obtained it from the dispensary;

- Burglary attempts into the dispensary building;
- Criminal element drawn to the dispensary location;
- Marijuana dealers who have a doctor's recommendation are purchasing from the dispensary and then conducting illegal street sales to those who do not have a doctor's recommendation;
- Street criminals in search of the drugs are robbing medical use patients for their marijuana as they leave the dispensary;
- Thefts and robberies around the location occur to support the illegal and legal drug commerce;
- Businesses next door to the facilities are negatively affected because of the concentration of criminals that sometimes associate with the dispensary; and
- Complaints of other illegal drugs that are being sold inside dispensaries.

The proposed Ordinance would prohibit medical marijuana dispensaries in all zones of the City and clarify that that it would be "unlawful for any person or entity to own, manage, establish, conduct or operate, or permit to be established, conducted, operated, owner or managed as a landlord or property owner, any medical marijuana dispensary, or to participate as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any medical marijuana dispensary, in the City."

The proposed Ordinance defines a "medical marijuana dispensary" as "any location, structure, facility, vehicle, store, co-op, residence, or similar facility used, in full or part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located stored, placed or cultivated, including any of the foregoing if used in connection with the delivery of marijuana."

Staff wishes to emphasize that the although the Ordinance, as drafted, would prohibit medical marijuana dispensaries in the City, it would in no way limit qualified individuals' right to possess, use or cultivate marijuana for their own medicinal purposes as is presently authorized by the laws of the State of California as set forth in the applicable provisions of the Health and Safety Code.

Environmental Review

Staff has reviewed the draft Ordinance and determined that it has no likelihood of causing a significant effect on the environment, nor would its effects from adoption. Staff concludes that the proposed Ordinance is exempt from the application of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the State CEQA Guidelines, which state as follows: "A project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." This finding is premised on the fact that the adoption of the Ordinance will maintain the current environmental conditions arising from the current land use regulatory structure as adopted by the City without change or alteration.

III. RECOMMENDATION

Based on the forgoing review and analysis, it is recommended that the Planning Commission adopt the attached Resolution, recommending the City Council approve Zoning Ordinance Amendment Case No. 08-ZOA-005.

IV. ATTACHMENTS

- Draft Resolution
- Draft Ordinance
- Notice of CEQA Exemption
- City Council Ordinance No. 06-339 (Moratorium)
- November 8, 2006 Memorandum from City Attorney to City Council
- September 13, 2006 Memorandum from City Attorney to City Council
- City of Rocklin Memorandum (July 13, 2004)
- Concord Police Department Memorandum (August 29, 2005)
- Riverside County District Attorney's Office White Paper (September 2006)
- California Chiefs of Police Association Report

Case Planner: Doug Hooper, Assistant Director of Community Development

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DRAFT RESOLUTION NO. ____

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF AGOURA HILLS
RECOMMENDING APPROVAL OF A ZONING ORDINANCE AMENDMENT
PROHIBITING MEDICAL MARIJUANA DISPENSARIES IN ALL ZONES
(CASE NO. 08-ZOA-005)**

**THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS DOES HEREBY
RESOLVE, FIND, DETERMINE AND ORDER AS FOLLOWS:**

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5, et seq., and entitled the Compassionate Use Act of 1996 ("the Act"). The Act decriminalized the use of marijuana for medical purposes; and

WHEREAS, on January 1, 2004, SB 420 went into effect. SB 420 was enacted by the Legislature to clarify the scope of the Act. On May 22, 2008, the constitutionality of SB 420 was called into question by the California Court of Appeal in *People v. Kelly*, -- Cal. Rptr. 3d -- (2 Dist. 2008); and

WHEREAS, notwithstanding the status of SB 420, neither the Act nor its implementing legislation authorizes medical marijuana dispensaries nor requires the City to provide for medical marijuana dispensaries; and

WHEREAS, on September 27, 2006, the City Council adopted a forty-five (45) day interim Ordinance prohibiting the establishment of medical marijuana dispensaries in any zoning district within the city; and

WHEREAS, on November 8, 2006, the City Council adopted a second and final interim Ordinance, extending the moratorium on medical marijuana dispensaries in the City for an additional 22 months and 15 days; and

WHEREAS, the Planning Commission has considered an amendment to the Zoning Ordinance to add Title IX, Chapter 6, Part 2, Division 10, Section 9660, of the Agoura Hills Municipal Code to prohibit medical marijuana dispensaries in all zoning districts. A public hearing was duly held on July 17, 2008, in the Council Chambers of City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the public hearing was duly given; and

WHEREAS, the allowance of medical marijuana dispensaries in the City could increase the likelihood that parties would traffic in illegal drugs in the City, thereby endangering the public health, safety and welfare; and

WHEREAS, it would be inconsistent and contrary to the public health, safety, and general welfare to permit the establishment of medical marijuana dispensaries, as defined herein, with in the City insofar as such activities would constitute illegal activity under federal law; and

WHEREAS, the proposed Ordinance is consistent with the City General Plan and each element thereof; and

WHEREAS, the proposed Ordinance has no likelihood of causing a significant negative effect on the environment and the effects derivative from the adoption of the Ordinance are found to be exempt from the application of the California Environmental Quality Act of 1970, as amended, pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Title 14 CCR. 15061.(b)(3).) This finding is premised on the fact that the adoption of this Ordinance will maintain the current environmental conditions arising from the current land use regulatory structure as adopted by the City without change or alteration.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Agoura Hills recommends the City Council adopt the attached amendment (addition) to Title IX, Chapter 6, Part 2, Division 10, Section 9660, of the Agoura Hills Municipal Code to prohibit medical marijuana dispensaries in all zoning districts.

PASSED, APPROVED and ADOPTED this 17th day of July, 2008, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

John O'Meara, Chairperson

ATTEST:

Doug Hooper, Secretary

ORDINANCE NO. 08-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA AMENDING TITLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE PROHIBITING MEDICAL MARIJUANA DISPENSARIES IN ALL ZONES

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA does ordain as follows:

SECTION 1. Findings.

The City Council of the City of Agoura Hills, as the legislative body of the City, makes the following findings in support of this zoning ordinance regulating land use within the City of Agoura Hills.

A. In 1996, the voters of the State of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5, et seq., and entitled the Compassionate Use Act of 1996 ("the Act"). The Act decriminalized the use of marijuana for medical purposes.

B. On January 1, 2004, SB 420 went into effect. SB 420 was enacted by the Legislature to clarify the scope of the Act. On May 22, 2008, the constitutionality of SB 420 was called into question by the California Court of Appeal in *People v. Kelly*, -- Cal. Rptr. 3d -- (2 Dist. 2008).

C. Notwithstanding the status of SB 240, neither the Act nor its implementing legislation authorizes medical marijuana dispensaries nor requires the City to provide for medical marijuana dispensaries.

D. On September 27, 2006, the City Council adopted a forty-five (45) day interim zoning ordinance prohibiting the establishment of medical marijuana dispensaries in any zoning district within the city.

E. On November 8, 2006, the City Council adopted a second and final interim zoning ordinance, extending the moratorium on medical marijuana dispensaries in the City for an additional 22 months and 15 days.

F. Some California cities that have permitted the establishment of medical marijuana dispensaries have witnessed an increase in crime, such as burglaries, robberies, and sales of illegal drugs in the areas immediately surrounding such dispensaries, as shown in the studies and reports from the California Chiefs of Police Association, the Riverside County District Attorney's Office, the City of Rocklin, and reports of various news agencies. Furthermore, the United States Department of Justice's California Medical Marijuana Information report has advised that large-scale drug traffickers have been posing as "caregivers" to obtain and sell marijuana. A medical marijuana dispensary opened briefly in the City after providing false information regarding the nature of the use to the City in a business license application and to its landlord in an application to

rent business space. If any of these circumstances were repeated in Agoura Hills, it could increase the likelihood that parties would traffic in illegal drugs in the City, thereby endangering the public health, safety and welfare.

G. In May 2001, the United States Supreme Court issued its decision in *United States v. Oakland Buyers' Cooperative*, 532 U.S. 483 (2001), holding that distribution of medical marijuana is illegal under the Federal Controlled Substances Act and that there is no medical necessity defense allowed under federal law. On June 6, 2005, the United States Supreme Court issued its decision in *Gonzales v. Raich*, 545 U.S. 1 (2005), which held that Congress, under the Commerce Clause of the United States Constitution, has the authority and, under the Federal Controlled Substances Act, 21 USC Section 841, the power to prohibit local cultivation and use of marijuana even though it would be in compliance with California law. Further, the federal Drug Enforcement Agency has continued to enforce federal law by raiding and prosecuting medical marijuana dispensaries in other California cities. In light of these decisions and actions, it would be inconsistent and contrary to the public health, safety, and general welfare to permit the establishment of medical marijuana dispensaries, as defined herein, within the City insofar as such activities would constitute illegal activity under federal law.

H. This Ordinance is necessary to preserve the public health, safety and general welfare of the City and is not in conflict with the general laws.

I. This Ordinance is consistent with the City's General Plan and each element thereof.

J. California Environmental Quality Act (CEQA). It can be seen with certainty that this ordinance has no likelihood of causing a significant negative effect on the environment and accordingly both the City Council's action of adopting this ordinance and the effects derivative from that adoption are found to be exempt from the application of the California Environmental Quality Act of 1970, as amended, pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Title 14 CCR. 15061.(b)(3).) This finding is premised on the fact that the adoption of this ordinance will maintain the current environmental conditions arising from the current land use regulatory structure as adopted by the City without change or alteration.

K. On July 17, 2008, the Planning Commission of the City of Agoura Hills held a duly noticed public hearing to consider Ordinance No. 08-____. Following the close of the public hearing, the Planning Commission adopted Resolution No. ____ recommending approval of Ordinance No. 08-____.

L. On _____, 2008, the City Council held a duly noticed public hearing on Ordinance No. 08-____.

Title IX, Chapter 6, Part 2, Division 10, Section 9660, of the Agoura Hills Municipal Code is hereby adopted to read as follows:

DIVISION 10 MEDICAL MARIJUANA DISPENSARIES PROHIBITED.

9660

(A) Purpose and Findings.

The City Council finds that Federal and State laws prohibiting the possession, sale and distribution of marijuana would preclude the lawful opening and operation of Medical Marijuana Dispensaries sanctioned by the City, and in order to serve public health, safety, and welfare of the residents and businesses within the City, the declared purpose of this chapter is to prohibit the operation or establishment of Medical Marijuana Dispensaries within the City, as provided in this section.

(B) *Definitions.*

For purposes of this section, the following term is defined:

(1) **Medical Marijuana Dispensary:** is any location, structure, facility, vehicle, store, co-op, residence, or similar facility used, in full or part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located, stored, placed, or cultivated, including any of the foregoing if used in connection with the delivery of marijuana.

(C) *Medical Marijuana Dispensaries Prohibited.*

A Medical Marijuana Dispensary is not a permitted use anywhere in the City. It shall be unlawful for any person or entity to own, manage, establish, conduct, or operate, or permit to be established, conducted, operated, owned or managed as a landlord or property owner, any Medical Marijuana Dispensary, or to participate as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any Medical Marijuana Dispensary, in the City. The issuance of business license or other City permit to any business prohibited by federal law is prohibited and void.

(D) *Use or Activity Prohibited by State or Federal Law.*

Nothing contained in this chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any State or Federal law.”

SECTION 2. Existing Nonconforming Uses. Any Medical Marijuana Dispensary, or Marijuana Dispensary, Store, or Co-Op, existing within the City on the effective date of this ordinance shall cease operations immediately.

SECTION 3. No Conflict With Existing Law. This zoning ordinance shall in no way limit qualified individuals' right to possess, use or cultivate marijuana for their own medicinal purposes as is presently authorized by the laws of the State of California as set forth in the applicable provisions of the Health and Safety Code. Any court called upon to construe this ordinance shall do so in a way that does not conflict with state law while preserving the intent of the City Council in enacting this ordinance.

SECTION 4. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of the this ordinance. The City Council hereby declares it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. Savings Clause. Neither the adoption of this Ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution of any violation of any City ordinance or provision of the Agoura Hills Municipal Code, committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof.

SECTION 6. The City Clerk shall certify to the passage of this Ordinance and shall cause same to be published pursuant to state law within fifteen (15) days after its passage, and said Ordinance shall become effective 30 days after its passage.

INTRODUCED this ____ day of _____, 2008.

PASSED, APPROVED, AND ADOPTED this ____ day of _____ 2008 by the following vote:

AYES:

NOES:

ABSTAINED:

EXCUSED:

Ordinance No. ____

Page 5

ATTEST:

BY:

Kimberly M. Rodrigues, CMC, City Clerk
City of Agoura Hills

John M. Edelston, Mayor
City of Agoura Hills

APPROVED AS TO FORM:

CRAIG A. STEELE, City Attorney
City of Agoura Hills

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Notice of Exemption

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, Ca 95814

From: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 91301

County Clerk
County of Los Angeles
Los Angeles County Clerk
12400 E. Imperial Hwy.
Norwalk, CA 905690

Project Title: Ordinance Prohibiting Medical Marijuana Dispensaries in all Zoning Districts.

Case No.: 08-ZOA-005

Project Location-Specific: Citywide

Project Location-City: City of Agoura Hills

Project Location-County: County of Los Angeles

Description of Nature, Purpose, and Beneficiaries of Project:

The project consists of an Ordinance to amend (add) Title IX, Chapter 6, Part 2, Division 10, Section 9660, of the Agoura Hills Municipal Code to prohibit medical marijuana dispensaries in all zoning districts. The City has adopted a current moratorium on the establishment of marijuana dispensaries in the City. At the time, medical marijuana dispensaries were not permitted uses under the Municipal Code, although not specifically prohibited either. The proposed Ordinance is meant to clarify and codify a prohibition of medical marijuana dispensaries in all zoning districts of the City.

The project being analyzed as part of this environmental document is simply the Ordinance, and not any specific development proposal. The Draft Ordinance is included in its entirety as Exhibit 1.

Name of Public Agency Approving Project: City of Agoura Hills

Project Sponsor's Name and Address: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 91301

Exempt Status: (Check One)


- Statutory Exemption (14 Cal. Code of Regs. Sections 15260 et seq.);
- No Possibility of physical impact. (14 Cal Code of Regs. Section 15061 (b)(3));
- Ministerial (14 Cal Code of Regs. Sec. 15268);
- Declared Emergency (14 Cal Code of Regs. Sec. 15269(a));
- Emergency Project (14 Cal Code of Regs Sec. 15269(b),(c), (d) and (e));
- Categorical Exemption (14 Cal Code of Regs. Sections 15000 et seq.) State of California CEQA Guidelines Section 15061(b)(3)

Reasons why project is exempt: This exemption is based on the finding that the Draft Ordinance has no likelihood of causing a significant effect on the environment, nor would its effects from adoption. The proposed Ordinance is exempt from the application of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the State CEQA Guidelines, which state as follows: "A project is exempt from CEQA if the activity is covered by the general rule

that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." This finding is premised on the fact that the adoption of the Ordinance will maintain the current environmental conditions arising from the current land use regulatory structure as adopted by the City without change or alteration. Therefore, the project will not have a significant impact on the environment.

Lead Agency Contact Person: Doug Hooper, Assistant Director of Community Development

Area Code/Telephone/Extension: (818) 597-7342

Signature:  Date: 7/1/08 Title: Asst. Director of Community Development

ORDINANCE 06-339

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, EXTENDING THE INTERIM ZONING ORDINANCE PROHIBITING THE ESTABLISHMENT MARIJUANA DISPENSARIES IN ANY ZONING DISTRICT WITHIN THE CITY

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA does ordain as follows:

Section 1. Findings.

The City Council of the City of Agoura Hills, as the legislative body of the City, makes the following findings in support of the extension of this interim zoning ordinance regulating land use within the City of Agoura Hills.

A. In 1996, the voters of the State of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5, *et seq.*, and entitled the Compassionate Use Act of 1996 ("the Act").

C. On January 1, 2004, SB 420 went into effect. SB 420 was enacted by the Legislature to clarify the scope of the Act and to allow cities and counties to adopt and enforce rules and regulations consistent with SB 420 and the Act.

D. On September 27, 2006 and October 11, 2006, the City Council adopted Ordinance Numbers 06-338U and 06-338, respectively, imposing a forty-five (45) day interim zoning moratorium against the establishment marijuana dispensaries in any zoning district within the city.

F. Some California cities that have permitted the establishment of medical marijuana dispensaries have witnessed an increase in crime, such as burglaries, robberies, and sales of illegal drugs in the areas immediately surrounding such dispensaries. Furthermore, the United States Department of Justice's California Medical Marijuana Information report has advised that large-scale drug traffickers have been posing as "care givers" to obtain and sell marijuana. A medicinal marijuana dispensary opened briefly in the City after providing false information regarding the nature of the use to the City in a business license application and to its landlord in an application to rent business space. If any of these circumstances were repeated in Agoura Hills, it could increase the likelihood that parties would traffic in illegal drugs in the City, thereby endangering the public health, safety and welfare.

H. There is a conflict between state and federal law with regard to the possession and use of marijuana for medicinal purposes. This conflict is the subject of pending litigation and legislative discussion. After the City Council adopted the moratorium in Agoura Hills, the County of San Diego and other public entities initiated litigation regarding the scope of local public agencies' authority to regulate medicinal marijuana.

L. To fully understand the impact of the apparent conflict between federal and state law, as well as the community and statewide concerns regarding the impacts associated with the

establishment of medical marijuana dispensaries, and the fact that federal legislation and enforcement is currently in flux, it is necessary for the City of Agoura Hills to continue to study the potential impacts such facilities may have on the public health, safety, and welfare

M. The City Council held a duly noticed public hearing regarding this subject on November 8, 2006.

N. Based on the foregoing, the City Council finds that the approval of additional use permits, variances, building permits, business licenses or any other applicable entitlement providing for the establishment and/or operation of marijuana dispensaries prior to (1) resolving whether federal law will be routinely enforced against medical marijuana dispensaries; (2) the City's completion of its study of the potential impact of such facilities; and (3) resolving any zoning conflicts based on the fact that no zoning currently exists in the City for such dispensaries; would result in a current and immediate threat to the public health, safety, and welfare. The City finds that an extension of the temporary moratorium on the establishment of such uses pursuant to Government Code Section 65858 is therefore necessary.

Section 2. Extension.

A. RECITALS. The foregoing recitals are true and correct.

B. INTERIM PROHIBITION ON MARIJUANA DISPENSARIES. The Interim Prohibition on Marijuana Dispensaries adopted through Ordinance No. 2006-338 and 2006-338U is hereby extended pursuant to Government Code Section 65858 for a period of up to 2 years from the date of its earliest adoption on September 27, 2006. This moratorium will expire on September 26, 2008 or when repealed by the City Council, whichever is earlier. No marijuana dispensary, store, or co-op, intended to provide marijuana for medicinal or any other purpose, shall locate, commence, obtain license for or be entitled by the City, in any zone, or any parcel, or at any place, public or private within the City. For purposes of this interim ordinance the term "marijuana dispensary, store or co-op" shall be broadly and liberally interpreted to mean and include any location, structure, facility, vehicle, residence, or similar entity used, in full or part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located, stored, placed, or cultivated, including any of the foregoing if used in connection with the delivery of marijuana.

C. NO CONFLICT WITH STATE LAW. This interim ordinance shall in no way limit qualified individuals' right to possess, use or cultivate marijuana for their own medicinal purposes as is presently authorized by the laws of the State of California as set forth in the applicable provisions of the Health and Safety Code.

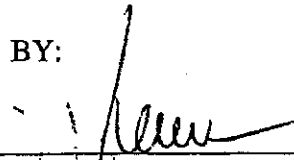
D. CEQA COMPLIANCE. It can be seen with certainty that this extension ordinance has no likelihood of causing a significant negative effect on the environment and accordingly both the City Council's action of adopting this ordinance and the effects derivative from that adoption are found to be exempt from the application of the California Environmental Quality Act of 1970, as amended, pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Title 14 CCR. 15061.(b)(3).) This finding is premised on the fact that the adoption of this extension will maintain the current environmental conditions arising from the current land use regulatory structure as adopted by the City without change or alteration.

Section 3. The City Clerk of the City of Agoura Hills shall certify to the passage and adoption of this ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

PASSED, APPROVED, AND ADOPTED this 8th day of November 2006 by the following vote of at least 4/5 of the City Council:

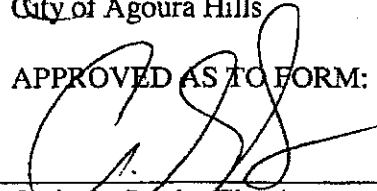
AYES: (5) Weber, Kuperberg, Edelston, Koehler, Schwarz
NOES: (0)
ABSTAIN: (0)
ABSENT: (0)

BY:



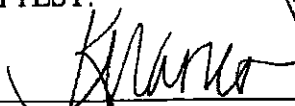
Denis Weber, Mayor
City of Agoura Hills

APPROVED AS TO FORM:



Craig A. Steele, City Attorney
City of Agoura Hills

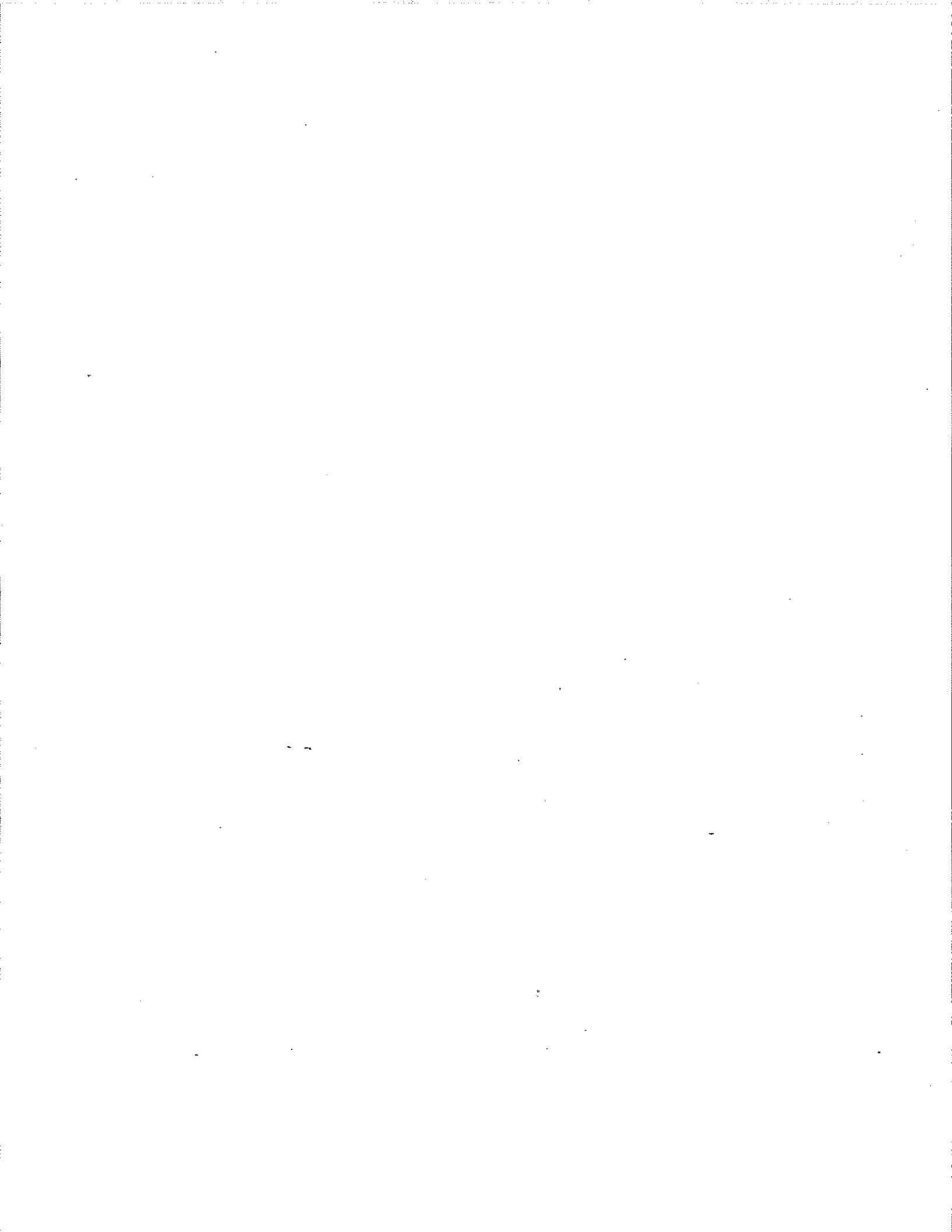
ATTEST:



Kimberly Rodrigues, CMC, City Clerk
City of Agoura Hills



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CITY OF AGOURA HILLS

OFFICE OF THE CITY ATTORNEY
30001 Ladyface Court, Agoura Hills, California 91301
Telephone 818.597.7300 Facsimile 818.597.7352

MEMORANDUM

TO: Honorable Mayor and Members of the City Council
FROM: Craig Steele, City Attorney
DATE: November 8, 2006
SUBJECT: Extension of Moratorium on the Establishment of Medicinal Marijuana Dispensaries

The City Council has previously adopted a temporary moratorium on the establishment of medicinal marijuana dispensaries in the City. Pursuant to Government Code Section 65858, the City Council took this action to ensure that such dispensaries are not established in the City while the City is studying whether such uses should be allowed and, if so, in which zoning districts, and awaiting the resolution of litigation over this issue in a number of different jurisdictions.

After the City Council adopted its moratorium, San Diego County and other public entities initiated new litigation regarding the scope of cities' and counties' legal authority to regulate and/or prohibit these establishments.

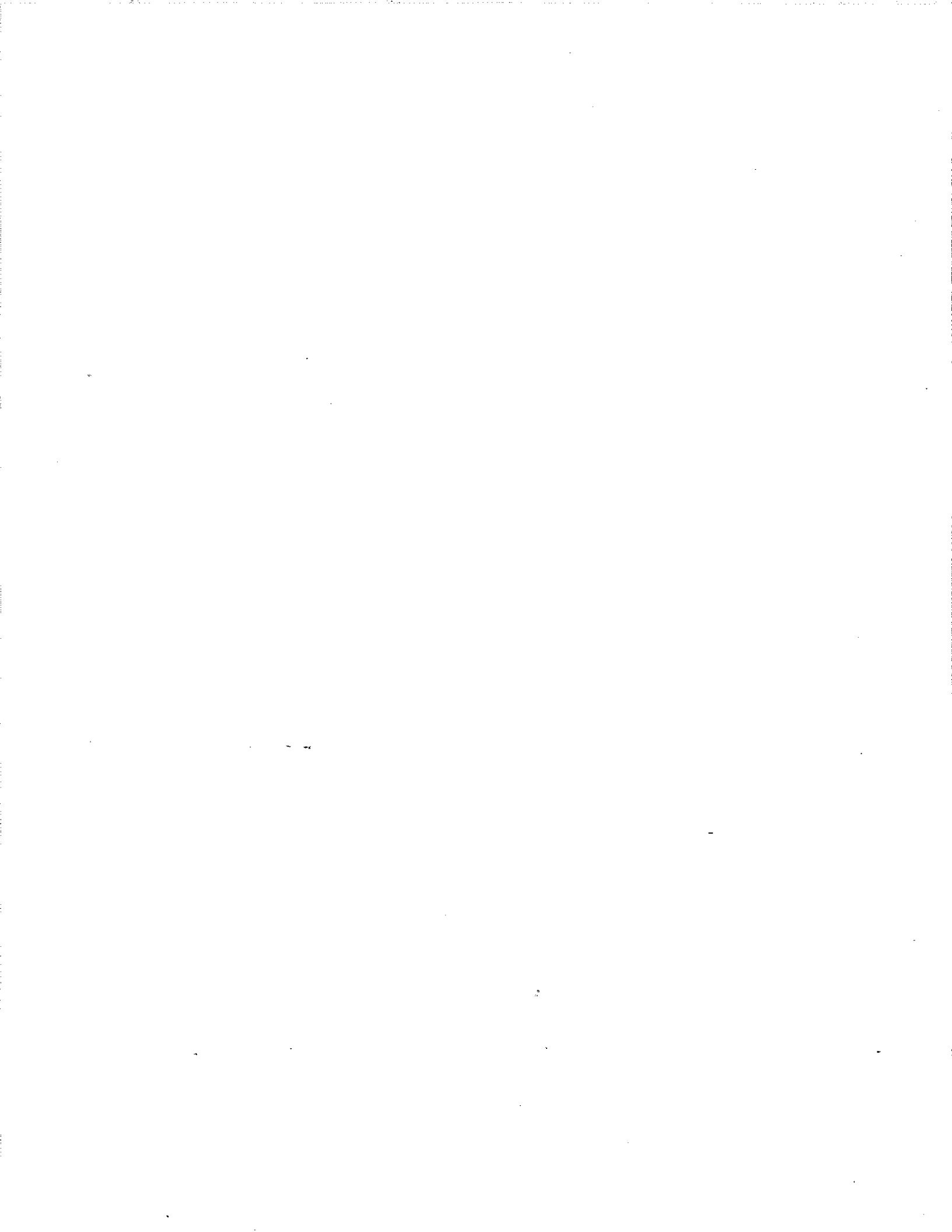
The initial moratorium is in effect for 45 days. Pursuant to Government Code Section 65858, after conducting a public hearing the City Council may extend the moratorium for a total period of up to two years from its adoption, until September 26, 2008. Staff recommends that the City Council avail itself of this option, recognizing that the City Council may revisit the issue and potentially shorten the moratorium at any time based on new legislative or litigation developments, or the completion of staff's review of this issue.

RECOMMENDATION

Staff and the City Attorney recommend that the City Council read by title only, waive further reading, and adopt Ordinance No. 06-339; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, EXTENDING THE INTERIM ZONING ORDINANCE PROHIBITING THE ESTABLISHMENT OF MARIJUANA DISPENSARIES IN ANY ZONING DISTRICT WITHIN THE CITY.

cc: Greg Ramirez, City Manager

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CITY OF AGOURA HILLS

OFFICE OF THE CITY ATTORNEY
30001 Ladyface Court, Agoura Hills, California 91301
Telephone 818.597.7300 Facsimile 818.597.7352

MEMORANDUM

TO: Honorable Mayor and Members of the City Council
FROM: Craig A. Steele, City Attorney
DATE: September 13, 2006
SUBJECT: Introduction and Adoption of Temporary Moratorium on the Establishment of Marijuana Dispensaries in the City

TITLE: An interim Ordinance of the City of Agoura Hills enacted pursuant to California Government Code Section 65858 prohibiting the establishment of marijuana dispensaries in any zoning district in the City (urgency and non-urgency options).

OBJECTIVE: Adopt an interim moratorium for at least 45 days prohibiting the establishment of marijuana dispensaries throughout the City while the City undertakes a study and planning process to determine whether such uses should be permitted and, if so, under what conditions and standards.

BACKGROUND: The City has received inquiries regarding the establishment of so-called medicinal marijuana dispensaries or co-ops in the City. One such establishment recently attempted to do business in the City without a business license and under signage that may have been designed to conceal the true nature of the establishment. Although State law, in conflict with federal law, makes limited allowance for the personal possession and use of marijuana for medicinal purposes when prescribed by a doctor, it is not clear that the distribution of marijuana products to numerous individuals from an establishment such as this would be lawful. At present, medical marijuana dispensaries are not permitted uses under the Municipal Code, although not specifically prohibited either, and might be argued to follow under some catch-all classification. While staff studies the nature and character of the use, whether such a use should be permitted in the City, and if so, under what conditions and regulations, a moratorium on the establishment of such uses is urgently needed.

ANALYSIS: Proposed Moratorium.

At least one inquiry regarding possible locations for medical marijuana dispensaries have been received by city staff in the recent past. Earlier this summer, staff became aware that a dispensary had opened in the City without a business license, without signage that disclosed the nature of the business and, we are informed, under false pretenses made to the landlord. The illegal establishment of the use is being addressed by Code Enforcement. The recent inquiry and the illegal opening of a dispensary have prompted staff to request an interim moratorium on the establishment of medical marijuana dispensaries.

The proposed moratorium ordinance is a way to preserve the *status quo* for a brief period while the City studies ways to protect public health and safety. State law specifically allows cities to

CITY OF AGOURA HILLS
MEMORANDUM

Honorable Mayor and Members
of the City Council
September 13, 2006
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adopt interim moratoria in situations exactly like this one. The purpose of a moratorium is to ensure that development projects that would be inconsistent with the actions and programs the City is considering do not occur before the City is able to complete its planning process. As prospective owners of these businesses become aware that the City is contemplating different ways of regulating or prohibiting marijuana dispensaries, they may decide to establish such businesses in the interim to avoid being subject to the new rules. A moratorium will prevent that potential conflict.

This moratorium would prevent the establishment of marijuana dispensaries in any district for a period of 45 days. During that 45-day period, the City Council will hold a public hearing to determine whether to extend the moratorium or allow it to expire. Ultimately, the moratorium has a maximum life of 2 years after adoption. The proposed moratorium is presented both as an urgency ordinance, to take effect immediately upon adoption, and a traditional ordinance, to take effect after first and second reading.

After discussion, at the Council's pleasure, your options are to either adopt the ordinance by 4/5 vote or take no action. The ordinance will take effect immediately, if adopted, for a period of 45 days. A public hearing and further consideration of this matter will occur before the expiration of 45 days.

RECOMMENDATION: Staff recommends that the City Council adopt the urgency interim moratorium ordinance, and introduce, read by title only and waive further reading of the non-urgency ordinance.

COUNCIL ACTION REQUIRED:

1. **URGENCY:** Motion to read by title only and adopt urgency ordinance No. 06-338U and 06-338.
2. **NON-URGENCY:** Motion to Introduce Ordinance No. 06-338, read by title only and waive further reading.

cc: Greg Ramirez, City Manager



CITY OF ROCKLIN

MEMORANDUM

DATE: July 13, 2004
TO: Honorable Mayor and Members of the City Council
FROM: Mark Siemens, Chief of Police
RE: Medical Marijuana Dispensaries

SUMMARY AND RECOMMENDATION:

California voters approved Proposition 215, which codified into the California Health and Safety Code the "The Compassionate Use Act of 1996". The intent of Proposition 215 was to enable people in need of marijuana for medical purposes the ability to obtain and use it without fear of criminal prosecution under limited, specific circumstances.

Some entrepreneurial types have used the situation to spawn commercial endeavors to distribute marijuana to those who qualify under "The Compassionate Use Act of 1996". Unfortunately, the proposition is unclear about the details of doctor recommendation and how the substance is distributed. The act was specifically developed far enough away from traditional prescriptive drug distribution systems and activities to be distinguishable from them. This was done purposefully as prescription medicines are controlled by the Federal Food and Drug Administration and in Federal law the use, possession, transportation and distribution of marijuana is specifically illegal. At any rate, the use of marijuana under "The Compassionate Use Act of 1996" is not the issue before the Commission. At issue here is the location of commercial distribution of marijuana businesses and the potential impacts to the public health, safety and welfare of our community.

RECOMMENDATION: The City of Rocklin is now addressing how the issue of commercial marijuana distribution under the guise of Proposition 215 will be allowed to impact our community. Staff has given the Council three options as discussed in the Planning Department Staff Report for consideration. As the Police Chief, I recommend the change to zoning law, specifically the approval of the Ordinance adding Section 17.04.348 and adding Subpart D to Section 17.04.030 of the Rocklin Municipal Code regarding medical marijuana dispensaries to avoid the impacts experienced in other communities.

December 7, 2004

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DISCUSSION:

The City of Rocklin has not experienced the impacts of medical marijuana dispensaries but other communities have. I contacted some of the law enforcement leaders where marijuana dispensaries were located and learned the following:

I spoke with Joel Neves, Chief of Police of Roseville, about the impacts from the dispensary there. Chief Neves related the following impact based on his observations and discussions with involved parties including the owner/operator of the marijuana dispensary.

CITY OF ROSEVILLE IMPACTS:

- Street level dealers trying to sell to those going to the dispensary at a lower price
- People are smoking marijuana in public around the facility
- People coming to the community from out of town and out of state to obtain Marijuana (Nevada State, San Joaquin County, etc)
- Marijuana DUI by people who have obtained from dispensary
- At least one burglary attempt into building

I also spoke with Rich Word, the Chief of Police for the City of Oakland about the impacts of Marijuana Dispensaries in his city. Chief Word has extensive experience with marijuana dispensaries.

CITY OF OAKLAND IMPACTS:

- Large criminal element drawn to the dispensary location
 - Marijuana dealers who have a doctor recommendation are purchasing from the dispensary and then conducting illegal street sales to those who do not have a recommendation.
 - Street criminals in search of the drugs are robbing medical use patients for their marijuana as they leave the dispensary.
 - Thefts and robberies around the location are occurring to support the illegal and legal (by State law) drug commerce.
- Chief Word mentioned that a shoe repair business next door to a dispensary has been severely impacted because of the concentration of criminals associated with the dispensary. The shoe repair business owner is considering shutting down his business.
- They had more than 15 total in city, now limited to four by ordinance but control is not very strong. The fines are too small to control a lucrative business.
- Most of the crime goes unreported because the users do not want to bring negative publicity to the dispensary.
- The dispensaries have an underground culture associated with them.
- At least one of the dispensaries had a doctor on the premises giving recommendations on site for a fee.

December 7, 2004

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- One location was a combination coffee shop and dispensary and marijuana was sold in baked goods and for smoking.
- Dispensary management has told the police that they cannot keep the criminal element out.

During early July, I was also able to contact several other law enforcement agencies that had experience with marijuana dispensaries. I received the following information:

CITY OF HAYWARD IMPACTS:

In conversation with Acting Chief Lloyd Lowe, I learned the following:

- Hayward has three dispensaries total, two legal under local ordinance and one illegal.
- They have had robberies outside the dispensaries
- They have noticed more and more people hanging around the park next to one of the dispensaries and learned that they were users in between purchases
- They have problems with user recommendation cards – not uniform, anyone can get them
- One illegal dispensary sold coffee, marijuana and hashish – DA would prosecute the hashish sales and possession violations after arrests were made
- They have received complaints that other illegal drugs are being sold inside of dispensaries
- The dispensaries are purchasing marijuana from growers that they will not disclose
- Chief Lowe believes that the dispensaries do not report problems or illicit drug dealers around their establishments because they do not want the police around
- Hayward Police arrested a parolee attempting to sell three pounds of marijuana to one of the dispensaries
- Hayward has recently passed an ordinance that will make marijuana dispensaries illegal under zoning law in 2006

LAKE COUNTY IMPACTS

In conversation with Sheriff Rod Mitchell, I learned the following:

- Lake County has one marijuana dispensary in Upper Lake
- The biggest problem is the doctor, close by the dispensary who is known across the state for being liberal in his recommendations to use marijuana for a fee of \$175
- Many "patients" come from hours away and even out of state, Oregon specifically, to get a marijuana recommendation from the doctor
- Upper Lake has been impacted by the type of people coming for the marijuana doctor and dispensary. Citizens report to the Sheriff that the people coming to Upper Lake for marijuana look like drug users ("dopers").

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I certify that this is a true copy of
a document on file in this office.

Naig...
SEAL
City Clerk
City of Concord, California

Concord Police Department

Date: August 29, 2005

To: Mayor and Council Members

From: David Livingston, Chief of Police

Subject: *Medical Marijuana Dispensaries - Potential Secondary Impacts*

The purpose of this memorandum is to provide a summary of additional background information regarding the proposed ordinance which would prohibit the establishment of medical marijuana dispensaries within the City of Concord. Police Department staff believes it is important to identify some of the potential secondary effects on public safety by the operation of marijuana dispensaries.

In researching this issue, Captain Crain reviewed a memorandum from Rocklin Police Chief Mark Siemens dated July 13, 2004, which addressed the secondary effects as observed by Rocklin police staff. The memorandum was in reference to pending consideration by the Rocklin City Council of a proposed ordinance to regulate the establishment of medical marijuana dispensaries in the City of Rocklin. In his memorandum, Chief Siemens addressed a variety of community safety concerns that had been expressed by a number of agencies throughout Northern California. While the City of Rocklin had no experience with dispensaries, other nearby communities did. The agencies he polled were Roseville, Oakland, Hayward and Fairfax police departments as well as the Lake County Sheriff's Office. All five agencies expressed similar concerns or experiences. Those concerns included, but were not limited to:

- Street level dealers attempting to sell to people entering the business
- Smoking of marijuana in public areas
- Increased "driving while under the influence of marijuana" violations
- Attempted burglaries of marijuana establishments
- Robberies of clients as they left businesses with their purchase
- Adverse impact on neighboring businesses
- Presence of a physician on the premises issuing prescriptions for use, which drew numerous people from out of the area
- Lack of effort on the part of dispensary owners/employees to control unlawful or nuisance behavior in and around the business
- Increased loitering and associated nuisances
- Complaints that other illegal drugs were sold from the dispensaries

- > Trading of marijuana purchased at a dispensary to a minor for sex
- > Purchasers congregating and smoking marijuana in areas frequented by children
- > Sales of marijuana to persons not holding the appropriate certificate

The representatives of each of the agencies polled by Chief Siemens expressed regret that the dispensaries existed in their respective communities. Each was struggling with the immediate impacts and developing a method by which to regulate such businesses.

DISCUSSION

There are two medical marijuana dispensaries currently operating in the City of Concord. One is located at 2155 Colfax Street, and the other is located at 1120 Contra Costa Blvd. While the Police Department has no record of any complaints related to the business on Colfax Street, the department has responded to a citizen's complaint regarding activity associated with the business on Contra Costa Blvd.

That complaint was referred to the Police Department by the City Attorney's Office, on July 26, 2005. A representative of a neighboring business called to report that a "bad element" was loitering near the dispensary and "harassing" female customers of the complaining business. Officer Ken Carlson investigated the complaint and found no such activity at the time of his contact; however, Officer Carlson has continued to monitor the activity near the dispensary and is prepared to take the appropriate action against any criminal violations or nuisance issues.

While the City of Concord has responded to only the one complaint to date, it is likely that the city would experience an increase in complaints similar to those reported by the agencies referenced in this memorandum if additional dispensaries were authorized. The chance of such activity will also likely increase as word spreads about the existence of the two dispensaries currently operating in the City of Concord.

In addition to facts provided in Chief Siemens' memorandum, there have been two recent events of particular note in our region. The first incident was a recent robbery of a dispensary and homicide in unincorporated San Leandro and the second was a revocation of operating authorization for a dispensary by the City of Modesto.

San Leandro - Unincorporated Area

On August 19, 2005, a number of subjects concealed themselves near the entrance to the facility prior to the opening of the business. The subjects then confronted arriving employees at gunpoint and forced them into the building where they committed a "take over" robbery of marijuana and cash. An employee retrieved a firearm that was kept at the business for protection and exchanged gunfire with the robbers. One of the suspected robbers later died from wounds received in the shootout.

A representative of the Alameda County Sheriff's Office advised Concord staff that not unlike Concord's experience, the Sheriff's Office had also received very few complaints relative to the operation of the medical marijuana dispensaries in the unincorporated area. In fact, most criminal investigations did not involve the actual operation of the dispensary but instead the robberies of individuals after they left the facility. The victims were targeted for the marijuana they had just purchased.

In July of 2005, the Alameda County Board of Supervisors passed an ordinance regulating the existence of medical marijuana dispensaries. The ordinance calls for a three-part, comprehensive inspection. First, the Sheriff's Office is also now authorized to conduct thorough background investigations on all dispensary operators. The other two components are a facility inspection by the County Health Department and a code inspection by the County Building Department. Alameda County limits the number of dispensaries to a total of three in the unincorporated area, based on total population of those areas.

City of Modesto

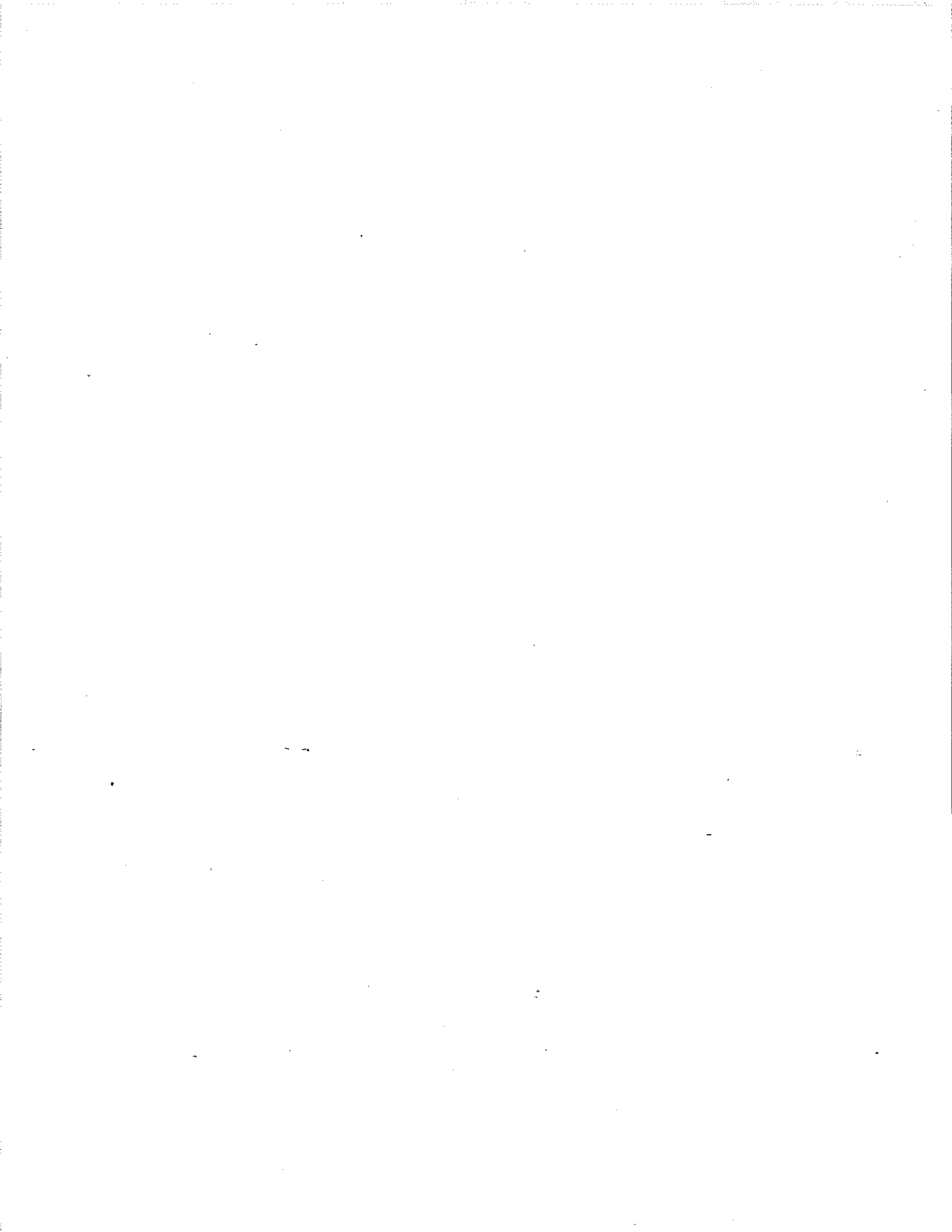
The City of Modesto had adopted an ordinance that allowed marijuana dispensaries but required regulation of those dispensaries. Their ordinance also included provisions for the revocation of a previously issued permit, however, there was very little enforcement. The ordinance was vaguely written allowing a dispensary to open as long as the owner/operator complied with some very general provisions. In fact, two dispensaries set up operation without knowledge of the Police Department and with no real description of the true purpose of the businesses. One of the two eventually ceased doing business in the city.

The city began to reexamine its ordinance and the City Council ultimately enacted an emergency ordinance placing a moratorium on all such operations. The city then used the time period of the moratorium to proceed with a full prohibition on such businesses. The one remaining marijuana dispensary was granted a grace period in which to prepare for permanent closure. A Modesto Police Department representative reported that other than the potential for secondary public safety impacts, there were no issues of concern relative to either of the dispensaries. The actions by the City Council to enact a prohibition against such establishments were prompted by the June 6, 2005, U.S. Supreme Court decision in *Gonzales v. Raich*.

The Concord Police Department joins in the recommendation that the City Council enact an ordinance prohibiting medical marijuana dispensaries within the City of Concord.

cc. Lydia Du Borg, City Manager
Craig Labadie, City Attorney

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RIVERSIDE COUNTY DISTRICT ATTORNEY'S OFFICE

WHITE PAPER

MEDICAL MARIJUANA: HISTORY AND CURRENT COMPLICATIONS

September 2006

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History of Medical Marijuana
Federal Law
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Conclusion

In November of 1996, California voters passed the Proposition 215 initiative.¹ The initiative set out to make medical marijuana available to people with certain illnesses. The initiative was later supplemented by the Medical Marijuana Program Act, which was enacted as Senate Bill 420 by the state legislature in 2003 and became effective in January of 2004. Across the state, counties have varied in their responses to medical marijuana. Some counties have allowed businesses to open and provide medical marijuana. Others have disallowed all such establishments within their borders. Several counties once issued business licenses allowing medical marijuana stores to operate, but no longer do so. This paper discusses the legality of both medical marijuana and the businesses that make it available.

History of Medical Marijuana

The world history of marijuana for medicinal use is long and varied. Among other illnesses, the Chinese used it to treat gout, malaria and memory. Hindu sects have used it as a stress reliever. Ancient physicians prescribed marijuana for pain, childbirth and earaches. Early Americans used it to treat skin inflammation, rabies, and tetanus.²

However, evidence that marijuana lessens the symptoms of any medical condition is largely anecdotal.³ Additionally, medical marijuana is normally administered by smoking and not a single Federal Drug Administration approved medication is smoked.⁴

Federal Law

Federal law clearly and unequivocally states that all marijuana related activities are illegal. Consequently, all people engaged in such activities are subject to federal prosecution. The United States Supreme Court recently decided, *Gonzales v. Raich*, (2005) 125 S.Ct. 2195, making the federal position absolutely plain. The court has declared that, despite the attempts of several states to partially legalize marijuana, it

continues to be wholly illegal since it is classified as a Schedule I drug. As such, there are no exceptions to its illegality. The mere categorization of marijuana as "medical" by some states fails to carve out any legally recognized exception regarding the drug. Marijuana, in any form, is neither valid nor legal.

Clearly the United States Supreme Court is the highest court in the land. Its decisions are final and binding upon all lower courts. The court invoked the United States Supremacy Clause and the Commerce Clause in reaching its decision. The Supremacy Clause declares that all laws made in pursuance of the Constitution shall be the "supreme law of the land" and shall be legally superior to any conflicting provision of a state constitution or law.⁵ The Commerce Clause states that "the Congress shall have power to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."⁶

Gonzales v. Raich addressed the concerns of two California individuals growing and using marijuana under our state's medical marijuana statute. The court explained that under the Controlled Substances Act marijuana is a Schedule I drug and is strictly regulated.⁷ "Schedule I drugs are categorized as such because of their high potential for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment."⁸ The court ruled that the Commerce Clause is applicable to California individuals growing and obtaining marijuana for their own personal, medical use. Under the Supremacy Clause, the federal regulation of marijuana, pursuant to the Commerce Clause, supersedes any state's regulation, including California's. The court found that the California statutes did not provide any federal defense if a person is brought into federal court for cultivating or possessing marijuana.

Accordingly, there is no federal exception for the growth, cultivation, use or possession of marijuana and all such activity remains illegal.⁹ California's Compassionate Use Act of 1996 and Medical Marijuana Program Act of 2004 do not create an exception to this federal law. All marijuana activity is absolutely illegal and subject to federal regulation and prosecution.

California Law

On November 5, 1996, California voters adopted Proposition 215, an initiative statute authorizing the medical use of marijuana.¹⁰ The initiative added Health and Safety code section 11362.5 which allows "seriously ill Californians the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician . . ."¹¹ The codified section is known as the Compassionate Use Act of 1996.¹² Additionally, the state legislature passed Senate Bill 420 in 2003; it became the Medical Marijuana Program Act and took effect on January 1, 2004.¹³ This act expanded the definitions of "patient" and "primary caregiver"¹⁴ and created guidelines for identification cards.¹⁵ It defined the amount of marijuana that "patients" and "primary caregivers" can possess.¹⁶ It also created a limited affirmative defense to criminal prosecution for qualifying individuals that collectively gather to cultivate medical marijuana.¹⁷

Despite their illegality, the medical marijuana laws in California are specific. The statutes craft narrow affirmative defenses for particular individuals with respect to enumerated marijuana activity. All conduct, and people engaging in it, that falls outside

of the statutes' parameters remains illegal under California law. Relatively few individuals will be able to assert the affirmative defense in the statute. To use it a person must be a "qualified patient", "primary caregiver", or a member of a "cooperative". Once they are charged with a crime, if a person can prove an applicable legal status, they are entitled to assert this statutory defense.

A strict construction of California law

The California Attorney General, Bill Lockyer, has also spoken on medical marijuana. His office issued a bulletin to California law enforcement agencies on June 9, 2005. The office expressed the opinion that *Gonzales v. Raich* did not address the validity of the California statutes and, therefore, had no effect on California law. The office advised law enforcement to not change their operating procedures. The Attorney General made the recommendation that law enforcement neither arrest nor prosecute "individuals within the legal scope of California's Compassionate Use Act."

When California's medical marijuana laws are strictly construed our two offices come to a point of agreement. We believe that *Gonzales v. Raich* does affect California law. However, we also acknowledge that the California statutes offer some legal protection to "individuals within the legal scope of" the acts. The medical marijuana laws speak to patients, primary caregivers, and true collectives. These people are expressly mentioned in the statutes and, if their conduct comports to the law, may have some state legal protection for specified marijuana activity. Conversely, all medical marijuana establishments that fall outside the letter and spirit of the statutes are not legal; including dispensaries and store-front facilities. These establishments have no legal protection. The Attorney General's opinion does not present a contrary view.

1. Conduct

Health and safety code sections 11362.765 and 11362.775 describe the conduct for which the affirmative defense is available. If a person qualifies as a "patient", "primary caregiver", or is a member of a legally recognized "cooperative" they have an affirmative defense to possessing a defined amount of marijuana. Under the statute no more than eight ounces of dried marijuana can be possessed. Additionally, either six mature or twelve immature plants may be possessed.¹⁸ Note that if someone claims patient or primary caregiver status, and possesses more than this amount of marijuana, he can be prosecuted for drug possession. The qualifying individuals may also cultivate, plant, harvest, dry, and/or process marijuana; but while still strictly observing the permitted amount of the drug. The statute may also provide a limited affirmative defense for possessing marijuana for sale, transporting it, giving it away, maintaining a marijuana house, knowingly providing a space where marijuana can be accessed, and creating a narcotic nuisance.¹⁹

However, for anyone who cannot lay claim to the appropriate status under the statutes: all instances of marijuana possession, cultivation, planting, harvesting, drying, processing, possession for the purposes of sales, completed sales, giving away, administration, transportation, maintaining of marijuana houses, knowingly providing a

space for marijuana activity, and creating a narcotic nuisance continue to be illegal under California law.

2. Patient

Under section 11362.5(b)(1)(A), a patient is anyone a physician has determined will benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or *any other illness for which marijuana provides relief*.²⁰ A physician's recommendation that indicates medical marijuana will benefit the treatment of an illness is required before a person can claim to be a medical marijuana patient. Accordingly, such proof is also necessary before a medical marijuana affirmative defense can be claimed.

3. Primary Caregiver

A primary caregiver is an individual who has "consistently assumed responsibility for the housing, health, or safety of a patient".²¹ The statutory definition includes some clinics, health care facilities, residential care facilities, and hospices. If more than one patient designates the same person as the primary caregiver, all individuals must reside in the same city or county. In most circumstances the primary caregiver must be at least 18 years of age.

It is important to note that it is almost impossible for a store-front medical marijuana business to gain true primary caregiver status. Businesses that call themselves "cooperatives", but function like store-front dispensaries, suffer this same fate. In *People v. Mower*, the court was very clear that the defendant had to prove he was a primary caregiver in order to raise the medical marijuana affirmative defense. Mr. Mower was prosecuted for supplying two people with marijuana.²² He claimed he was their primary caregiver under the medical marijuana statutes. This claim required him to prove he "consistently had assumed responsibility for either one's housing, health, or safety" before he could assert the defense.²³

The key to being a primary caregiver is not simply that medical marijuana is provided for a patient's health: the responsibility for the health must be consistent. Any relationship a store-front medical marijuana business has with a patient is more likely to be transitory than consistent. A patient can go to any dispensary he chooses. He can even visit different ones on a single day or any subsequent day. Courts have found that a patient's act of signing a piece of paper declaring that someone is a primary caregiver does not necessarily make them one. The relationship between patient and primary caregiver must be consistent over time. Any business that cannot prove its relationship with the patient meets these requirements is not a primary caregiver. Functionally, the business is a drug dealer and is subject to prosecution as such.

4. Store-front medical marijuana cooperatives and dispensaries

Since the passage of the Compassionate Use Act of 1996, many store-front medical marijuana businesses have opened in the state.²⁴ Some are referred to as

dispensaries, some as cooperatives; but it is how they operate that removes them from any umbrella of legal protection. These facilities operate as if they are pharmacies. Most offer different types and grades of marijuana. Some offer baked goods that contain marijuana.²⁵ Monetary donations are collected from the patient or primary caregiver when marijuana or food items are received. The items are not technically sold since that would be a criminal violation of the statutes.²⁶ These facilities are able to operate because they apply for and receive business licenses from cities.

Federally, all existing store-front medical marijuana businesses are subject to search and closure since they violate federal law.²⁷ Their mere existence violates federal law. Consequently, they have no right to exist or operate, and arguably counties in California have no authority to sanction them.

Similarly, in California there is no apparent authority for the existence of these store-front medical marijuana businesses. The Medical Marijuana Program Act of 2004 allows *patients* and *primary caregivers* to grow and cultivate marijuana, no one else.²⁸ Although Health and Safety Code section 11362.775 offers some state legal protection for true collectives and cooperatives, no parallel protection exists in the statute for any store-front business providing any narcotic.

The common dictionary definition of collectives is that they are organizations jointly managed by those using its facilities or services. Legally recognized cooperatives generally possess "the following features: control and ownership of each member is substantially equal; members are limited to those who will avail themselves of the services furnished by the association; transfer of ownership interests is prohibited or limited; *capital investment receives either no return or a limited return*; economic benefits pass to the members on a substantially equal basis or on the basis of their patronage of the association; members are not personally liable for obligations of the association in the absence of a direct undertaking or authorization by them; death, bankruptcy or withdrawal of one or more members does not terminate the association; and [the] services of the association are furnished primarily for the use of the members."²⁹ Medical marijuana businesses, of any kind, do not meet this legal definition.

Actual medical dispensaries are commonly defined as offices in hospitals, schools, or other institutions from which medical supplies, preparations, and treatments are dispensed. Hospitals, hospices, home health care agencies, and the like, are specifically included in the code as primary caregivers as long as they have "consistently assumed responsibility for the housing, health, or safety" of a patient.³⁰ Clearly, it is doubtful that any of the store-front medical marijuana businesses currently existing in California can claim that status. Consequently, they are not primary caregivers and are subject to prosecution under both California and federal laws.

Riverside County

There appear to be four dispensaries currently operating in the County of Riverside: the Healing Nations Collective in Corona, Compassionate Caregivers in Palm Springs, C.A.P.S. in Palm Springs and CannaHelp³¹ in Palm Dessert.

The County of Riverside is currently considering ordinance number 348.4403 which provides for the zoning and licensing of medical marijuana cooperatives in the

county. As discussed above, all such store-front medical marijuana businesses are illegal. Consequently, all are subject to criminal prosecution.

Practical Issues in California

A. How existing dispensaries operate

Despite their clear illegality, some cities do have existing and operational dispensaries. Assuming *arguendo*, that they may operate, it may be helpful to review the mechanics of the business. The former Green Cross dispensary in San Francisco illustrates how a typical medical marijuana dispensary works.³²

A guard or employee may check for medical marijuana cards or physician recommendations at the entrance. Many types and grades of marijuana are usually available. Sales clerks will probably make recommendations about what type of marijuana will best relieve a given medical symptom; although employees are neither pharmacists nor doctors. Baked goods containing marijuana may be available and sold; although there is usually no health permit to sell baked goods. The dispensary will give the patient a form to sign declaring that the dispensary is their "primary caregiver" (a process fraught with legal difficulties). The patient then selects the marijuana they want and is told what the "contribution" will be for the product. The code specifically prohibits the sale of marijuana to a patient so "contributions" are made to reimburse the dispensary for its time and care in making "product" available. However, if a calculation is made based on the figures in the article, it is clear that these "contributions" can easily add up to millions of dollars per year. That is a very large cash flow for a "non-profit" organization denying any participation in the retail sale of narcotics. Before its application to renew its business license was denied by the City of San Francisco, there were single days that Green Cross sold \$45,000.00 worth of marijuana. On Saturdays, Green Cross could sell marijuana to forty-three patients an hour. The marijuana sold at the dispensary was obtained from growers who brought it to the store in backpacks. A medium-sized backpack would hold approximately \$16,000.00 worth of marijuana. Green Cross used many different marijuana growers.

It is clear that dispensaries are running as if they are businesses, not legally valid cooperatives. Additionally, they claim to be the "primary caregivers" of patients. This is a spurious claim. As discussed above, the term "primary caregiver" has a very specific meaning and defined legal qualifications. A primary caregiver is an individual who has "consistently assumed responsibility for the housing, health, or safety of a patient".³³ The statutory definition includes some clinics, health care facilities, residential care facilities, and hospices. If more than one patient designates the same person as the primary caregiver, all individuals must reside in the same city or county. In most circumstances the primary caregiver must be at least 18 years of age.

It is almost impossible for a store-front medical marijuana business to gain true primary caregiver status. A business would have to prove that it "consistently had assumed responsibility for [a patient's] housing, health, or safety."³⁴ The key to being a primary caregiver is not simply that medical marijuana is provided for a patient's health: the responsibility for the patient's health must be consistent.

As seen in the Green Cross example, a store-front medical marijuana business' relationship with a patient is most likely transitory. In order to provide a qualified patient with marijuana, a store-front medical marijuana business must create an instant "primary caregiver" relationship with him. The very fact that the relationship is instant belies any consistency in their relationship and the requirement that housing, health, or safety is consistently provided. Courts have found that a patient's act of signing a piece of paper declaring that someone is a primary caregiver does not necessarily make them one. The consistent relationship demanded by the statute is mere fiction if it can be achieved between an individual and a business that functions like a narcotic retail store.

B. Secondary effects of dispensaries and similarly operating cooperatives

Of equal concern are the secondary effects of these dispensaries and store-front cooperatives. Throughout the state, many violent crimes have been committed that can be traced to their proliferation. On February 25, 2004, two men in Mendocino County committed a home invasion robbery to steal medical marijuana. They held a knife to a 65-year-old man's throat, and though he fought back, managed to get away with large amounts of marijuana. They were soon caught and one of the men received a sentence of six years in the state prison.³⁵

At least two murders can be traced to the existence of medical marijuana dispensaries. On August 19, 2005, 18-year-old Demarco Lowery was shot when he and his friends attempted a takeover robbery of a store-front medical marijuana business in the City of San Leandro. The owner fought back and a gun battle ensued. Demarco Lowery was hit by gunfire and "dumped outside the emergency entrance of Children's Hospital Oakland" after the shootout.³⁶ He did not survive. The second known murder occurred on November 19, 2005. Approximately six men broke into Les Crane's home in Laytonville while yelling "this is a raid". Les Crane, who owned a store-front medical marijuana business, was at home and shot to death. Another man present at the time was beaten with a baseball bat. The murderers left the home after taking currency and processed marijuana.³⁷

On July 17, 2006, the El Cerrito City Council voted to ban all such medical marijuana facilities. It did so after reviewing a nineteen-page report that detailed a rise in crime near these store-front dispensaries in other cities. The crimes included robberies, assaults, burglaries, murders and attempted murders.³⁸ As recently as August 10, 2006, an armed robbery took place at a Santa Barbara dispensary. A small amount of currency and fifteen medical marijuana baggies were stolen. The owner says it is the fourth time he has been robbed. He failed to report the first three because "medical marijuana is such a controversial issue".³⁹ Even though medical marijuana store-front businesses do not currently exist in the City of Monterey Park, it issued a moratorium on them after studying the issue in August 2006.⁴⁰ After allowing these establishments to operate within its borders, the City of West Hollywood recently passed a similar moratorium. The moratorium was "prompted by incidents of armed burglary at some of the city's eight existing pot stores and complaints from neighbors about increased pedestrian and vehicle traffic and noise"⁴¹

Medical marijuana store-front businesses have allowed criminals to flourish in California. This past summer the City of San Diego cooperated with federal authorities

and served search warrants on several medical marijuana locations. In addition to marijuana many weapons were recovered, including a stolen handgun and an M-16 assault rifle.⁴² The National Drug Intelligence Center reports that marijuana growers are employing armed guards, using explosive booby traps and murdering people to shield their crops. Street gangs of all national origins are involved in transporting and distributing marijuana to meet the ever increasing demand for the drug.⁴³ Store-front medical marijuana businesses are very dangerous enterprises.

C. Liability Issues

With respect to issuing business licenses to medical marijuana store-front facilities a very real issue has arisen: counties and cities are arguably aiding and abetting criminal violations of federal law. Such actions clearly put the counties permitting these establishments in very precarious legal positions. Aiding and abetting a crime occurs when someone commits a crime, the person aiding that crime knew the criminal offender intended to commit the crime, and the person aiding the crime intended to assist the criminal offender in the commission of the crime.

The legal definition of aiding and abetting is easily applied to counties and cities allowing medical marijuana facilities to open. A county that has been informed about the *Gonzales v. Raich* decision knows that all marijuana activity is federally illegal. Furthermore, such counties know that individuals involved in the medical marijuana business are subject to federal prosecution. When an individual in California cultivates, possesses, transports, or uses marijuana he is committing a federal crime.

A county issuing a business license to a medical marijuana facility knows that the people there are committing federal crimes. The county also knows that those involved in providing and obtaining medical marijuana are intentionally violating federal law.

This very problem is why some counties are re-thinking the presence of medical marijuana facilities in their communities. There is a valid fear of being prosecuted for aiding and abetting federal drug crimes. Presently, two counties have expressed concern that California's medical marijuana statutes have placed them in such a precarious legal position. Because of the serious criminal ramifications involved in issuing business permits and allowing store-front medical marijuana businesses to operate within their borders, San Diego and San Bernardino Counties have filed a lawsuit against the state. They seek to prevent California from enforcing the medical marijuana statutes which subject them to criminal liability.

Conclusion

In light of the United States Supreme Court's decision and reasoning in *Gonzales v. Raich*, the United States Supremacy Clause renders California's Compassionate Use Act of 1996 and Medical Marijuana Program Act of 2004 illegal. No state has the power to grant its citizens the right to violate federal law. People have been, and continue to be, federally prosecuted for marijuana crimes. We conclude that medical marijuana is not legal under federal law, despite the current California scheme.

Furthermore, store-front medical marijuana businesses are prey for criminals and create easily identifiable victims. The people growing the marijuana are looking to and

employing illegal means to protect their valuable cash crops. Many distributing marijuana are hardened criminals.⁴⁴ The others distributing marijuana to the businesses are perfect targets for thieves and robbers. They are being assaulted, robbed and murdered. Those buying and using medical marijuana are also being victimized.

Additionally, illegal medical marijuana facilities have the potential for creating liability issues for counties and cities.

The Riverside County District Attorney's Office believes that the cooperatives being considered are illegal and should not be permitted to exist within the County's borders. They are a clear violation of federal and state law, they invite more crime, and they compromise the health and welfare of the citizens of this County.

¹ Ten other states have enacted medical marijuana laws in some fashion: Alaska, Arizona, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Vermont, and Washington.

² Stack, *Inhaling to cure ailments is a lot older than you might believe* (October 27, 2002) Time Magazine.

³ Zimmerman, *Is Marijuana the Right Medicine for You* (1998) chapter 3.

⁴ "Medical" Marijuana - the Facts United States Drug Enforcement Administration, www.usdoj.gov.

⁵ U.S. Const. art. VI, cl. 2.

⁶ U.S. Const. art. I, section 8, cl. 3.

⁷ *Gonzales v. Raich*, *supra*, 125 S.Ct. at page 2204.

⁸ *Id.*, see also *United States v. Oakland Cannabis Buyers' Cooperative* (2001) 121 S.Ct. 1711, 1718.

⁹ *Id.*

¹⁰ See *People v. Mower* (2002) 28 Cal.4th 457, 463.

¹¹ Health and Safety Code section 11362.5(b) (1) (A). All references hereafter to the Health and Safety Code are by section number only.

¹² 11362.5(a).

¹³ 11362.7 et. seq.

¹⁴ 11362.7.

¹⁵ 11362.71 – 11362.76.

¹⁶ 11362.77.

¹⁷ 11362.765; 11362.775; *People v. Urziceanu* (2005) 132 Cal.App.4th 747, 786.

¹⁸ 11362.77

¹⁹ 11357, 11358, 11359, 11360, 11366, 11366.5, and 11570.

²⁰ HS 11362.7(h) gives a more comprehensive list – AIDS, anorexia, arthritis, cachexia, cancer, chronic pain, glaucoma, migraine, persistent muscle spasms, seizures, severe nausea, and any other chronic or persistent medical symptom that either substantially limits the ability of a person to conduct one or more life activities (as defined in the ADA) or may cause serious harm to the patient's safety or physical or mental health if not alleviated.

²¹ HS 11362.5(e); HS 11362.7(d)(1), (2),(3), and (e); see also *People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1395.

²² *People v. Mower*, *supra*, 28 Cal.4th at 476.

²³ *Id.* emphasis added.

²⁴ For a statewide list: <http://canorml.org/prop/cbclist.html>.

²⁵ McClure, *Fuming Over Pot Clubs* (June 2006) California Lawyer Magazine.

²⁶ 11362.765(c); see, e.g. *Urziceanu*, *supra*, 132 Cal.App.4th at page 764.

²⁷ *Gonzales v. Raich*, *supra*, 125 S.Ct. at page 2195.

²⁸ *People v. Urziceanu* (2005) 132 Cal.App.4th 747; see also HS 11362.765.

²⁹ Packel, *Organization and Operation of Cooperatives* (4th ed. 1970) American Law Institute (1970) pp. 4-5; italics added.

³⁰ 11362.7(d)(1).

³¹ As of August 2006, the store CannaHelp leases is undergoing renovations and it is not currently operating out of that facility; it is unknown if it is operating out of another location.

³² See e.g. McClure, *Fuming Over Pot Clubs* (June 2006) California Lawyer Magazine.

³³ HS 11362.5(e); HS 11362.7(d)(1), (2),(3), and (e); see also *People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1395.

³⁴ *People v. Mower, supra*, 28 Cal.4th at 476, emphasis added.

³⁵ Scaramella, *No Good Deed Goes Unpunished*, (June 16, 2004) www.theava.com.

³⁶ Graham, *Police Link Suspect to Pot Club Robbery*, (August 9, 2006) www.insidebayarea.com.

³⁷ Clark, *Breaking News: Medical Marijuana Supplier Les Crane Killed*, (November 19, 2005) Ukiah Daily Journal; Clark, *Les Crane Murder Investigation Continues*, (November 27, 2005) Ukiah Daily Journal.

³⁸ Planning Commission Agenda, www.el-cerrito.org; *El Cerrito Bans Dispensaries*, www.420girls.com.

³⁹ Indy Staff, *Medical Marijuana Shop Robbed*, (August 10, 2006) Santa Barbara Independent.

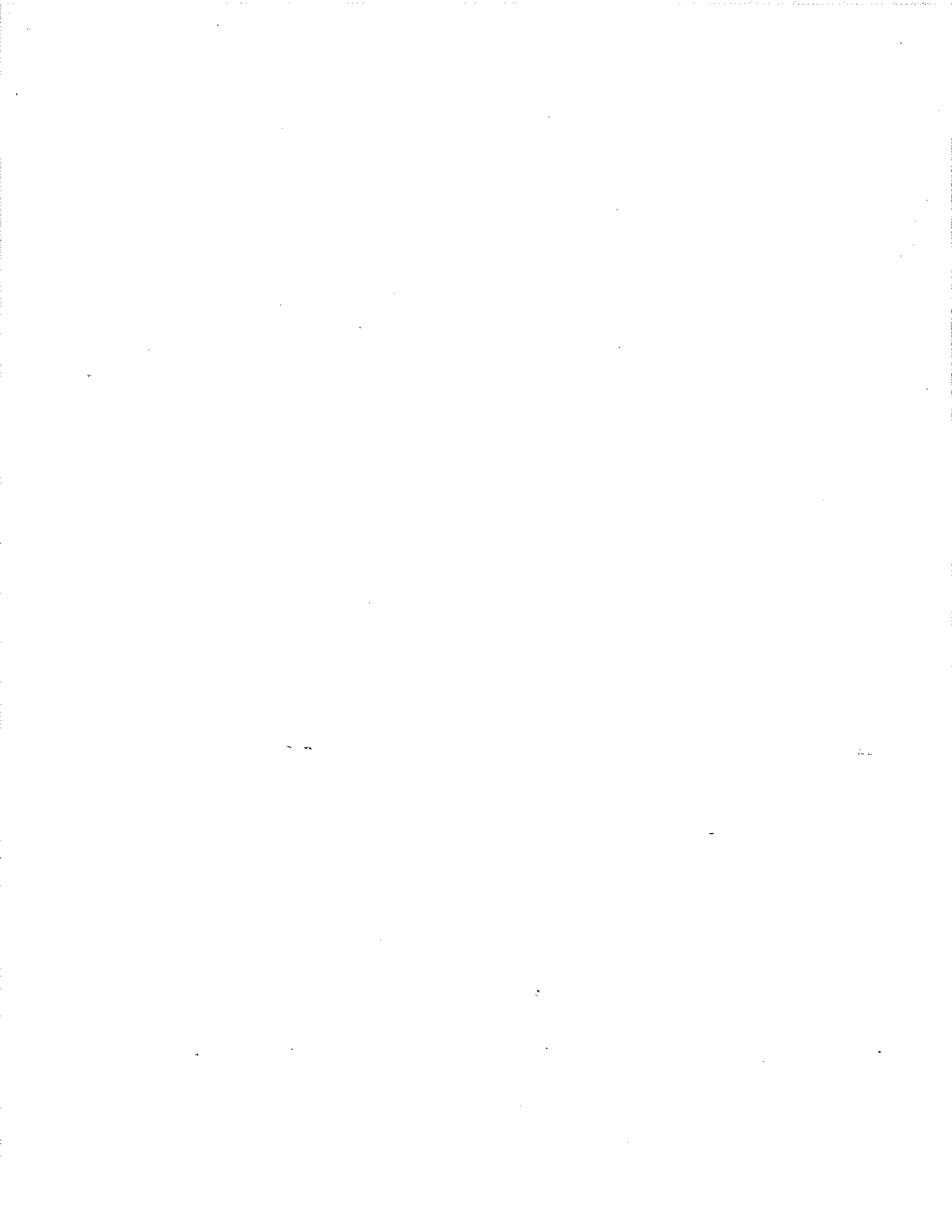
⁴⁰ Ortega, *City bans outlets for medical marijuana*, (August 28, 2006) San Gabriel Valley Tribune.

⁴¹ *Id.*

⁴² Crime statistics, www.sandiego.gov.

⁴³ National Drug Intelligence Center, *Marijuana* (January 2001) www.usdoj.gov.

⁴⁴ *Id.*



Medical Marijuana Dispensaries and Associated Issues

Presented to the California Chiefs of Police Association

This report is respectfully presented to you with the following disclaimers;

- This report does not attempt to address the merits of Medical Marijuana or the concept of its use as an alternative medicine as discussed or proposed in Proposition 215.
- This report contains compilations of data collected by others in Law Enforcement as well as media coverage and this data is identified as such.

This report contains information on three topics;

- Reported Crimes Associated with Medical Marijuana
- Doctor's Involvement in the Medical Marijuana Equation
- One Example of a Medical Marijuana Entrepreneur

Areas that currently act as a hindrance to a true study of this topic are;

Under Reporting: With few exceptions, agencies contacted stated that they felt that the crimes related to Medical Marijuana Dispensaries were under reported, if reported at all. Confidential Informants have provided information that these additional crimes (Robberies, Assaults and Burglaries involving Marijuana or large amounts of cash) are not reported so as to not draw additional Law Enforcement and Media scrutiny to this very lucrative trade. This is not unlike the thought processes employed by Organized Crime as well as street gangs here in California.

Crime Classification: Another barrier to collection of this data is the lack of classification of this data as Medical Marijuana related. In years past, statistical analysis of domestic violence and hate crimes was difficult. These crimes now receive their own classification so tracking them is much easier. However until such time as Medical Marijuana crimes receive their own classification, separating these crimes from non Medical Marijuana related crimes is very difficult.

Over Reliance on Typical Statistical Data: Gathering statistical data on this topic would appear to be a simple task. One would imagine that you would look at crime in a given location prior to the arrival of a Medical Marijuana Dispensary and then look at crime after its arrival. This presents several difficulties. First, based on Internet research, there appears to be approximately 240 publicized Medical Marijuana Dispensaries (www.canorml.org) located in almost as many jurisdictions. No one agency can access data from all these locations and not all agencies compile this data. I spoke with several agency representatives and each had information regarding this issue, however few had specific crime statistics. Secondly, not all crimes related to Medical Marijuana take place in or around a dispensary. Some take place at the homes of the owners, employees or patrons. Lastly, not all the "secondary issues" related to Medical Marijuana Dispensaries are crimes.

Loitering, additional vehicle and pedestrian traffic, use of Medical Marijuana at or near the facilities are described as quality of life issues and are only really quantified when they appear in the newspaper or the complainants appear at a City Council meeting.

Prior to discussing the reports of other Law Enforcement agencies, I would like to present some information from our Department. While our City does not currently have a Medical Marijuana Dispensary, this does not mean that we are immune from their effects.

On January 7, 2004 a resident of El Cerrito was arrested for possession of marijuana for sale. The subject was found to be in possession of 133 grams (4.6 ounces) of marijuana, a small amount of cash, a "replica handgun" pellet gun and three Medical Marijuana Dispensary cards (Oakland Cannabis Buyers Collective, Cannabis Buyers Collective of Marin and "Compassionate Caregivers" of Oakland)

On February 25, 2005, the same subject mentioned above was discovered to be growing marijuana in his house. He was found to be in possession of 15 adult plants, 72 starter plants, 505 grams (1.10 lbs) of processed marijuana, 50 grams (1.75 oz) of hashish packaged for sale and two assault rifles as well as \$6,000.00 in cash. The subject claimed that these plants were Medical Marijuana. An investigation was conducted with the assistance of the West Contra Costa County Narcotic Enforcement Team and resulted in the conviction of the resident for Unauthorized Possession of Cannabis and Possession of an Assault Weapon.

On July 9, 2005, during a suspicious vehicle check, one of our Officers determined that a resident (Who is a member of the Oakland Cannabis Buyers Cooperative) possessed 55 immature plants with the intent of cultivating them and selling them to a Medical Marijuana Dispensary. The District Attorney has filed a complaint containing two felony charges of possession and cultivation of Marijuana. This case is awaiting adjudication as the subject has failed to appear in court (it is believed he has fled to the state of Oregon) and a bench warrant has been issued for his arrest.

On December 11, 2005, a traffic stop for speeding resulted in the arrest of the occupants for the possession on Marijuana packaged for sale and \$3,365.00 in cash.

On March 8, 2006 our School Resource Officer received information that several students were ill after eating cookies distributed by another student. Further investigation revealed that a student had made the cookies with a butter obtained outside (secondary sale) a Medical Marijuana Dispensary containing a highly concentrated form of Tetrahydrocannabinol (THC the active ingredient in Marijuana). The student used the "butter" to bake and then sell these cookies to other students. After the student discovered that the cookies were so potent that some of his fellow students had to be treated at local hospitals, instead of throwing them away, he gave them to other students without telling them what they were laced with. This incident resulted in at least four students requiring hospitalization and it is suspected at least two or three others were intoxicated to the point of sickness.

From March of 2004 to May of 2006, this Department has conducted seven investigations at our High School and Junior High School resulting in the arrest of eight juveniles for selling or possessing with intent to sell Marijuana on or around the school campuses.

Gathering the data from these incidents required hours of research and examination. Many agencies have neither the available resources nor the inclination to gather data of this kind. This makes presenting the data for consideration in this matter very difficult. Another area of importance is the possession of firearms in conjunction with large quantities of cash and marijuana. Those who have the money and drugs want to keep them and arm themselves to prevent robberies. Those who wish to relieve those in possession of cash and drugs use firearms and other deadly weapons to accomplish their task. When speaking to those involved in the drug trade, they will tell you violence and greed are "all just part of the game."

With the exception of those entries identified from other sources, I contacted and interviewed representatives from each of the listed agencies. I have included newspaper articles that either further describe events or provide additional information regarding some of the "secondary issues".

ANAHEIM

May 19, 2004 a Medical Marijuana Dispensary "420 Primary Caregivers" obtained a business license and began operations.

Fall 2004, The Police Department began to receive complaints from neighboring businesses in the complex. The complaints centered around the ongoing sales of Marijuana to subjects who did not appear to be physically ill, the smell of Marijuana inside the ventilation system off the building and the repeated interruption to neighboring businesses.

January 2005, The Medical Marijuana Dispensary was robbed at gunpoint by three masked subjects who took both money and marijuana from the business.

April 5, 2005, The Department met with the property Management Company, owners and representatives from the businesses in the complex which housed the Medical Marijuana Dispensary. The meeting focused on the safety of the employees and patrons of adjacent businesses. Many neighboring businesses complained of Marijuana use on the premises and in the surrounding area as well as a loss of business based on the clientele of the Medical Marijuana Dispensary "hanging around the area".

Since this meeting, two businesses have ended their lease with the property management company. A law firm that had been in that location for ten years left citing "Marijuana smoke had inundated their office....and they can no longer continue to provide a safe, professional location for their clientele and employees." A health oriented business terminated their lease after six years and moved out of the complex citing "their business is repeatedly interrupted and mistaken multiple times a day for "the store that has the marijuana."

The owner fears that "he or his employees may be shot if they are robbed by mistake and the suspects do not believe they do not have Marijuana." The Property Management Company indicated "at least five other businesses have inquired about terminating their lease for reasons related to 420 Primary Caregivers." Arrests have been made supporting the belief that some "qualifying patients" purchase Marijuana with a doctor's recommendation, then supply it to their friends for illicit use. Criminal investigations have revealed the business is obtaining its Marijuana from a variety of sources including Marijuana smuggled into the United States from South and Central America. The Police department has conservatively estimated the "420 Primary Caregivers" business to be generating approximately \$50,000.00 a week in income.

(Source Declaration of Sgt. Tim Miller Anaheim P.D. Street narcotic Unit)

ALAMEDA COUNTY

January 12, 2005 a Medical Marijuana customer was robbed after leaving the "The Health Center" Medical Marijuana Dispensary (San Leandro). The victim was accosted by two subjects who possibly followed the victim away from the dispensary.

February 6, 2005 a Medical Marijuana Dispensary, the "Compassion Collective of Alameda County" was robbed by two subjects armed with handguns. The robbery took place at 4:50 pm in the afternoon and the suspects took an unspecified amount of cash and Marijuana.

April 27, 2005 a Medical Marijuana Dispensary, "The Health Center" (San Leandro) was burglarized at approximately 3:05 am. No specifics were provided as to the loss sustained as a result of the burglary. Many investigators believe that the victims do not truthfully report the loss of cash or marijuana.

May 24, 2005 a patron of a Medical Marijuana Dispensary, "A Natural Source" (San Leandro) was robbed by three subjects in the parking lot of the dispensary after making a purchase of Marijuana.

August 19, 2005: Five subjects armed with assault rifles conducted a take over robbery of a Medical Marijuana Dispensary "A Natural Source" (San Leandro). They engaged in a shoot out with two employees and one of the suspects was killed in the exchange of gun fire.

Sept. 12, 2005: Both money and marijuana were stolen from the Alameda County Resource Center (16250 East 14th St.) when burglars chopped through the wall of an adjacent fellowship hall during the night.

(Source Declaration by Lt. Dale Amaral Alameda County Sheriff's Department)

Calls for Service Related to Medical Marijuana Dispensaries (Unincorporated San Leandro and Hayward) Officer Initiated events may be vehicle stops or on-view arrests. 16043 East 14th Street: 2003: 2 Officer Initiated activity events, 2004: 1 Officer Initiated activity events. This business is now closed.

21227 Foothill Blvd "Garden of Eden" 2003: 1 Officer initiated activity events, 2004: No calls for service, 2005: 1 Theft call, 4 alarm calls, 1 Officer Initiated activity events.

913 E. Lewelling Blvd. "We are Hemp" 2003: 1 Officer initiated activity event, 2004: 1 Assault call, 2 Officer Initiated activity events, 2005: 1 Assault call, 1 Officer Initiated activity event.

16250 East 14th Street: 2003: 11 Officer initiated activity events, 2004: 3 loitering calls, 9 Officer initiated activity events, 2005: 5 Officer initiated activity events.

15998 East 14th Street: "The Health Center" 2003: 1 Officer initiated activity event, 2004: 1 Trespassing call, 1 Assault, 2 Disturbance calls, 2 Miscellaneous, 26 Officer initiated events, 2005: 1 Robbery, 1 Aggravated Assault, 1 Grand Theft, 3 Petty Thefts, 2 Vehicle Thefts, 4 Trespassing calls, 5 Loitering calls, 1 Weapons Possession, 2 Controlled Substance cases, 4 Alarm calls, 9 Disturbance calls, 3 Miscellaneous calls and 21 Officer Initiated events.

16360 Foothill Blvd: 2003: 1 Officer initiated activity event, 2004: 2 Officer initiated activity events, 2005: 1 Homicide, 2 Aggravated Assaults, 1 Grand Theft, 1 Controlled Substance case, 13 alarm calls, 2 Officer Initiated events.

21222 Mission Blvd: "Compassionate Collective of Alameda County" 2003: 2 Officer Initiated events, 2004: 5 Officer Initiated events, 2005: 1 Attempted Homicide, 2 Robberies, 2 Burglaries, 2 Controlled Substance cases, 10 Alarm calls, 2 Disturbance calls, 1 Miscellaneous calls and 2 Officer Initiated events.
(Source Alameda County Sheriff's Department Report)

Car Jacking Latest Pot Club Crime

Linda Sandsmark San Leandro Times (Excerpt from the article)

San Leandro, CA Sept 29, 2005 -- A woman was carjacked and robbed Monday afternoon after she left The Health Center (THC) marijuana club at 15998 East 14th Street. The unidentified woman, who is from Garberville in Humboldt County, walked back toward the clinic and her car was found on nearby Liberty Street. "She doesn't want to pursue a criminal complaint in spite of the fact she was carjacked," says Alameda County Sheriff's Department spokesman Lt. Dale Amaral. "When you have this kind of drug distribution center it's an absolute magnet for every thug in the nine Bay Area counties. We're running from call to call." Crimes including burglaries and robberies at many of the dispensaries have caused widespread community concern.It's a target-rich environment," says Amaral. "The sheriff's department is devoting a tremendous amount of resources to these clubs. Though the clubs may not be selling directly to students, the county's School Resource Officers report a 36-percent increase in arrests on nearby school campuses for minors possessing marijuana, possibly due to increased supply in the area.

(Source http://www.hempevolution.org/thc/dispensary_robbed040514.htm)

ARCATA

- There are two dispensaries in town that share a building.
- The two dispensaries have an ongoing disagreement with each other that has resulted in numerous calls for police services to settle disputes.
- The facilities do not have the correct electrical support and continuously blow out the electricity in the area. They have not complied with upgrading their electrical systems or responded to fire department concerns regarding proper exits and signage.
- There have been numerous instances where people have purchased marijuana at the dispensary and then resold it at a nearby park.
- A doctor has come to the dispensaries and, for a fee, will provide a medicinal marijuana recommendation for just about any complaint the patient makes.

(Source Staff Report to Davis City Council: Medical Marijuana June 13, 2005)

BAKERSFIELD

Sep 8th, 2005. DEA arrested three subjects in raid on the Free and Easy cannabis dispensary. Kern County sheriffs summoned the DEA after being called to investigate a robbery at the facility. Police found plants growing at one subject's home plus 20 lbs of marijuana, and illegally possessed firearms. .

(Source) <http://www.canorml.org/news/fedMedicalMarijuanacases.html>

BERKELEY

March 30, 2000: Two males armed with sawed off shotguns forced entry into a residence and forced the occupant at gun point to turn over a safe. A subsequent investigation revealed that a second resident who was not home at the time was a former director of a Medical Marijuana Dispensary and was the intended target of the robbery.

October 2001, December 2001 and June 2002: The Medical Marijuana Dispensary on University was robbed. Large sums of money and Marijuana taken.

March 2003: A home invasion robbery over marijuana cultivation escalated into a homicide.

December 2003: The Medical Marijuana Dispensary on Telegraph was robbed. (No further info provided)

April 2004: A home invasion robbery investigation resulted in the seizure of \$69,000.00, ten pounds of Marijuana and a "Tech 9" machine pistol.

"While recognizing the medical needs of the cannabis using patients, staff is concerned about the potential for crime and violence associated with the distribution and cultivation of Marijuana"

(Source) City Manager's report to the Berkeley City Council

Pot club robbed for third time in a year (Excerpts from the Article)

By David Scharfenberg, Daily Planet staff (06-07-02)

Club had promised to limit amount of cash, marijuana stashed there

Four men stole \$1,500 and \$3,500 worth of marijuana from the Berkeley Medical Herbs pot club yesterday after two of them were allowed on site without proper identification. The afternoon heist renewed concerns about the integrity of the club's security and reignited some anger in the neighborhood. This incident marks the third time in a year robbers have stormed the medicinal marijuana club, located in a small brick building at 1627 University Avenue. The last robbery, in December, prompted a rash of concern from city officials about security at the club. "The guys who robbed it ran out with a big satchel," the neighbor said, adding that he disapproves of the marijuana club. "This is a very attractive place for other drug dealers to rob. It's not something we want in our neighborhood." Geshuri acknowledged that a few neighbors are opposed to the club, but said most of the residents support Medical Herbs in its mission. The club had pledged after the December robbery to keep no more than \$1,000 and one pound of marijuana on site. But Geshuri said the robbers on Wednesday made off with \$500 more than that and as much as a pound-and-a-half of marijuana. The witness opposed to the club said theft proves that management is not keeping its pledge to prevent robberies and ensure safety.

Berkeley

- Has had three to four facilities operating in the City. (Over the last 3-4 years).
- There have been several take over robberies of the dispensaries.
- There have been arrests where legitimate purchasers have resold marijuana on the street to well individuals.
- Obvious young people entering and purchasing marijuana from the dispensary.
- Recommended that if we did not currently have the dispensaries, we should not allow them.
- Police department has been given explicit instructions by their City Council not to take any kind of enforcement action against the dispensaries or people going in or out of the facility.
- Facilities will accept any Health Department cards, even those obviously forged or faked.

(Source Staff Report to Davis City Council: Medical Marijuana June 13, 2005)

BUTTE COUNTY

Butte County does not track statistics related to Medical Marijuana Dispensaries, however a Detective in the Investigations Unit knew of;

At least six robberies or attempts, one of which involved a shoot out between the suspect and victim occurred during the months of August to October 2005. Each of these robberies took place at the victim's residence and the target was the victim's marijuana cultivation. He stated that this is the busy time of year for these activities as it is harvest time for the Marijuana grows.

(Source Det. Jake Hancock Butte County Sheriff's Department)

CALAVARAS COUNTY

Jan. 2005. Federal government files forfeiture suit after local sheriff finds 134 marijuana plants. Government seeks to forfeit a home and five acres of land. The defendant says he was growing for half a dozen friends and family members and had checked with local authorities to make sure he was within legal guidelines.

(Source <http://www.canorml.org/news/fedMedicalMarijuanacases.html>)

CHERRYLAND

Cherryland, CA June 30, 2005 -- An employee of a marijuana dispensary narrowly escaped with his life after a gunman opened fire as he waited outside the establishment for co-workers to arrive. The employee, whom authorities declined to identify, was sitting inside his car in the rear parking lot of the Collective Cannabis Club at 21222 Mission Boulevard on Tuesday morning when a masked gunman appeared, said Lt. Dale Amaral, spokesman for the Alameda County Sheriff's Department.

(Source http://www.hempevolution.org/media/santa_cruz_sentinel/scs041213.htm)

CLEAR LAKE

There have been a few reported robberies of Medical Marijuana patients away from the dispensaries. One significant case involved home invasion robbery. Multiple suspects entered the home of a person who was known to be a Medical Marijuana user. During the robbery, one resident was beaten with a baseball bat while the suspects made inquiries regarding the location of the marijuana.

Two of the suspects were shot and killed by the homeowner.

(Source Clear Lake P.D. Inv. Clawson)

CLOVIS

In December of 2005 the Clovis Police Department in conjunction with the Fresno County Sheriff's Department conducted an investigation which resulted in the arrest of a subject for possession of 120 pounds of marijuana. The subject of the investigation was found to have a Medical Marijuana card which helped facilitate his possession and sales of marijuana.

(source www.ci.clovis.ca.us/PressRelesaseDetail.asp?ID=838)

DAVIS (Excerpts from Staff Report to Davis City Council: Medical Marijuana June 13, 2005)

In summary, the experiences of other cities that already have dispensaries are bad. Dispensaries have experienced robberies themselves; legitimate patients have been robbed of their marijuana as they leave the facility; people purchasing marijuana at the dispensaries have been caught reselling the marijuana nearby; street level dealers have begun selling marijuana and other drugs nearby in an effort to undersell the dispensary; some dispensaries have doctors present in their facility who will recommend marijuana as a course of treatment for just about any patient complaint; and many dispensaries do not take serious steps to ensure they are selling only to legitimate patients or their caregivers. When asked, many of the police departments that already have facilities in their cities said that if Davis did not already have a dispensary, we should take steps to prohibit one from opening in the city.

DIXONVILLE

August 25, 2006: Medical Marijuana cardholder caught with 200 pounds of pot.

A Medical Marijuana cardholder was caught with 120 pounds of processed marijuana, 80 pounds of marijuana butter, 10 grams of hashish, 45 large cannabis plants and several psilocybin mushrooms. The Douglas Interagency Narcotics Team found some of the pot packaged for sale and \$7,000 worth of cash at the home of Dwight Ehrensing off Strader Road, north of Buckhorn Road in Dixonville. Ehrensing, 61, was arrested and booked at the Douglas County Jail on charges of delivery of marijuana and the manufacture and possession of marijuana. The narcotics team was given a search warrant after receiving a tip that Ehrensing was selling marijuana, which isn't allowed, even for Medical Marijuana cardholders. "We're finding it's becoming more common," said DINT Lt. Curt Strickland. "People are using the cards to circumvent the law." DINT was assisted at the scene by the Douglas County Sheriff's Office, Oregon State Police, parole and probation officers.

Source: <http://www.newsreview.info/article/20060825/NEWS/108250091>

EL DORADO COUNTY

Medical Marijuana Dispensary operated Medical Marijuana clinic in Cool, California with 6000 patients; DEA raided Sep. 28, 2001; seized patient records. Indicted Jun 22, 2005 for marijuana found on premises.

(Source <http://www.canorml.org/news/fedMedicalMarijuanacases.html>)

FAIRFAX

- Chief of Police Ken Hughes, advised the following:
- Fairfax has one marijuana dispensary
- Fairfax has had some problems with patients selling to non-patients
- They have had problems with purchasers from dispensary congregating at a baseball field to smoke their marijuana
- Fairfax police arrested one person who purchased marijuana at the dispensary and then took it to a nearby park where he tried to trade it to a minor for sex
- Very small town and low crime rate

(Source Rocklin P.D. report)

HAYWARD P.D.

- Acting Chief Lloyd Lowe, advises the following:
- Hayward has three dispensaries total, two legal under local ordinance and one illegal.
- They have had robberies outside the dispensaries
- They have noticed more and more people hanging around the park next to one of the dispensaries and learned that they were users in between purchases
- They have problems with user recommendation cards – not uniform, anyone can get them
- One illegal dispensary sold coffee, marijuana and hashish – DA would prosecute the hashish sales and possession violations after arrests were made
- They have received complaints that other illegal drugs are being sold inside of dispensaries

- The dispensaries are purchasing marijuana from growers that they will not disclose
- Chief Lowe believes that the dispensaries do not report problems or illicit drug dealers around their establishments because they do not want the police around
- Hayward Police arrested a parolee attempting to sell three pounds of marijuana to one of the dispensaries
- Hayward has recently passed an ordinance that will make marijuana dispensaries illegal under zoning law in 2006

(Information provided by Rocklin P.D. report)

HUMBOLDT COUNTY

One subject arrested in Humboldt County Aug 01, 2001 growing 204 plants for the Salmon Creek patients' collective; case turned over to the feds, pled guilty Dec 6; sentenced to 15 months for possession. Released from prison May 2003. This subject is now missing and presumed dead since Aug 2003; police suspect foul play. (Source <http://www.canorml.org/news/fedMedicalMarijuanacases.html>)

12/12/2003 Subject: Attempted Murder Suspects Arrested

Contact: Brenda Gainey, Case No#: 200308180, Location: Garberville

Humboldt County Sheriff's Deputies arrested two Garberville men last night wanted in connection with an attempted murder case from Mendocino County. Yesterday afternoon the Mendocino Sheriff's Office received a report of a shooting in Willits. Detectives from Mendocino learned that the victim, Jarron Jackson, 38 of Antioch, had been shot once in the arm during a robbery at a residence in Willits. Mendocino County Sheriff's Detectives learned the identities of the two suspects and issued a "Be On the Lookout" bulletin to Northern California police agencies. The bulletin also indicated that the two suspects were residents of Garberville. Late yesterday evening Humboldt County Sheriff's Deputies and officers from the California Highway Patrol went to the suspects' residence on the 1400 block of Redwood Dr. in Garberville.

Arrested at the house were Charles Magpie, 26, and Rudolph King, 28. Both men were taken into custody without incident. While waiting for Mendocino County Officials to arrive at the scene, Humboldt County Deputies received consent to search the house from one of the residents. Deputies found a sophisticated indoor commercial marijuana grow. Members of the Sheriff's Drug Enforcement Unit were called and found the following:

- Twenty-eight pounds of processed marijuana; estimated street value of \$100,000.
- One thousand growing marijuana plants ranging in size from six inches to two feet; estimated street value of \$875,000.
- Two shotguns
- Approximately \$16,000 in cash

Date Released: 6/2/2006 Subject: Marijuana Investigation Contact: Deputy Campbell
Case No#: 200603240 Locations: Swayback Ridge

On 6/1/06, Sheriff's deputies were conducting follow up to a residential burglary that occurred in the Swayback Ridge area of Humboldt County. While attempting to contact persons who may have had knowledge about the burglary, a commercial indoor marijuana operation was discovered.

The Sheriff's Drug Enforcement Unit, assisted by the Drug Enforcement Administration and the Bureau of Narcotics Enforcement, served a search warrant on the property. Law Enforcement seized 570 marijuana plants, 1.5 pounds of processed marijuana, and three rifles. Suspect information was obtained, and warrants are being sought at this time. (Source <http://www.co.humboldt.ca.us/sheriff/pressreleases>)

KERN COUNTY

July 20, 2005. The director of American Kenpo Kungfu School of Public Health was arrested for cultivating over 2,000 plants at three different locations. He was charged with conspiracy to distribute and possess more than 1,000 plants (10 year mandatory minimum).

(Source <http://www.canorml.org/news/fedMedicalMarijuanacases.html>)

LAKE COUNTY TASK FORCE: (Bureau of Narcotic Enforcement)

One recent case currently in federal litigation involves the seizure of 32,000 plants from one grow. The cultivator claims that he is a "provider" for Medical Marijuana patients and therefore exempt from prosecution for cultivation. The subject was arrested and released on bail pending trial on marijuana charges with possible sentence of 12 years to life. On Feb 16, 2005 this subject was re-arrested along with another subject after allegedly selling one pound of marijuana to DEA agents, who claim they did not mention medical purposes.

(Source) Lake County Narcotic Enforcement Team

One pound of high grade Marijuana sells for approximately \$4,000.00 dollars in the Bay Area. In the Mendocino area that price drops to approximately \$2,700 per pound based on availability. It is estimated that one plant can yield one to three pounds of Marijuana. Based on this information 32,000 plants times 1- 3 pounds = 32,000 – 96,000 pounds at \$2,700 per pound = \$86,400,000 to \$259,200,000.

LAKE COUNTY IMPACTS

Sheriff Rod Mitchell, advised the following:

- Lake County has one marijuana dispensary in Upper Lake (Two as of this writing)
- The biggest problem is the doctor, close by the dispensary who is known across the state for being liberal in his recommendations to use marijuana for a fee of \$175
- Many "patients" come from hours away and even out of state, Oregon specifically, to get a marijuana recommendation from the doctor
- Upper Lake has been impacted by the type of people coming for the marijuana doctor and dispensary. Citizens report to the Sheriff that the people coming to Upper Lake for marijuana look like drug users ("dopers").
- One quilt shop owner has told the sheriff that she does not feel safe anymore because of the type of people drawn to the marijuana doctor and the dispensary, which are located close together in the very small town.

- They also have a notorious marijuana grower who beat prosecution for cultivation by making a medical claim. Law enforcement has taken a hands off approach even though he is blatantly violating the law.
 - The Marijuana grower has recently claimed to be a church to avoid paying taxes.
- (Source Rocklin P.D. report)

LAYTONVILLE

Crane by QUINCY CROMER/The Daily Journal (Excerpts from the article)

The owner of Mendo Spiritual Remedies in Laytonville and Hemp Plus Ministry in Ukiah -- who says he provides Medical Marijuana to more than a thousand people in Mendocino County -- will be in court next week to face charges for cultivation of marijuana.

Les Crane, founder and self-proclaimed reverend of the two churches where Medical Marijuana is available locally, said some 5,000 cannabis plants and his life savings -- about \$6,000 converted into gold -- were seized by the Mendocino County Sheriff's Office on May 16. "They came here because a guy was coming to rob my house.

I called them to come and solve the problem and then they found out about the grow. We showed them all the documentation and they left and went and got a search warrant and came back and searched my church," Crane said.

(Source) <http://www.hightimes.com/ht/news/content.php?bid=1203&aid=10>

Laytonville marijuana guru shot to death (Excerpts from the article)

2 others beaten in home; no suspects, but officials believe killing related to pot growing Saturday, November 19, 2005

By GLENDA ANDERSON

THE PRESS DEMOCRAT

A Laytonville pot guru who founded two Mendocino County medicinal cannabis dispensaries was shot to death during an apparent robbery in his home early Friday morning. Les Crane, who called his pot dispensaries churches and referred to himself as a reverend, said he was in the business to help ailing people, not to make money. He had said he had nearly 1,000 patients. He was killed at about 2:30 a.m. Friday in his home, which is about a mile from the center of Laytonville.... Two other people in Crane's home at the time of the shooting were beaten....Crane's death is believed to be related to his marijuana-growing and dispensing activities, Mendocino County authorities said. "I am totally surprised we haven't had more robberies and violent crimes associated with these things because of the amount of money involved and the value of the product," Sheriff Tony Craver said. His religious credentials were issued by the Universal Life Church, which supplies certificates through the mail and the Internet. Sheriff's Lt. D.J. Miller provided few details of the crime, pending further investigation, including how many times Crane was shot or if any money or items were taken. Mendocino County officials had doubts about Crane's purpose for growing pot, and in May he was arrested for marijuana cultivation and several thousand pot plants were confiscated from his home. The criminal case was pending when he was killed....

(Source)<http://www1.pressdemocrat.com/apps/pbcs.dll/article?AID=/20051119/NEWS/511190303>

LOS ANGELES COUNTY

January 2004, Approximately six to eight known Medical Marijuana Dispensaries operating in West Hollywood. Several of the Medical Marijuana Dispensaries have generated calls for service.

January 10, 2004, An Assault with a Deadly Weapon and a Vandalism are reported at one of the Medical Marijuana Dispensaries as well as calls generated reporting obstruction of the street or sidewalk.

February 19, 2005, A Medical Marijuana Dispensary "LA Patients and Caregivers" reported that two subjects armed with handguns robbed the dispensary.

May 6, 2005, A search warrant was served at one of the dispensaries by L.A.P.D. (no further information provided)

May 15, 2005, A Medical Marijuana Dispensary "Alternative Herbal Health Services" four to five subjects armed with handguns entered the business at 4:25 pm, one of the employees was "pistol whipped" as the suspects demanded access to the dispensary's safe.

(Source Declaration of Sgt. Robert McMahon Los Angeles County Sheriff's Department)

LOS ANGELES P.D.

Medical Marijuana Overview

The purpose of this fact sheet is to provide an overview of the issues concerning Medical Marijuana from its inception to the present and review the Los Angeles County Ordinance that permits Medical Marijuana providers (providers, collectives, cannabis clubs and clinics) in unincorporated areas of the county. Medical Marijuana providers have been popping up all over the City of Los Angeles at an alarming rate causing a myriad of enforcement dilemmas. Because the district attorney, city attorney and city council have no policy regarding Medical Marijuana, citizens and police are perplexed as what to do and who to turn to. Further exacerbating the problem, long lines of drug abusers, who are not sick, are purchasing marijuana at will. Based upon a number of findings, as described in this fact sheet, allowing Medical Marijuana providers in the City of Los Angeles is not in the best interests of the Department, the City, and especially, its citizens. Therefore, Medical Marijuana providers should be banned in the City.

The Compassionate Care Act of 1996, known as Proposition 215, made the possession and cultivation of marijuana legal for "qualified patients" and "primary caregivers." Qualified patients included those with serious illnesses that had a recommendation from a physician and primary caregivers were individuals designated by a patient who has consistently assumed responsibility for the housing, health and safety of the patient.

Senate Bill 420, enacted in 2004, implemented Proposition 215 and provided guidelines that included, a volunteer identification card system issued by county health departments for patients; immunity from arrest for possession, transportation, delivery or cultivation

with specified amounts of marijuana; and, expanded the definition of primary caregiver to employees of health care facilities. It also provided for limited compensation – no profiteering – for the primary caregiver, for “out of pocket” expenses and services, but not product. A “dispensary” is not a primary caregiver. Senate Bill 420 did not legalize providers. It stated primary caregivers cannot cultivate or distribute Medical Marijuana for profit. Sales and possession for sale are illegal. Commercial enterprises selling marijuana to any qualified public purchaser is not a primary caregiver and are subject to arrest and prosecution.

The Los Angeles County Ordinance does not specify who may dispense Medical Marijuana and what dosage is appropriate for a particular illness. One of the arguments for the legalization of Medical Marijuana is that marijuana relieves pain and suffering, aids digestion of food and nourishment and other benefits to persons suffering from cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine and other illnesses. A recent add in a magazine from Pacific Support Services, Inc., in advertising Medical Marijuana recommendations, usurped Proposition 215 by adding, “sports injuries, auto injuries, insomnia, chronic pain and nausea, and anxiety,” to the aforementioned serious illnesses. They also promised, “If you do not qualify for a recommendation your visit is free,” and provided a coupon for \$150 evaluation. When it comes to dosage, there is no specified dosage for a particular illness. The dosage is left to the decision of someone that has smoked or eaten marijuana products to speculate as to a person’s needs. These persons and providers do not have pharmaceutical experience.

In May 2005, officers from the LAPD served a search warrant upon a dispensary that was one of a chain of seven Medical Marijuana providers located throughout the state. The dispensary was targeted for blatant distribution and illegal sales of marijuana to adults and young people. Young people from all over southern California flocked to the business to buy marijuana and then returned to their respective communities to conduct street sales of the drug. No one on the premises had pharmaceutical training or licensing to distribute the drug. Furthermore, the business promoted the sale and cultivation of 60 strains of marijuana, of which, only six strains were for medical purposes. Evidence was also recovered at the scene that showed the dispensary was in business to make a profit and allegedly laundered their proceeds. **Fourteen persons were arrested and nearly 800 pounds of marijuana and over \$242,000 in cash was seized (the 14 arrested were never filed on by the district attorney). Evidence documented over \$1.7 million in cash was received from an average of 300 patients per day, during the month of March 2005. An email from the chain’s headquarters boasted \$2 million monthly and 800 patients daily.** The executive director chastised the dispensary for not bringing in more patients, which was a clear violation of Senate Bill 420 wherein providers are supposed to be non-profit. **It was estimated the corporation as a whole brought in over \$200 million annually that was allegedly laundered through the purchase of real estate, exotic automobiles, expanding business operations and foreign investment. Patients reportedly paid as much as \$6,400 for a pound of marijuana.**

During the aforementioned investigation, it was learned patients spent \$150-\$250 to be examined by a doctor to receive a recommendation, then another \$40-\$50 to obtain a patient identification card. According to Senate Bill 420, identification cards are only to be issued only by State or County health departments and not private entities. The cards were produced fraudulently. Next, patients had to spend from as little as \$30 to several thousand dollars for dried marijuana or marijuana products. Some questions arose, "How can someone on a fixed income or pension afford Medical Marijuana?" and "What dosage of marijuana is appropriate for an ailment."

The Los Angeles County Ordinance provides for the sales and consumption of edible marijuana. Edibles are food products, i.e. soda pop, peanut butter, candy, bakery items, jam and other liquids that contain various levels of Tetrahydrocannabinol (THC), the psychoactive agent of marijuana. There were no regulations in the Ordinance for the quality control, potency, dosage and legality of the products sold. There is no Food and Drug Administration (FDA) approval of the products. Furthermore, on April 20, 2006 the FDA rejected the use of marijuana for treating serious illnesses, stating they did not support the use of smoked marijuana for medical purposes.

On March 23, 2006 in Oakland, "Beyond Bomb," one of a handful of manufacturers and distributors of edible marijuana products, who distributed edibles to the Yellow House and Medical Marijuana providers in California and the U.S., was searched by the Drug Enforcement Administration. The owner was arrested for marijuana trafficking. The area of the company used for processing and packaging edibles was atrocious. No sanitary precautions were taken whatsoever and the area was absolutely filthy and vermin was present. In addition, the company sold edibles in packaging resembling copyrighted and trademarked food items. The company used the same logo, candy wrapper colors and derivatives of the names of legal products, i.e. "Buddafinga" had the similar color wrapper and logo as the NestleUSA candy bar "Butterfinger." Over 20 different marijuana candy items were found that violated state and federal laws pertaining to the infringement of copyrights and trademarks. In addition, legitimate candy bars were opened and the contents was laced with THC and then repackaged in the new labeling. There was no explanation for "3X," "6X," or "10X" markings on the wrappers of edible products (according to operators of providers the markings indicate the potency of THC in the product). Lastly, there are no directions on the edible packages for the uses, dosage, warnings (allergy alerts, stomach bleeding and use with alcohol), drug facts, expiration date and other information, as required for over the counter drugs.

On August 15, 2006, a newly established Medical Marijuana dispensary in Hollywood, in an effort to recruit patients, **handed out free samples of bakery items laced with THC. Two persons, an UPS driver ate a cookie and a security guard ate a piece of chocolate cake, and then fell violently ill and was hospitalized.** The LAPD is currently investigating the poisoning of the two victims.

The Los Angeles County Ordinance also provided for the smoking of marijuana on site with a ventilation system but states nothing about the dangers associated with such use and secondhand smoke.

According to the scientific studies, there are more than 4,000 chemicals in cigarette smoke including 43 known cancer causing (carcinogenic) compounds and 400 other toxins. These effects damage the heart and lungs and make it harder for the body to fight infections. Breathing secondhand smoke has been found to be as dangerous as smoking. Marijuana smoke and cigarette smoke contain many of the same toxins, including one which has been identified as a key factor in the promotion of lung cancer. This toxin is found in the tar phase of both, and it should be noted that one joint has four times more tar than a cigarette, which means that the lungs are exposed four-fold to this toxin and others in the tar. Marijuana smoking for patients with already weakened immune systems means an increase in the possibility of dangerous pulmonary infections, including pneumonia, which often proves fatal in AIDS patients. None of these effects are stated in the ordinance. In addition, citizens and businesses adjacent to providers complain of marijuana smoke that permeates into their working spaces and public hallways causing them distress and caused their businesses to loose customers.

It was learned during the West Hollywood investigation; physicians were allegedly handing out Medical Marijuana recommendations for profit without actually examining prospective patients. Proposition 215 and Senate Bill 420 provided doctors could not be prosecuted for issuing Medical Marijuana recommendations. **Evidence was recovered wherein one doctor saw 49 persons in one day, netting \$150 per patient. The same doctor allegedly saw 293 patients in one week earning over \$43,000 without ever personally examining them.** Medical doctors typically see an average of no more than 10 patients per day. It was learned the doctor allegedly examined patients from a closed circuit television while a clerk received the payment and handed out pre-signed recommendations. Projecting his earnings, he could receive over \$2.1 million annually without practicing medicine or worrying about malpractice insurance. An investigation last month in San Diego County proved this to be true regarding a different well-known physician. An undercover officer and a television crew, in separate incidents, obtained recommendations from the same physician, claiming maladies without begin examined and they paid for pre-signed recommendations. To further show there are no controls of who can receive Medical Marijuana, both persons then went to Medical Marijuana providers and obtained marijuana for their pets. They actually put their pet's names on the recommendations (one was a dog and the other was a bird). The providers commented that Medical Marijuana, in edible form, was good for them.

Another problem associated with Medical Marijuana recommendations is that there is no penalty for providers that do not check identification against the name listed on the recommendation. **Just last week, a high school coach in the San Fernando Valley allowed members of his team to use his recommendation so that they could purchase marijuana for recreational use. The dispensary made no effort to remove the recommendation from the 17-year-olds' possession and did not prevent them from obtaining marijuana.**

The Los Angeles County Ordinance called for a security system and guards for each dispensary. Medical Marijuana providers have had more extensive security systems than Sav-On, Ritz or Walgreen drug stores, and yet they still have been robbed and assaults have occurred because they keep exorbitant amounts of cash and marijuana on hand. In addition, the security systems and guards do nothing for the surrounding businesses or area. Many of the providers in LA County employ street gang members with extensive criminal histories as security guards. Despite the guards, the Department has seen a significant increase in Part I and Part II crime wherever providers have appeared. Surrounding merchants and residences have had to deal with intimidation, second-hand smoke, and vandalism to personal property and buildings, urinating and defecating in public, thefts from vehicles and businesses and the loss of business. On August 28, 2006 between midnight and 3 a.m., unknown suspects tunneled through an adjoining business (workout gym) into a Medical Marijuana dispensary and stole the marijuana inside. Lastly, several unincorporated areas within the County of Los Angeles border the City of Los Angeles and are causing problems for both cities. In San Francisco, a Medical Marijuana dispensary just lost its bid to open up a shop near Fisherman's Wharf. The City's Planning Commission meeting was packed by citizens who opposed the cannabis dispensary complaining that customers did not purchase pot for health problems, but to resell it on the street, and that the outlets are a magnet for general drug use and increases in overall crime, traffic and noise.

There were no provisions in the Los Angeles County Ordinance regarding advertising of Medical Marijuana providers. In August 2006, Medical Marijuana dispensary flyers were found on the Grant High School campus in Van Nuys, offering Medical Marijuana doctor evaluations and recommendations and free samples of marijuana. Medical Marijuana advertising has also been found on college campuses. On August 16, 2006 Time Warner Cable pulled the plug on three ads promoting Medical Marijuana that were scheduled to debut on four popular cable channels in the Coachella Valley.

There were no provisions in the Los Angeles County Ordinance for background verification of the owner's qualifications to run a Medical Marijuana dispensary. The owners of several Medical Marijuana providers have been found to be felons and in the case of one the largest Medical Marijuana corporations, the owner is a fugitive from another state for drug trafficking. **On August 17, 2006 the owner of a major Medical Marijuana dispensary in North Hollywood, with over 1,000 patients, was interviewed. He was anxious to speak with police because a Jamaican drug trafficking organization was trying to takeover his business and was threatening physical violence to him and his family.**

A new tact has been taken by a Medical Marijuana dispensary in Hollywood in representing themselves as a religious organization citing a recent decision by the U.S. Supreme Court, allowing certain hallucinogenic controlled substances to be used in religious ceremonies. Temple 420, in their interpretation of the court decision handed down in February 2006; purports marijuana is the sacrament of their religious experience. They offer prospective members unlimited supplies of marijuana to be picked up in person or sent through the mail after paying a \$100 membership fee.

They represent, "Membership cards will work like Medical Marijuana cards in California. If a member is ever pulled over with cannabis, anywhere in the nation, they can present their card and show the authorities that they are lawfully in possession of religious marijuana."

Though issuing prescribed medications, providers do not have to meet the same standards as pharmacies. As news agencies have pointed out, State regulations are stricter for California's barbers than its Medical Marijuana providers.

Lastly, Senate Bill 420 has a provision allowing cities and counties to decide whether or not to approve Medical Marijuana providers. On August 16, 2006 the city of Monterey Park joined several counties and cities around the state, including the cities of Roseville, Pasadena and Torrance, in banning Medical Marijuana providers. Just in the last few days, the city of Corona has begun examining whether or not to ban Medical Marijuana providers. These cities, along with 38 others throughout the state, have recognized the serious impact Medical Marijuana providers have had upon communities and do not want what is happening in the southern California to happen in their communities. According to representatives from these cities, the banning of Medical Marijuana providers has not adversely affected their constituents.

Source Det. Dennis Packer Asset Forfeiture/Narcotics Vice Division L.A.P.D.)

MENDOCINO COUNTY

Marijuana: Marijuana Crop Worth \$1.5 Billion in One California County Alone, Paper Estimates 12/2/05 (Excerpts from the Article)

Northern California's Mendocino County has been known for marijuana growing for at least 30 years. Part of the state's legendary Emerald Triangle of high-grade pot production along with neighboring Humboldt and Trinity counties, Mendocino has long profited from the underground economy. Last week, a local newspaper, the Willits News, tried to gauge just how large the profits may be, and the result is startling. According to the News, the local marijuana industry will add \$1.5 billion to the county's economy this year. With Mendocino's legal economy estimated at about \$2.3 billion, that means the pot economy is almost two-thirds as large as all other legal economic activities combined. When combining the aboveground and underground economies, the marijuana industry is responsible for roughly 40% of all Mendocino County economic activity, a figure approaching the proportions of the Afghan opium economy. The County of Mendocino Marijuana Eradication Team (COMMET) seized 144,000 plants this year, and District Attorney told the paper COMMET normally seized between five and eight percent of the crop, a little less than the 10% rule of thumb for estimating all drug seizures. The paper more than compensated for the lowball seizure rate by also factoring in a 20% crop loss to spoilage. Following the formula, the News estimated 1.8 million plants were sown in the county this year, with 1.32 million surviving droughts, floods, bugs, mold, and cops. And while both the DEA and Mendocino County law enforcement like to say that one plant produces one pound, the newspaper consulted local grower "Dionysius Greenbud," who said the average yield is closer to a half pound -- a very rough estimate, given a local crop that consists of both high-yielding outdoor plants and smaller, lower-yielding indoor plants. The paper's in-the-ballpark estimate for total pot production in the county is thus

some 662,000 pounds. The paper assumed a wholesale price of \$2200 a pound, based on reports from local growers, and a simple multiplication yields a total of \$1.5 billion. Is that figure out of line? It's hard to say. In last year's "Reefer Madness: Sex, Drugs, and Cheap Labor in the American Black Market," Eric Schlosser quoted former DEA officials as estimating the value of all marijuana grown nationwide at \$25 billion. While it is difficult to believe that one California County accounts for nearly 5% of all pot grown in the US, who is to say different? (Source <http://stopthedrugwar.org/chronicle/413/mendocino.shtml>)

March 16, 2006 Three suspects enter a Medical Marijuana Dispensary (Mendocino Remedies), pepper spray the employees and attempt to take property. A fight between the suspects and victims ensues and the suspects flee the scene. (Source <http://www.co.mendocino.ca.us/sheriff/pressreleases.htm>)

MODESTO

July 18th, 2005. DEA arrests three subjects on charges stemming from a raid by Stanislaus Co sheriffs, who reported discovering 49 plants and 235 pounds of marijuana there. The main subject of the investigation and his wife had been providing Medical Marijuana for patients at a San Francisco dispensary. (Source <http://www.canorml.org/news/fedMedicalMarijuanacases.html>)

Soap store a front for pot outfit, cops say

Patrick Giblin Modesto Bee (Excerpts from the article)

Modesto, CA June 17, 2006 -- Drug agents looked past the soaps and lotions at The Healthy Choice on McHenry Avenue in Modesto and sniffed out a marijuana store in the back, law enforcement officials said Friday. "The second store was just like a legitimate store, with shelves, prices listed and receipts given to the customers," said Rea, an agent with the Stanislaus Drug Enforcement Agency. "I've never seen anything like it." There were prescription-bottles filled with pre-weighed amounts of marijuana. There also were 50 to 100 pre-wrapped, marijuana-laced brownies and an equal number of marijuana-laced cookies. The store had a menu of prices and types of marijuana, with the different varieties neatly packed in Tupperware containers, Rea said. "They offered full customer service," Rea said. Local, state and federal drug agents raided the store about 9 a.m. Friday and stayed until about 1 p.m., seizing property and cataloging the inventory, sheriff's spokeswoman Gina Legurias said. They also seized about \$20,000 in cash. Approximately 30 people came to the store looking to buy marijuana while officers were there, Rea said. About half of them had California Medical Marijuana cards, indicating they were suffering from cancer, glaucoma or other ailments. Marijuana is believed to help relieve the symptoms. However, the store isn't a licensed Medical Marijuana dispensary. The rest of the potential customers didn't have cards, Rea said. "They sold to anyone and everyone," he said. No customers were arrested. They were interviewed to give officers an idea of how much business the store did, Rea said

OAKLAND

- Large criminal element drawn to the dispensary location
- Marijuana dealers who have a doctor recommendation are purchasing from the dispensary and then conducting illegal street sales to those who do not have a recommendation.
- Street criminals in search of the drugs are robbing medical use patients for their marijuana as they leave the dispensary.
- Thefts and robberies around the location are occurring to support the illegal and legal (by State law) drug commerce.
- Chief Word mentioned that a shoe repair business next door to a dispensary has been severely impacted because of the concentration of criminals associated with the dispensary. The shoe repair business owner is considering shutting down his business.
- They had more than 15 total in city, now limited to four by ordinance but control is not very strong. The fines are too small to control a lucrative business.
- Most of the crime goes unreported because the users do not want to bring negative publicity to the dispensary.
- The dispensaries have an underground culture associated with them.
- At least one of the dispensaries had a doctor on the premises giving recommendations on site for a fee.
- One location was a combination coffee shop and dispensary and marijuana was sold in baked goods and for smoking.
- Dispensary management has told the police that they cannot keep the criminal element out.

(Source) Rocklin P.D. report

June 30, 2004: Five subjects were arrested by DEA following a CHP raid on a warehouse where 4,000 plants were found. The subjects claim that the plants were for a licensed dispensary. Police gave conflicting accounts of the incident; **the CHP says it called on the DEA after Oakland police declined to help.** Two defendants have pled not guilty to manufacturing charges bearing a 10-year to life sentence.

March 16, 2006. DEA raids cannabis candy manufacturer, "Beyond Bomb," at three different East Bay sites, seizing over 5,000 plants, \$150K cash, and the company's stash of cannabis candies & soda pop. (Source) <http://www.canorml.org/news/fedMedicalMarijuanacases.html>

One Department representative was willing to speak with me, but did not wish to be quoted for this report. They advised me of a recent carjacking. This event involved an owner and three employees of a Medical Marijuana Dispensary. None of the four could agree on any fact relating to the case other than while property of the dispensary was stolen, no Marijuana or cash was taken. This leads us to believe that either a large quantity of Marijuana or cash was the target of the attack.

PLACENTIA

Temporary ban on medical marijuana sale proposed

The 45-day moratorium would allow city staff to study ways to regulate marijuana distributors

By SUSHMA SUBRAMANIAN Excerpts from the article

The Orange County Register Friday, August 11, 2006

Placentia -- The City Council on Tuesday plans to establish a 45-day moratorium on launching medical marijuana dispensaries. The effort was prompted by two recent cases involving the sale of marijuana. In May, police confiscated 15 mature marijuana plants from a man who was distributing the drug from his residence without a permit. City staff also received an inquiry about setting up a dispensary in Placentia. **Several California cities that have medical marijuana dispensaries have experienced an increase in crime, including resale of marijuana to people who don't have prescriptions and burglaries at the businesses, a city staff report says. "You don't want become the hotbed for medical marijuana sales,"** Mayor Scott Brady said. "If you don't set up the proper rules and regulations, then you become the capital of fill in the blank - marijuana sales or massage parlors."

Eight massage parlors were operating in the city in March 2005, when the city set up stricter rules for massage therapists to show proof of certification. Many residents complained about illicit activity at the establishments. Since then, about half of the businesses have been shut down.

Source http://www.ocregister.com/ocregister/homepage/abox/article_1241289.php

PLEASANTON

The City of Pleasanton does not have any dispensaries operating in Pleasanton, whether legally or illegally. Pleasanton has a moratorium on dispensaries in place, has not prepared any reports on a ban, and staff will request that Council extend the moratorium for another 12 months. In support of the moratorium, the following health / safety / welfare information was cited;

Juveniles in Pleasanton found with marijuana which was re-sold to them after having been obtained from a dispensary.

A dispensary employee was the victim of a robbery at his home after he brought more than \$100,000.00 in cash from a Medical Marijuana Dispensary back to his home to Pleasanton.

(Source Larissa Seto Assistant City Attorney)

ROSEVILLE:

- Street level dealers trying to sell to those going to the dispensary at a lower price
- People are smoking marijuana in public around the facility
- People coming to the community from out of town and out of state to obtain Marijuana (Nevada State, San Joaquin County, etc)
- Marijuana DUI by people who have obtained from dispensary
- At least one burglary attempt into building

(Source Rocklin P.D. report)

On January 13, 2006 the proprietor of the Roseville's Medical Marijuana Dispensary was indicated by a Federal Grand Jury on 19 counts of marijuana trafficking and money laundering. **The indictment alleges that in an eight month period the defendant made approximately \$2,750,849.00 from the sale of Medical Marijuana and of that figure \$356,130.00 was traced to money laundering activities.** The U.S. Attorney handling the case stated, "This case is a perfect example of a person using Medical Marijuana as a smokescreen to hide his true agenda, which is to line his pockets with illegal drug money."

(Source Press release California State Attorney Generals Office)

SACRAMENTO

Sacramento has four dispensaries. Relatively few crimes other than at least two burglary attempts. Most of the complaints came to the council via citizens regarding quality of life issues i.e. loitering, traffic and use of marijuana in or near the dispensaries.

July 7, 2005. The director of Alternative Specialties dispensary, charged by feds following raid by Sacramento County Sheriff that uncovered two indoor gardens with an alleged 800 plants. Sheriffs say the subject had a criminal record for embezzlement and failed to file for a business license. He was charged with the manufacture of marijuana and illegal possession of weapons.

(Source <http://www.canorml.org/news/fedMedicalMarijuanacases.html>)

SAN DIEGO

Armed Men Rob Pot From Medical Marijuana Store

Posted by Pierre Werner on August 1, 2005 10:41 am (110 reads)

SAN DIEGO -- Two men armed with a shotgun and rifle stole drugs from a Medical Marijuana store on Sunday, police said. The robbers went into Tender Holistic Care in the 2100 block of El Cajon Boulevard at about 8:30 p.m. Sunday. They took an unspecified amount of marijuana from the store and fled in a late model Isuzu Rodeo or Trooper with tinted windows, according to witnesses. The car was last seen heading east on El Cajon Boulevard, police said.

Source:

<http://medicalmarijuanareferrals.com/modules/news/index.php?storytopic=0&start=420&PHPSESSID=0c8a52777fa2204f4874a268edd4f580>

Dec 12, 2005 - Interagency task force raids 13 of 19 San Diego dispensaries. Task force led by DEA with state police. Raids conducted under state, not federal search warrant. No arrests, investigation ongoing.

(Source <http://www.canorml.org/news/fedMedicalMarijuanacases.html>)

July 7, 2006: Medical Marijuana dispensaries charged with drug trafficking

ALLISON HOFFMAN Associated Press (Excerpts from the Article)

Federal prosecutors accused six people Thursday of illegally trafficking pot under the cover of California's Medical Marijuana. "They made thousands of dollars every day," Lam said. "Their motive was not the betterment of society. Their motive was profit." Prosecutors alleged that these dispensaries sold marijuana or marijuana-based products with little concern for legitimate medical need. "The party is over," District Attorney Bonnie Dumanis said at a news conference with federal prosecutors. She added that Proposition 215, the ballot measure that legalized marijuana for medical purposes, has been "severely abused by neighborhood pot dealers opening up storefronts." Complaints from residents living near dispensaries precipitated an investigation beginning in September 2005 by the San Diego police, the county sheriff's department, the Drug Enforcement Administration, Dumanis said. The San Diego County District Attorney's office released a complaint sent last week to the state medical board against four physicians alleging that they wrote "recommendations" for Medical Marijuana use - doctor's notes required by state law - to apparently healthy individuals.

(Source:

[Http://www.mercurynews.com/mld/mercurynews/news/breaking_news/14982395.htm](http://www.mercurynews.com/mld/mercurynews/news/breaking_news/14982395.htm))

City hopes to close legal pot dispensary (Excerpts from the Article)

July 8, 2006 By Linda Lou UNION-TRIBUNE STAFF WRITER SAN MARCOS - An existing medical-marijuana dispensary here survived a City Council vote in February that banned any more dispensaries from opening. It was able to receive a business license because it called itself a nutritional supplement store, city officials said. But the dispensary's ability to remain open is now uncertain. Now the city is intent on shutting down the business, run by Legal Ease Inc. of San Diego, because it's been burglarized several times since the council's vote, said City Manager Rick Gittings.

The city contends it's a threat to the community's health, safety and welfare, violating the provisions the city imposed in February when it allowed the dispensary to stay open, Gittings said. The concept of providing Medical Marijuana to patients who really need it has good intentions, but as indicated by state and federal prosecutors this week, Medical Marijuana dispensaries are fronts for drug peddling, Gittings said. The letter said that another business near the dispensary's current location was burglarized because it was mistaken for the dispensary. The letter also said Legal Ease had failed at least once to submit security tapes of its premises and has failed to reveal what was stolen in the burglaries. Sgt. Gary Floyd, supervisor of San Marcos' street narcotics and gang unit, said he's not aware that Legal Ease had talked with the Sheriff's Department about relocating. He said that after some recent early-morning burglaries, the dispensary installed roll-up metal security covers over the door and window because thieves had smashed the glass to get inside. In Thursday's raid, dozens of candy bars and cartons of ice cream containing THC, a marijuana byproduct, were confiscated, Floyd said. Bags of packaged marijuana and larger bags of the drug used to refill the smaller ones were also taken, he said. No one was arrested. In December, a federal drug agent said he was able to purchase marijuana at the site with a forged doctor's recommendation.

(Source: <http://www.signonsandiego.com/news/northcounty/20060708-9999-1mi8srmari.html>)

SAN FRANCISCO

May 14, 2005--In a daring home-invasion robbery at around 10PM, the house of the owner of Alternative Health and Healing Services at 442 Haight St was robbed of several pounds of cannabis and the dispensary keys. Details are sketchy, but it is believed that the robbers burst into the owner's home at gunpoint. More on this story as details are known. (Source) http://www.hempevolution.org/thc/dispensary_robbed040514.htm

June 23, 2005 3 S.F. pot clubs raided in probe of organized crime (Excerpts from the Article)

Medical Marijuana dispensaries used as front for money laundering, authorities say. Federal authorities raided three San Francisco Medical Marijuana dispensaries Wednesday, and investigators arrested at least 13 people as part of an alleged organized crime operation using the clubs as a front to launder money. Authorities said.....that the operation controlled at least 10 warehouses where marijuana was grown in large quantities and that those involved were bringing in millions of dollars. One warehouse in Oakland that federal agents raided earlier this month was capable of growing \$3 million worth of marijuana annually, investigators said. The marijuana ostensibly was for cannabis clubs, but the amount being grown was far more than needed to supply the dispensaries, authorities said.

(Source) <http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2005/06/23/MNGRODDG321.DTL>.

Dec. 20, 2005 - DEA raids HopeNet Cooperative after first raiding home of HopeNet directors Steve and Catherine Smith. No arrests. Agents seize cash, medicine, a few hundred small indoor plants, mostly cuttings and clones. (Source) <http://www.canorml.org/news/fedMedicalMarijuanacases.html>

June 27, 2006: Medical Marijuana dispensary robbed during S.F. Gay Pride Parade
Adam Martin [San Francisco Examiner](#)

Thieves apparently took advantage of Sunday's 36th Annual San Francisco Gay Pride Parade and Celebration to commit this year's second robbery of a Medical Marijuana dispensary. According to police and the club's proprietor, two men entered Emmalyn's California Cannabis Clinic at 1597 Howard St. about 1:30 p.m. Sunday. They held up the clerk and stole cash and inventory while most of the staff was handing out fliers at the Gay Pride Parade. Sunday's holdup marked The City's second pot club robbery of the year. The Purple Heart dispensary at 1326 Grove St. was robbed Feb. 3, San Francisco Police Lt. John Loftus said. There were four such robberies in 2005, Loftus said. Loftus said clubs are attractive to thieves because "it's a big cash business, and marijuana is expensive." The two men who robbed the dispensary had been in about an hour prior to the crime and bought some marijuana. When they returned, Baumgartner said, "they put a gun to my clerk's head, had him lie down on the floor, then they robbed him and the store. He said the crime was captured on security cameras, whose tapes will be reviewed in the investigation.

(Source) <http://www.hempevolution.org/media/examiner/e060627.htm>

SAN JOSE

Murder in a Head Shop (Excerpts from the Article)

Will David Cruz's killer ever be found? By William Dean Hinton

ON MAY 10, right around 8:30pm, Jonathan Cruz dropped in on his brother at the Rainbow Smoke Shop on West San Carlos Street. Shortly after Jonathan departed, someone walked into the shop and killed David Cruz with a single bullet wound to the back of his head, just above the left ear. No money was taken from the register, and the store wasn't ransacked. The killing was essentially the end of Andrew's shop. After 10 years as owner, she was afraid to be in her own store. She began carrying a .38 with hollow-point bullets and closed the Rainbow's doors two hours earlier than before David's death. David Cruz's killer, meanwhile, has never been identified. The Cruz case is approaching the nine month mark with no credible theory why David was shot. (Source <http://equalrights4all.us/content/view/192/50/>)

SAN LEANDRO

San Leandro does not have any Medical Marijuana Dispensaries within their City Limits. They do however have employees of Medical Marijuana Dispensaries from other jurisdictions living in their city.

June 19, 2005: Suspects enter an unoccupied residence of a Medical Marijuana Dispensary employee taking jewelry and \$10,000.00 in cash.

June 28, 2005: Suspects return to the same residence and begin to force entry when they are confronted by the resident and flee before any loss is sustained.

September 20, 2005: A receptionist of a Medical Marijuana Dispensary was accosted by a lone suspect as she walked from her vehicle to her house. The receptionist was able to get into her home and call police before the robbery was completed.

October 26, 2005: A Detective on routine patrol observes a suspicious circumstance and stops two subjects. The stop results in the arrest of the subjects for robbery and possession of stolen property. The house the suspects were watching was the home of a Medical Marijuana Dispensary employee.

December 19, 2005: The same receptionist (9/20/05 event) is robbed as she walks from her vehicle to her home. The suspects took a bag containing receipts from the Medical Marijuana Dispensary (Paperwork only, no cash)
(Source Mark Decoulode San Leandro PD)

SANTA BARBARA

MEDICAL MARIJUANA SHOP ROBBED: By Indy Staff, August 10, 2006

The first reported armed robbery of a Medical Marijuana distribution center took place at Santa Barbara Hydroponics, 3128 State Street.

Owner Jack Poet said he has been robbed three times before but never reported the earlier robberies because "Medical Marijuana is such a controversial issue." Poet said the robber in his thirties, 160 pounds, with red hair and a goatee walked away with \$30 cash and 15 small display baggies of marijuana.

By Indy Staff | August 10, 2006 | 0 Comments | 0 TrackBacks

(Source

http://www.independent.com/news/2006/08/medical_marijuana_shop_robbed.html

SANTA CRUZ

Four men sought in home robberies

Santa Cruz Sentinel

Santa Cruz, CA Dec 13, 2004 -- Santa Cruz Police are asking for the public's help in finding four armed men who took marijuana grown for medicinal uses and electronics from two separate houses on Clay Street. Around 1 a.m. Sunday, a white, Asian and possibly two black males — all wearing masks and dark clothing — broke into two residences, rounded up their tenants, held them at gunpoint and ransacked their homes, all while demanding drugs and cash. Two of the victims were battered during the robbery. One of the suspects fired a single shot from a handgun when one of the victims tried to escape. No one was shot.

http://www.hempevolution.org/media/daily_review/dr050824.htm

SANTA CRUZ COUNTY

Capitola 2004: Three suspects entered the victim's home armed with a handgun in search of the residents Medical Marijuana grow. The resident and two guests were ordered to the floor. During the robbery the resident was shot and stabbed but managed to fight off the suspects who fled prior to the arrival of the responding Deputies.

Live Oaks October 1, 2005: Four suspects attempted to conduct a home invasion robbery of a home cultivator of Medical Marijuana. The homeowner fired a shotgun at the suspects who fled and were later captured by police following a vehicle pursuit and crash.

Ben Lomond March 5, 2006: Two suspects who identified themselves as "Police" forced their way into the victim's residence. The victim was assaulted, robbed and left tied up in his residence until the next day when he was discovered. Subsequent investigation revealed that the motive for the robbery was the victims Medical Marijuana supply.

SANTA ROSA

May 29, 2002 Federal agents raided a Medical Marijuana buyers club here Wednesday and arrested two people. A U.S. Drug Enforcement Administration spokesman said two addresses were searched, including the club near downtown. Marijuana, cash, a car and a weapon were seized.

(Source) <http://cannabisnews.com/news/12/thread12999.shtml>

September 29, 2004 The father of the owner of a Medical Marijuana Dispensary was followed home from the dispensary and robbed at gunpoint in front of his residence. The owner of the club believed that his business was being "cased" and that "further robberies were eminent."

January 25, 2005 Suspects force entry into a closed Medical Marijuana Dispensary and burglarize the business taking three pounds of Marijuana and cash.

March 3, 2005 Suspects forced entry into a Medical Marijuana Dispensary a stole a laptop computer, Marijuana and smoking paraphernalia.

April 15, 2005 Employees of a Medical Marijuana Dispensary were robbed by a suspect armed with a shotgun as they were closing the business. The suspect stole a "duffle bag" of Marijuana.

April 18, 2005 Suspects forced entry into a closed Medical Marijuana Dispensary and stole a digital scale.

April 19, 2005 Suspects forced entry into a Medical Marijuana Dispensary and stolen one half pound of marijuana.

Mar 17, 2006 Suspects forced entry into a closed Medical Marijuana Dispensary, loss unknown at this time.

(Source) Lt. Briggs Santa Rosa P.D.

The Vice unit has been involved in the investigation of the following Medical Marijuana Dispensary related crimes;

- A homicide, during a residential robbery where the suspects sought Marijuana cultivated for a dispensary.
- Four residential robberies, where the suspects sought Marijuana cultivated for a dispensary.
- Twelve cases where individuals were cultivating Marijuana for dispensaries, but were found to be operating outside Medical Marijuana guidelines and in a "for profit" status. Each of these cases resulted in the arrest of the cultivators and disposition is pending.

- Instances where undercover officers have found subjects buying Marijuana from Medical Marijuana Dispensaries under the guise of Medical Marijuana and then reselling the Marijuana to non Medical Marijuana users.

(Source) Sgt. Steve Fraga Santa Rosa P.D.

SONOMA COUNTY

A subject was arrested May 9, 2001 while growing for himself and other patients; convicted by a jury of cultivating more than 100 plants on Feb 11, 2002; sentenced to 5 yrs probation; He was re-arrested July 31, 2002 for cultivating while on probation. Convicted and sentenced to 44 months for growing 920 plants Dec 19, 2002. Released on bail April 2004; awaiting sentencing post-Raich 2005.

The proprietor of Genesis 1:29 club in Petaluma was arrested Sept 13, 2002. Agents uprooted 3,454 plants at the club's garden in Sebastopol. The suspect pled guilty July 2003; sentenced to 41 months, July 2005. Information provided by:

(Source) <http://www.canorml.org/news/fedMedicalMarijuanacases.html>

Friday, February 17, 2006 at 12:13, PM Commercial marijuana operation shut down. On 2/16/05, the Sonoma County Narcotic Task Force, SCNTF, and the County of Mendocino Marijuana Eradication Team, COMMET completed an investigation involving a large-scale commercial marijuana growing operation. At the first residence on Little Creek Rd., agents located a marijuana growing operation where "starter" plants were being cultivated. These plants would eventually be moved to the larger grow rooms as they matured. As agents collected evidence, Kenneth D. Brenner, 57 yrs, of Annapolis arrived at the residence. When agents contacted Brenner, they located grow equipment in the bed of his truck. He was detained and returned to his residence. At Brenner's residence, agents seized numerous firearms. Agents also seized an AK47, a Colt AR15, and a .308 sniper rifle. Additional documents linking Brenner to the growing operation were seized. The indoor grow operation included 4 buildings which were located approximately a quarter of a mile off Annapolis Rd. in the thick brush. The grow buildings ranged from 100'X 30' to 30'x 20'. The buildings were constructed of plywood, with the exteriors painted black, and concealed under the thick canopy of trees. The plants were growing in a hydroponics type system, under approximately 120 high intensity lights. The lighting equipment alone is valued at \$48,000.00. Agents located a camouflaged, insulated concrete bunker which housed a 125KW diesel generator. This generator was seized and valued at approximately \$75,000.00. The total number of plants was approximately 1700.

Agents determined the plants when harvested would yield approximately 50 pounds of marijuana. The marijuana would have a street value of \$150,000.00. As agents continued their searching, they seized over 3,000 live rounds of ammunition in one of the grow buildings. The ammunition matched the same type of assault rifles seized at Brenner's residence. Agents then discovered numerous metal military type ammunition cans hidden in the area. When the cans were opened, the agents discovered 22 solid bars of silver, and antique silver coins. The bars each weighed 9ozs., with an estimated value of \$30,000.00. The Drug Enforcement Administration was contacted to consider the adoption of this case on a federal level.

Mr. Brenner was released at his residence. The case will be under further review by the United States Attorney's Office. For further information contact Detective Sergeant Chris Bertoli at (707) 565-5441.

Prepared by Detective Sergeant Chris Bertoli.

Thursday, January 5, 2006 at 12:18, PM \$600,000 in marijuana seized.

On 1/4/06, the Sonoma County Narcotics Task Force completed a three month investigation involving the sales of methamphetamine in the City of Cloverdale. Through the use of undercover purchases, Task Force Agents identified a residence on South Cloverdale Boulevard as the source of methamphetamine. When agents served a search warrant at the residence, they located 212 pounds of manicured marijuana. The marijuana had been concealed in various locations on the property. Along with the marijuana, agents seized a half ounce of "crystal" methamphetamine, a scale, packaging material, and pay/owe records. As agents continued their search, they located an AK-47 assault rifle with 3 fully loaded 30 round magazines next to the rifle. A stolen sawed-off 12 gauge shotgun, 2 additional rifles, and one loaded semi-automatic handgun were also located in the same location. While searching the residence, agents encountered three children living at the residence with their parents. The ages of the children were 6, 7, and 8 years. As agents searched, they discovered approximately 3 pounds of marijuana within the same room as the children were discovered sleeping. The estimated street value of the marijuana is \$636,000.00 dollars. The methamphetamine is valued at \$450.00.

For further information contact Detective Sergeant Chris Bertoli at (707) 565-5441.

Prepared by Detective Sergeant Chris Bertoli.

(Source www.sonomasheriff.org)

STANISLAUS COUNTY

Lack of cash, risk to kids and more crime discussed (Excerpts from the Article)

By ROGER W. HOSKINS BEE STAFF WRITER

Last Updated: August 23, 2006, 03:14:33 AM PDT

Law enforcement officials compared the battle against methamphetamine to the war on terrorism and warned that American children were far more at risk to drugs. Wasden said any task force needed to set its sights on the real window that widens the drug trade generation after generation. "Nobody starts with methamphetamines," said Wasden. "Our youth are being confused by the mixed messages we are sending and we need to send youth a core message that marijuana is a drug." **From marijuana to meth: Officer after officer offered their witness and belief that the people buying medicinal marijuana in Stanislaus County were neither sick nor afflicted.**

In their collective view, medicinal marijuana was a Smokescreen for recreational use. Sheriff's Sgt. Bob Hunt, a member of the Stanislaus Drug enforcement Agency, offered a frightening picture of the marijuana-meth link. "We have people buying \$300,000 and \$400,000 homes and they aren't moving in furniture but grow lights," said Hunt. "They are careful not to have more than 12 plants or sell more than \$10,000 at a time. "They are using the marijuana profits to fund their meth operations.

We arrested one young dealer and he owned nine properties in Patterson." Cardoza called on the officers present to wage and win the public relations war on marijuana. "I voted against the federal bill to legalize pot," said Cardoza. "I'm bucking the public sentiment. I get 200 letters a year from people who want the United States to back off. I don't get any from people who want us to enforce the federal marijuana ban." So, he added, "It's up to you (officers) to educate the public."
(Source) <http://www.modbee.com/local/story/12623637p-13328561c.html>

TEHEMA COUNTY

Two subjects were indicted by federal grand jury on Jan 8, 2004 after trying to assert Medical Marijuana defense in state court. Arrested with 100s of small seedlings, 33 mature plants, and a few pounds of processed marijuana in Red Bluff and Oakland. Defendants say they were for personal use. The Tehama DA turned the case over to the feds while pretending to negotiate a deal with their attorneys. Denied a *Raich* defense by Judge England.
(Source) <http://www.canorml.org/news/fedMedicalMarijuanacases.html>

TRINITY COUNTY

A subject and his wife were arrested in 2003 for a sizable outdoors grow; they were re-arrested the next year after deliberately replanting another garden in public view. While awaiting trial, they were arrested once again, this time for a personal use garden of approximately ten plants.
(Source) <http://www.canorml.org/news/fedMedicalMarijuanacases.html>

TUSTIN

After a Medical Marijuana Dispensary opened, undercover officers conducted an investigation in the business. During the service of a search warrant, 25 pounds of marijuana was seized and the dispensary was shut down. The District Attorney still has not made a decision as to whether to file charges or not.
(Source) Scott Jordan Tustin PD

UKIAH

Over the last four years, the City of Ukiah has experienced an increase in crimes related to the Medical Marijuana Dispensaries. They are four Dispensaries in town as well as several citizens growing Marijuana for the purpose of providing Marijuana to dispensaries. There have been approximately ten robberies of either dispensaries or private grows. Some of these robberies have resulted in shootings. There has also been an arson of a dispensary which the police department believes was the result of a dispute with a customer.
(Source) Det. Guzman Ukiah P.D.

Ukiah Daily News (Excerpts from the Article)

An arson fire burned the Ukiah Cannabis Club Saturday morning, causing extensive damage and blackening neighboring structures as well. A man who told The Daily Journal he was upset with the Ukiah Cannabis Club, claiming club members owed him money for the crop of marijuana he grew for them, was arrested at the scene.....

The man in the back of the store, later identified as William Howard Ryan, 51, of Willits, telephoned UPD dispatch, saying he was armed and that he would shoot anyone coming to get him. Officers and firefighters heard muffled shots from the interior of the store..... Ryan was arrested on charges of arson, burglary and possession of hashish. He was interviewed by The Daily Journal just days ago when he claimed he was going to sue the Ukiah Cannabis Club for the money he says he is owed. Some witnesses said they saw Ryan enter the building with what looked like grenades strapped to his body. There were also reports the suspect carried a weapon, though that was not corroborated by police. A spokesperson for the Forest Club said the bar would be closed for a short time only. (Source http://www.hempevolution.org/media/ukiah_daily_news/udn020527.htm)

VENTURA

Two subjects were arrested Sept 28, 2001 for cultivating for the LACRC. Forfeiture filed against their property, including home they built for themselves, in July 02. Raided again and arrested for personal use garden of 35 plants in Aug 02; charged with cultivation. Pled guilty Sep 03. Ninth Circuit denied appeal March 2006. (Source <http://www.canorml.org/news/fedMedicalMarijuanacases.html>)

CALIFORNIA NARCOTIC OFFICERS ASSOCIATION

Agents have conducted sting operations on web sites such as "Craigslis" and recently conducted an investigation which resulted in the arrest of a subject for the sale of three pounds of marijuana as well as possession of an additional four pounds. This subject was an employee of a local Medical Marijuana Dispensary.

In all of these communities, law enforcement leaders were concerned with the impacts to the public health, safety and welfare by the commercial marijuana dispensing enterprise. All wished that they did not exist in their community. The trouble seems to occur when a large number of marijuana users, legal (under State law) and illegal gather at one location making them easy targets for illegal drug dealers; those freelance illegal drug dealers who are trying to recruit individuals with a doctors recommendation to legitimize (under State law) their sales and possession; and those who wish to prey upon the ill to steal their marijuana.

This is compounded by the vast amounts of cash and little or no oversight of the processes of prescription, procurement and sales of Medical Marijuana. All of these impacts are avoidable if the commercial marijuana dispensing business were not allowed to locate in our community.

Medical Marijuana Doctor's

Another area of contention is the apparent lack of oversight regarding who receives a physician's recommendation for Medical Marijuana and the process in doing so. One doctor who is touted as a "Medical Marijuana Doctor" is a practitioner in the City of El Cerrito. It is reported that our local doctor has issued over ten thousand recommendations for Medical Marijuana in the ten years since Prop. 215 was enacted in 1996. Research on the internet has revealed that the cost to patients to receive their initial recommendation ranges from \$125.00 to \$250.00.

If these figures are accurate, this one doctor has made \$1,250,000 to 2,500,000 over the past ten years just in issuing Medical Marijuana recommendations. These recommendations have to be renewed every one to two years at the cost of \$50.00 to \$100.00. This same doctor has repeatedly been the target of investigations regarding his practices related to Medical Marijuana and is currently on probation with the Medical Board of California as a result of investigations into 47 complaints, all of which were referred by law enforcement or district attorneys. This Doctor's Website offers the following explanation;

Medical Board of California v Tod H. Mikuriya, M.D.

Since 1993, the Medical Board of California have had various ongoing investigations into Dr. Mikuriya's use of cannabinoids in his medical practice. Beginning in 1993 with rural county probation officers turning him in to the medical board for prescribing Marinol to probationers. The initial investigation resulted in a letter in Dr. Mikuriya's file. With the passage of the Compassionate Use Act of 1996, outlying Sheriff Deputies and District Attorneys began flooding the Medical Board with bogus complaints. Nearly 50 complaints were filed, none came from patients, health care professionals or patient families--none alleged any harm to patients. The medical board initiated multiple investigations. In 2003 Dr. Mikuriya had a hearing in front of an Administrative Law Judge which resulted in the worst of the allegations being dismissed. (Dismissed charges included unprofessional conduct and incompetence.) However, Dr. Mikuriya was convicted for negligence and failing to keep adequate records. In April of 2004 he was placed on probation which includes a practice monitor, cost recovery (\$70,000), and various other indecencies. Appeals of all charges are pending and continue. This page and the associated links contain all of the legal documents in this matter, as well as interpretations of why it occurred and the politics that surround it by Dr. Mikuriya. All of these materials are being made available to the public and any interested party as a means for Dr. Tod to show that this entire production was--and remains--a political action and has nothing to do with patient care and/or harm.

(Source: <http://www.mikuriya.com/>)

Another interesting concept is that even the doctors involved in this industry appear to do a "cash only" business.

This is from Dr's Ellis' site; <http://www.potdoc.com/ProfilePage.html>

Occasionally the office will be closed due to Dr. Ellis' outside schedule. You must call to schedule an appointment to see Dr. R. Stephen Ellis, MD (CA License # G-40749). We are not a referral service for Medical Marijuana doctors in your area. We are a medical clinic with one medical doctor located in San Francisco, California.

We can see patients living anywhere in the State of California in our medical clinic located in San Francisco. A Prop. 215 recommendation written from our office is good anywhere in the State of California. We will ultimately require confirmation of your diagnosis from your MD (or DC, DPM, or DDS as appropriate). We work with our patients to develop appropriate case documentation as per the routine standards of medicine -- the only acceptable standard of valid legal protection a 'Prop 215' recommendation can provide.

Please bring an official picture ID for proof of ID and age. ALL patients (and any caregivers) MUST be at least 18 years of age and no longer attending high school. Exceptions in extreme cases can be made, so please feel free to call and discuss your situation.

The Initial New Patient Physical Exam and Evaluation with Dr. Ellis is \$250.00 total if you qualify and a recommendation is issued.

There is an initial interview with Dr. Ellis to see if you qualify and the cost is included in the \$250.00 new patient total fee. All patients that we will be able to assist then continue to undergo a physician performed medical history and physical exam as part of the initial visit. Those patients that we will not be able to help are immediately refunded all but \$25 (for pre-screening assessment) of the total \$250 new patient fee. The \$250 new patient fee includes all follow-up visits needed as well as associated administrative services for the entire initial 6 month period. New Patients are covered for up to six months with their initial letter of recommendation. Once you are an established patient (six months after your initial visit), expired letters can be re-issued if the condition is still valid. You must see Dr. Ellis at a scheduled appointment in person in order to have an expired letter re-issued. Unfortunately, recommendations / physician statements can not be issued by telephone or mail at this practice. Any available updates to your medical records from your doctors confirming that your diagnosis is still valid are expected (and MAY be necessary) to complete the renewal process. The office visit and exam fee for established patients is currently \$125.00 and any includes and all follow-up visits needed as well as associated administrative services for entire 1 year period. Established patients recommendations can be issued for up to one year duration as indicated.

Due to potential patient privacy issues, **all fees are due and payable in full in CASH ONLY at the time of your visit.** Patients are to bring the entire \$250 payment at their initial visit. Multiple banks and ATMs are in the immediate vicinity. The San Francisco Clinic is very conveniently located in downtown San Francisco in the 450 Sutter St. Medical Building (Suite # 1415), between Stockton and Powell Streets, just one block North of Union Square. We are a short walk from Powell Street Station for convenient BART / MUNI (and hence SFO, OAK, & Cal Train) access from all of California. Multiple non-validated parking options on-site and very nearby. Call for simplified directions. Practice Profile page updated on February 27, 2006

This is what one reporter has to say about Dr. Ellis;

Doctor's orders: Get high (Excerpts from the Article)

A trip into the Medical Marijuana demimonde smokes out America's confusion about drugs, pleasure and morality. By Chris Colin

Jan. 31, 2001 | SAN FRANCISCO -- To get pot, you can stand on 16th and Mission and wait for someone to approach you, and wonder if he's a cop, and wonder if he's going to rob you, and wonder if his pot is laced with strychnine. Or you can have a dull pain in your right ear.

In a green box on the back page of the San Francisco Bay Guardian, Dr. R. Stephen Ellis advertises Medical Marijuana physician evaluations for just about anyone. The ad contains no explicit offers or promises, just a list of symptoms that presumably qualify one for legal pot: "Anorexia ... chronic pain ... arthritis ... migraine, or ANY other condition for which marijuana provides relief." This is from California Health & Safety Code 11362.5, implemented after California passed Proposition 215, also known as the Medical Marijuana/Compassionate Use Act, in 1996. At the bottom, boldfaced, underlined, in caps, we're reassured: "It's THE LAW!" **My ear hurts, I tell the assistant over the phone. He tells me to bring \$200 cash. No check or credit card? I ask. Cash, he says.** To my left are the ill; three men between 35 and 50 sink into their chairs and stare at things in the floor that I can't see. Their eyes are glassy, and two of their heads are chemo-bald. To my right are three young men, none over 22 surely. They slump too, but with attitude, not sickness. They have baggy jeans and each has acne. The young camp looks at its shoes. The man directly to my left says he has glaucoma. He's grumpy about waiting. The man to his left says he's new to medicinal marijuana and is shaking and giddy. The man to his left sells sports tickets for a living, and is doing so on a cell phone, apparently unfazed by his circumstances. To my right are frauds. "I hurt my back playing football," the big one next to me says. He grins conspiratorially, as if he's never touched a football in his stoner life. Across from us a raver taps his toes. He grins, too, when I make eye contact. The surfer next to him grins too. "I better get this before my man Nate's party Friday," he says to no one in particular. "How long does it take to get the prescription filled?" I ask. "My other friend got some from a San Francisco dispensary two days after his evaluation," he says. I wonder how many scammers it would take to undermine the Medical Marijuana cause. Not that fakers are taking pot from the legitimately ill -- there's plenty to go around. Ellis joins me in the bare room, slight, friendly and rushed. He seems breakable. He also has the air of celebrity, probably because he's the only man many people know who can legalize pot, albeit one smoker at a time. He talks fast, like someone who either has been in an E.R. for years or has a line of patients out the door, each with a wad of cash. He takes my money and puts it in his pants pocket. "My ear hurts," I say, and I explain the pain. My honed explication of the problem doesn't seem to interest him. He interrupts after a minute, telling me to take my shirt off so he can use his stethoscope. The checkup is rudimentary, There's a brief, touching moment where he pats my arm, not weirdly, and then he's signing his recommendation. For the next 12 months, I'll be a legal Medical Marijuana smoker. The police, depending on the county, generally don't arrest smokers who have a prescription, except when they do. Courts often drop cases, depending on the judge, or how a jury might respond. Getting a physician's recommendation from Ellis may have been easy, but getting him on the phone for an interview is another story. It isn't until a month after my visit that he agrees to talk. "What were you doing before this?" I ask. "I was at emergency rooms," he says. "Which ones?" "Various emergency rooms in the Bay Area," he says. He won't say how many patients he's seen since opening the office in July -- "let's say several hundred," he finally tells me. Nor will he say how many are ultimately granted recommendations. I get the impression most walk away satisfied. "What about fakers?" I want to know. Ellis assures me that fakers don't make it to the examination room. "They realize it's a legitimate medical setting and go home," he says. "They can't get in without supporting documentation."

I tell Ellis that I was not asked for supporting documentation. He says he has since changed that policy, though I sense that he did so reluctantly. "We don't [require supporting documentation] in the E.R.," he says. "People come in complaining of a headache, we go over to an open cabinet and they leave with a shot of Demerol in their butt." "And that's unfair?" I ask. "Marijuana is much more benign than conventional narcotics," he says. We talk about his history. Ellis graduated from the University of Illinois medical school at Chicago in 1978, he says. His work as an emergency physician exposed him to "a real need" for better pain management strategies. A few seminars on Medical Marijuana persuaded him to look into alternative treatments. If Ellis was uneasy at the beginning of our conversation, he's in a gallop by the end. I ask why so few California doctors are recommending marijuana for pain four years after the passage of 215. "They're afraid," he says. "They're afraid of the [California] Medical Board, and of their peers, and possibly of potential legal ramifications ... even though they're clearly protected by the law." It's the California Medical Board that gets Ellis fired up. "They've been officially silent [on Medical Marijuana], but behind closed doors they've been harassing physicians," he says. "That's the bottleneck on 215. Patients can't get their docs to prescribe medicinal marijuana, even though the law allows for this. In California, you might find 1 in 1,000 doctors" who would. Ron Joseph, the board's executive director, calls Ellis' charges ridiculous. "It's a nice fallback," Joseph says, "but I defy him to cite one case where the board has harassed a single doctor." As Joseph tells it, it's not the board's policy to have an official position on Medical Marijuana -- it would just as soon have a position on X-rays. "We don't say whether it's good or bad, appropriate or inappropriate," he says. "We simply ask, 'Has the physician applied good judgment?'" Because the board's procedure is simply to investigate a "physician's actions as they're brought to our attention [by a patient]," he says, it has no incentive to bother doctors who are prescribing marijuana. So why aren't more doctors prescribing marijuana? Joseph blames the government. "The chilling effect has come from federal [agencies]," he says. "Doctors might be afraid of losing their DEA permit" (which allows them to prescribe controlled substances). As for Ellis' objection to the liberal distribution of Demerol in the E.R., compared with the paucity of marijuana prescriptions in the doctor's office, Joseph says an E.R. deserves its own standards. "It's a much different situation," he says. "There's little time to make the diagnosis [in the E.R.]. This is not the case in an office visit where the patient has the opportunity to explain his medical history." If a patient *is* able to obtain a physician's recommendation, he or she must next join a buyer's club. The Oakland Cannabis Buyer's Club is a mile from my house, so I swing by on a Saturday. Like Ellis' office, the OCBC is also low-rent, but it makes up for it in atmosphere. If Ellis' operation was film noir, the "Co-op" is Cheech & Chong plus "Beaches." The store mixes earnest compassion for the ill with a healthy appreciation for fat, leafy weed. Inside, past the pipes and bongs and vaguely pornographic poster of a luscious green bud, a woman at a counter sorts membership files. (The club has roughly 4,000 members, executive director Jeffrey Jones tells me later, but it's hard to count. Why? I ask. "We don't know how many are dead," he replies.) The woman at the counter gives me paperwork and takes my physician recommendation, a copy of which I'd already faxed in for approval. I do the paperwork and pose for my photo and pay the fee. My \$21.95 entitles me to a list of active dispensaries, support in the event of police trouble, free massages and regular cultivation seminars. Cultivation? I ask.

I can grow up to 48 plants, they say -- beyond that it's risky. My new member I.D. is my "shield." If a cop stops me for possession, I need only flash the card. If that doesn't work, the officer is to call the 24-hour phone number on the back, and the club will vouch for me. "But this is legal, right?" I ask. "Well," they reply, "yes. But call if there's a problem." I'm out in 10 minutes, but still without pot. This is because an injunction keeps the club from selling it. The unmarked dispensary two blocks away is to pharmacy as Bates Motel is to Ritz-Carlton. Metal gratings cover the windows of the old building, which begs for a paint job or some dynamite work. The next room is un-American. It's how Amsterdam is described among teenagers, a perversely legal assortment of illegal things: pot plants, pot brownies, pot cookies, pot seeds and, of course, pot. Half a mile from the Oakland Police Department, two glass counters full of dope and a promising back room await anyone with an OCBC card and some cash. There is no catch. I experience the brief heartbreak of poorly timed access -- this kind of opportunity would've been great back when I liked pot -- but mainly I'm glad people who need it can get it. I buy an eighth of an ounce of the good stuff, not the great stuff. It's \$45. The guy behind the counter is nice like a nurse. The place isn't a neighborhood drugstore -- no matter how medicinal your marijuana, it's still pot, and pot culture is irrepressible -- but there's no Pink Floyd or opium-den decadence. Ellis, like many Medical Marijuana advocates, is breathless on the subject. Finally, what will happen to a doctor in a tiny office who flouts federal law on the back page of the San Francisco Bay Guardian? Is he in danger? "I don't know," Jones from the OCBC had said. "Is a bug that flies into the light in danger?" Because he's working with other information, or because he's blinded by the light, Ellis himself isn't scared. "They'd be crazy if they bothered me," he'd told me, before getting off the phone to see another patient.

(Source <http://drugandhealthinfo.org/page02.php?ID=6>)

Another Doctor found through Internet research;

Hanya Barth, M.D.

Wellness Counseling & Alternative Medicine
California License #A031974

your Appointment

There are four things you should bring with you:

1) Any paperwork regarding your condition, including doctor reports, treatment notes, and paperwork with your diagnosis. The doctor is here to give you a second opinion. Any health history paperwork helps the doctor understand what your primary diagnosis is. Our doctors are here to provide you with a second opinion, therefore you must have seen a physician recently for the condition you use marijuana to treat in order to be evaluated. We are happy to refer you to a low cost medical clinic so that you may receive a check up. Please call and ask our office staff for the number to one of these locations.

2) Any medications or prescriptions (you may bring the bottles with their prescription labels), any supplements or over-the-counter herbs, vitamins, etc. We are interested in knowing what you regularly use to alleviate your condition.

3) California Driver's License or California I.D. Card. You must be able to prove California residency. This is a California law. We must see a photo I.D. proving residency here in the state of California.

4) **Please bring the appropriate fees to pay for your visit. At this time, our office is not accepting checks or credit cards. If payment is an issue, please speak with our office staff.**

<http://www.howardstreethealthoptions.com>

This is Dr. Milan Hopkins in Upper Lake;

Are you concerned about your health and looking for an old-fashioned doctor who will take the time to listen? One who is up-to-the-minute on new medical developments and understands your needs? You'll find a caring non-judgmental doctor accepting Medi-Cal, Medi-Care, Tribal Healthcare & other types of insurance. Also included on site is Leah, a certified massage and bodywork therapist. Please call to get affordable fees (Fees based on a sliding scale).

Cannabis Fees and Requirements

Due to the legalities surrounding a medical recommendation for cannabis, patients are required to provide Dr. Hopkins with the following documentation:

Primary Physician Information: If you have a primary care physician, we request that you discuss with him/her your desire for a cannabis recommendation. We require the name, telephone number, and mailing address of your physician. If possible please bring any medical records you may have that would support your medical conditions.

The California State Medical Board has decreed that the physician issuing a recommendation for medical cannabis must either assume responsibility for all aspects of the patient's care, or must consult with the patient's primary physician prior to issuing the recommendation.

Identification: Please bring with you some form of pictured identification.

Fee: The initial consultation and recommendation fee for medical cannabis is \$175.00 to be paid at the time of service. (We do not except checks or bank card payments)

Six Month Check-Up: The doctor requests that his patients return ever 6 months, the fee for this visit is \$60.00 to be paid at time of service. It is require by the California State Medical Board that cannabis patients be under the continual care of the prescribing doctor.

Annual Renewal: Your recommendation will need to be renewed every year for \$125.00 with a 6 month check-up. If you missed your 6 month check-up it will be \$175.00.

<http://www.do chop.com/>

10News Exposes 'Marijuana Doctors' (Excerpts from the Article)

POSTED: 4:39 pm PDT July 6, 2006, UPDATED: 12:41 pm PDT July 7, 2006

SAN DIEGO --

Doctors Offer Legal Pot

Proposition 215 -- the Medical Marijuana initiative approved by voters ten years ago, has been subverted, abused and misused say law enforcement agencies our I-Team has spoken with. Prop. 215 is supposed to provide seriously ill people access to marijuana to help relieve their pain but a 10News investigation discovered just about anyone can get pot legally if they want. 10 News became interested in Medical Marijuana after seeing a large number of advertisements for doctors prescribing pot. These pot docs' ads appear every week in the San Diego Reader. Discussions with 10News sources both in and out of law enforcement seemed to confirm a disturbing pattern of increasing sales by the pot docs as well as an increase in the number of distributors for the Medical Marijuana. We used staff members to go into doctor's office and see how difficult it was to get a referral for pot. It was very easy. Too easy in fact, say law enforcement sources. It turned out both federal and local agencies are also looking into the process. The 10News I-Team was able to acquire some government surveillance tapes used to document how different doctors would discuss with patients the benefits of marijuana. One shows an undercover officer and a Dr. Robert Steiner, discussing pot. "I assure you Tylenol is more of a risk to you and a hazard than is cannabis," said Dr. Robert Steiner. Steiner was doing one of his "legitimate and affordable" Medical Marijuana evaluations as advertised in the Reader. "It's open drug dealing with legitimacy," said Deputy District Attorney Dana Greisen. Greisen said doctors are recommending marijuana to just about anyone who can afford a doctor's visit. "It's being recommended for insomnia, depression (and) anxiety," said Greisen. "The law is being abused in a massive scale," said Greisen. The people using the marijuana aren't suffering from cancer, AIDS or other serious illnesses, which Proposition 215 is supposed to address. Dr. Steiner claimed no downsides to using marijuana on the law enforcement video. "We have two convincing studies that cannabis does not cause lung cancer. Cannabis regenerates brain cells," said Steiner. **The undercover agent then asked if he could also get pot for his dog. "He's got arthritis. He whines at night because of the pain," said the undercover agent. "Again, it is perfectly acceptable for pups," said Steiner.** Dr. Alfonso Jimenez has a Web site -- Medical Marijuana of San Diego -- where patients can register for his services online. What happened when we sent our testers in? "He was just laid-back and friendly. (He) didn't really seem to worry about if he was giving me this for the right reasons or not," said tester number one. He went to Jimenez for back pain he doesn't have. He got his referral and could have purchased pot legally. "There's a line behind me coming out of the door," said tester number one. DDA Greisen said it's all about the money. **"We had a doctor recently (who) testified he gave out about 2,000 recommendations in last year -- that's what he testified to in court -- at \$230 approximately. You do the math -- that's \$500,000 in cash,"** said Greisen. Greisen said most office calls are paid for in cash. That's what another 10News employee had to do. He paid \$125 to have Steiner recommend marijuana for his "sleeping problems." "They just let me in the office. (They) kind of started giving me all these facts about Medical Marijuana before they even knew what was wrong with me," said tester number two.

Tester two would get his marijuana if he went to another doctor first to document his condition. "He (Dr. Sterner) referred me to a doctor who would have me in and out real quickly. I could come right back, (and) he would be able to sign off on the recommendation. Once people get their recommendations, 10News discovered there's no limit or control as to how much marijuana they can buy from storefronts called dispensaries, and unlike a regular prescriptions, a patient can use the recommendations more than once. Dr. Jimenez has several offices and we talked to him by phone at his Hawaii location, he told 10News that he only provides a referral for patients with medical illnesses. Jimenez's operates a Web site MedicalMarijuanaOfSanDiego.com. When 10News visited Dr. Sterner, he explained he had to see patients and closed his office door. But there is another loophole in the system, called the primary care giver form. "Over the last year, we saw a proliferation of these recommendations," said Greisen. He says just about anyone can get marijuana. And to make matters worse, he says, doctors hand out blank primary caregiver forms. These forms allow patients to list anyone they want to be a caregiver. It allows this person to purchase or grow marijuana for them. 10News Investigations sent in two staffers to check Greisen's claims. And it was as the assistant district attorney had claimed. Our staffers were given blank caregiver forms. 10News learned that one person named his dog as a caregiver. As part of the investigation, 10News nominated a bird named Riggo as a caregiver. "The doctors -- because they're giving it to so many people -- are basically legalizing marijuana one doctor and patient at a time," said Greisen.

(Source: <http://www.10news.com/news/9480300/detail.html>)

Medical Marijuana abuses reported among teens

By Stephanie Bertholdo bertholdo@theacorn.com (Excerpts from the Article)

Part I of two parts on local teen drug abuse

A decade has passed since Californians voted to legalize marijuana for medicinal purposes. At the time, one of the arguments against legalizing the drug was that the law might open the door to abuse, especially among teens. Indeed, many teenagers in the area have found that the marijuana grown and dispensed by medical groups can be easily obtained, and is perhaps of even higher quality than what can be purchased on the street. 'Know the right doctor' To safeguard against abuse, people who suffer from cancer, AIDS, chronic pain and other conditions must obtain a prescription from a licensed physician, the first step to possessing a Medical Marijuana identification card. Once a Medical Marijuana identification card is in hand, a citizen can drop in to any local Medical Marijuana dispensary throughout California and legally purchase up to eight ounces of marijuana or other cannabis products. **One Oak Park teen who wished to remain anonymous for this article said that at least 10 of his friends have fraudulently obtained Medical Marijuana identification cards. "It's really easy to get," said the 19-year-old. "You just have to know the right doctor."** According to several experts interviewed by The Acorn, if a person cannot convince their own physician that the drug is necessary for a particular medical condition, the dispensaries will often recommend a doctor who is more likely to write a prescription. The process to obtain a Medical Marijuana identification card is fairly straightforward.

Once a doctor's prescription is obtained, a form is filled out and after the prescription becomes verified a patient is legally eligible to purchase marijuana in limited quantities. "It's better pot, I guess, than a lot of the street stuff," said the Oak Park teen. Each dispensary devises guidelines on how much marijuana a patient can purchase. A spokesperson for Herbal Independent Pharmacy in Woodland Hills said that the store allows individuals to purchase only two ounces within a two-week period. "Someone could reasonably smoke an ounce in a week," the HIP employee said. For those who want to bypass such limitations, a regular supply of marijuana can be obtained by visiting different dispensaries in the Conejo and San Fernando valleys. Cannabis "clubs" do not check with other dispensaries, another HIP spokesperson said. The onus is on the patient, who by law may possess only eight ounces of marijuana at a time. But "they could hit 50 dispensaries in one day if they wanted to," the employee said. Some marijuana issued with 'little or no justification' Dep. Matt Dunn, a member of the Lost Hills Juvenile Intervention Team in Agoura Hills, said law enforcement officers often deal with teens in possession of Medical Marijuana. Randi Klein, the alternative education counselor with the Las Virgenes Unified School District, has seen a rise in Medical Marijuana usage over the past 18 months and believes that Medical Marijuana cards are being obtained by students who should not qualify. Klein said many of the clinics have doctors on staff who will write the prescriptions for such ailments as insomnia or anxiety. Klein considers doctors who prescribe marijuana for minor ailments, especially for teens who fabricate complaints of back pain, insomnia or anxiety, to be negligent. "I do think that kids are starting (to use drugs) younger and younger," Klein said. She said parents must take a more proactive role in supervising their children, from monitoring computer usage to making sure their teens are where they say they are. There are thousands of web pages outlining the drunken escapades of students, and thousands of pictures of students who appear drugged or drunk, Klein said. "It looks cool to so many kids," Klein said. She recommends that parents ask to see their children's profiles on the site. "It's important to know what your kids are doing," Klein said.

(Source: http://www.theacorn.com/news/2006/0727/Front_Page/004.html)

Who is Ken Estes you ask? Ken Estes is a long time proponent of Medical Marijuana who has or has had interests in at least four Medical Marijuana Dispensaries, all of which have come under law enforcement and media scrutiny. His dispensaries have been robbed, the focus of law enforcement scrutiny and when ordered by two cities (Oakland June/04 and Richmond currently) to close his dispensaries has refused to do so.

When Pot Clubs Go Bad: Ken Estes just wants to share the miracle of Medical Marijuana. Everyone else just wants him to go away. (Excerpts from the Article)

By Chris Thompson

Article Published Jul 24, 2002

Neighborhood lore has it that before Ken Estes set up his medical-marijuana club, the property used to be a whorehouse. The neighbors wish it still was. Back then, the customers walked in, took care of business, and got out. Bad shit never went down at

central Berkeley's local brothel -- certainly nothing like what happened on the afternoon of June 5. At 2:37 p.m., roughly ninety minutes before closing According to the police report, they forced the guard through the door, rushed into the club, and screamed at everyone to lie face down on the floor. Everyone did except for one man, a wheelchair-bound patient who had come to get his legally prescribed dose of reefer and now had a gun in his face. The two men trashed the place and finally found the stash after prying open a locked file cabinet. It was the third armed robbery at 1672 University Avenue in ten months. You get into a lot of creepy stuff when you hang out with Ken Estes. You get burglaries, armed robberies, police raids, and felony charges. You also get allegations of cocaine dealing, tax fraud, and spousal abuse. Shortly after a motorcycle accident left Estes paralyzed below his chest, he became a devoted advocate of Medical Marijuana. He carefully organized his club to offer every possible comfort to the sick or dying. And unlike other East Bay pot clubs, most of which stress a clinical pharmacy's atmosphere, patients can sit down and light up right there, beneath rustic paintings of Jimi, Janis, and Jerry. If it weren't for the crime that has plagued his club's operation, Estes might be the patron saint of Berkeley stoners. "We have the best prices and the best medicine." he boasts. "If you know buds, we have the bomb." But ever since Estes first got involved in the medical-marijuana movement, men with drugs, guns, and evil intent have followed him everywhere he goes. They have robbed him, exploited his generosity, and endangered the lives of everyone around him -- even his three children. He always picks the wrong friends. At least that's Ken's side of the story. His estranged lover, Stacey Trainor, told a darker version to the Contra Costa district attorney's office. She alleged that Estes is a former coke dealer who lied to secure his club's lease, that he has a Berkeley doctor in his pocket who will sell pot prescriptions for \$215 a pop, and that up to thirty percent of his customers buy his product without any medical notes at all. Police and University Avenue merchants, meanwhile, claim that high-school kids used to line up for a taste outside Estes' club, and that his security guards scared away neighborhood shoppers and even got involved in fights on the street. His fellow cannabis-club operators even tried to drive Estes out of town. **In the six years since its passage, mayors, district attorneys, and state officials have been so focused on protecting patients from federal prosecution that they've neglected to implement any sort of regulations about how pot should be distributed. No state or local agency or mainstream medical group has offered any comprehensive guidelines on who should hand out pot in what manner. As a result, medical pot is not just legal, but superlegal, perhaps California's least-regulated ingestible substance. In the absence of official regulation, it has fallen to pot-club operators themselves to craft some sort of system** All they have is a gentlemen's agreement. Ken Estes broke that agreement, whether by design or neglect. And no one may have the legal power to make him stop. In 1992, he signed over his share of the salons to his business partner and started distributing pot, going to demonstrations, and working to decriminalize medical cannabis. Yet as Estes became a fixture in the medical cannabis scene, his life became increasingly chaotic and dangerous. At the very time that Proposition 215 liberated thousands of medical-marijuana smokers from prosecution, Estes began a long, almost farcical slide into crime. Even scoring on street corners didn't compare to what was to come. "No guns in the face at that point," he says of his early years. "That came later, with the medical-marijuana movement."

Estes began his cannabis activism by volunteering at the Oakland Cannabis Buyers cooperative. Jeff Jones, the co-op's executive director, doesn't even smoke pot. If Estes is a creative but befuddled libertine, Jones is rigid and dogmatic. From the start, the two rubbed one another the wrong way. After passage of Proposition 215, the co-op emerged from the shadows and began distributing pot out in the open. But no one had any idea how to go about it. **There were simply no rules; one day medical pot was illegal, the next day it wasn't. Proposition 215 is one in a long series of brief, poorly conceived initiatives whose implementation has proven to be a giant headache. The "Compassionate Use Act of 1996" offers no guidance on how pot should be distributed;** indeed, the initiative is a single page in length and merely encourages the federal and state governments to "implement a plan to provide for the safe and affordable distribution of marijuana to all patients." Six years later, no one in Sacramento has figured out what this means. No state agency has ever issued binding directives on how to distribute pot, or to whom. With the state paralyzed, it has fallen to local governments to regulate Medical Marijuana. The portion of the Berkeley municipal code governing medical pot, for example, is so ridiculously lax that it plays right into the city's worst stereotypes, and yet it's as strict as virtually any other Bay Area city. Although the code limits the amount of pot a club can have on hand, there are no provisions limiting how close a pot club can be to a school, or requiring doctors to conduct an actual evaluation of patients, or requiring background checks for pot distributors -- which is standard practice for anyone who wants to run a liquor store. Yet the code does encourage pot clubs to "use their best efforts to determine whether or not cannabis is organically grown." The end result is that medical pot is actually less regulated than candy bars, which must at least have their ingredients printed on the wrapper. Club operators disagree on whether this is good or bad. Jeff Jones wants the government to step in and bring some common sense to pot's distribution. "We thought the government would get involved in distributing Medical Marijuana as per the state law," he says. "I never thought that five or ten years later, we'd still be operating in a vacuum." Others worry that if the state takes a firmer hand, a conservative governor or attorney general might interpret the law so narrowly as to effectively recriminalize medical cannabis. But everyone agrees that since the government hasn't set up rules, club operators must police themselves. Even the police, hamstrung by a city council cognizant of the overwhelming public support for medical pot, can do virtually nothing to crack down on rogue clubs. If someone wanted to hand out pot like candy, no one could stop him. His neighbors along University Avenue soon figured this out. Accounts differ as to what Estes did when he first showed up at the Oakland co-op's door in 1995. Some say he taught the co-op's pot cultivation classes; others claim he weighed out the baggies and sampled the wares to categorize their potency. Estes says he did both. Whether the Oakland co-op itself was entirely above-board is a matter of some dispute. According to Trainor's statement to the Contra Costa DA, the co-op paid Estes in pot and unreported cash. "Part of the marijuana he received as payment from the club he would sell to other people, including persons who had no medical prescription for marijuana," her statement reads. In October 1998, the feds managed to get an injunction prohibiting the Oakland co-op from dispensing marijuana and Estes jumped in to fill the void. But he needed customers, so Trainor says Estes called a friend who worked there.

This employee gave Estes the names, addresses, and phone numbers of five hundred patients, and Estes soon started drumming up customers. Estes concedes he made no effort to call their doctors and confirm their medical condition he just started making deliveries to anyone with a card from the Oakland club. By the time that Estes went into business for himself, he, Trainor, and their three children had moved to a house in Concord, where he began growing pot to supply his growing army of patients. On September 20, Concord police officer David Savage took a call: Estes' neighbor claimed that she could see a bumper crop of pot plants growing in his backyard. Savage stopped by and peeked over the fence. Later that afternoon, he returned with a search warrant. Savage's police report indicates that he found pot everywhere. He found roughly fifty plants in a makeshift greenhouse in the backyard. He found an elaborate hydroponics system in the garage; behind sheets of dark plastic, dozens of plants were growing on plastic trays and in children's swimming pools; grow lights wheeled back and forth on a track hanging from the ceiling. He found baggies of weed stuffed in desk drawers and scattered along the floor, and plants hanging in the closets. In the master bedroom, underneath a crib where one of the children slept, Savage found two garbage bags with dried marijuana in them. "None of the growing and dried marijuana was in a secure place," Savage wrote in his report. "Most of the marijuana was accessible to the children in the residence. But Savage didn't know what to do with Estes. Estes had an Oakland cop card certifying him as a patient, as well as patient records indicating he was a legally valid caregiver. How much dope did Proposition 215 allow him to have? By then, Estes had bought some property near Clear Lake, and Trainor had moved up north with the kids, growing more dope in a shed behind the house. Meanwhile, Estes' cousin Tim Crew had moved into the house to help him grow a crop that dwarfed his prior stash. **This period marks the beginning of one of Estes' most foolish habits: keeping massive amounts of drugs and money lying around.** "People told me, 'Don't put more than a certain amount in the bank, or you could get in trouble,'" he says. "We had a lot of money, and I kept it with me. I'd hide it in my closet, hide it in my suitcase. I just didn't want to put it in a bank." As more and more people got hip to Estes' stash, his cavalier attitude would provoke a spate of armed robberies that left his University Avenue neighbors terrified. The first robbery happened in Concord on January 1, 2000. Neighbors called the cops and reported that several men had burst out of Estes' house and raced down the street, leaving the door ajar. When Concord officers arrived at the scene, they found that the front door had been forced open. They also found no fewer than 1,780 marijuana plants in various stages of cultivation, even after the break-in. This time, the cops wouldn't be satisfied with confiscating his stash. The DA charged Estes with four felony counts of possession and cultivation of marijuana for sale, and will probably argue that the volume of pot on hand proved that he was an outright dealer, not a medicinal caregiver. With the heat coming down in Concord, Estes eyed Berkeley. Taking out a business license and a zoning permit to sell "herbs and other homeopathic remedies," Estes set up shop at 1672 University Avenue. From the very beginning, Berkeley Medical Herbs was characterized by his permissive business style. Michael "Rocky" Grunner showed up at Estes' door just months into his new operation and handed him a bag of quality product. But over time, a tense, nervous atmosphere infected the club. Finally, Estes claims, a friend came to him and broke the bad news: Grunner was dealing crank out of the back room.

Estes says he promptly threw Grunner out of the club. But the club's neighbors were beginning to worry about the sketchy new element. Machinist Richard Graham is a longtime area resident and has been known to take a hit upon occasion. But he even he draws the line at Estes' way of doing business. A few months after Estes opened the club, Graham dropped off a package mistakenly delivered to the wrong address. When Graham asked the man behind the counter how business was holding up, he offered to set him up with a physician for \$200. "I asked them how their operation works, and they told me you just need a note from the doctor, and we have a doctor, and you can get a note for just about anything," Graham says. "Then he told me the prices, the registration fee to get the note, \$200 per year. I just got the impression that these are people in it to sell marijuana as a business. I didn't feel that these were people motivated to help sick people, which I think other people are. It was a decidedly unclinical atmosphere, let's put it that way." In fact, Estes' operation was so unclinical that it even advertised in the Berkeley Daily Planet. Superimposed over the image of a big fat bud, the club announced that it had plenty of pot for sale, listing killer strains such as "Jack Frost, Mad Max, Romulin, G-Spot, and more." Other club operators groaned in dismay when they read the notice: "One-source shopping for all your medicinal needs! First visit, first gram free with mention of this ad!" Soon, kids were lining up outside, neighbors and police report, and the club's busiest hour was between three and four in the afternoon, when Berkeley High students got out of class. "The biggest complaint was the kids going in and out of there," says Lieutenant Al Yuen, head of the Berkeley Police Department's Special Enforcement Unit, which handles narcotics investigations. "We looked into that and watched kids going in and out. We never caught him selling to kids without a card. He claims that the kids had medicinal cards, but he doesn't keep records on who he sells to." In fact, Trainor told the DA's office that Estes sold his product to anyone with the cash. She estimated that seventy percent of the club's buyers were patients from the Oakland co-op, and that the other thirty percent were recreational users. And Trainor alleged that even many of the so-called patients may have had fraudulent doctor's notes. She claimed that Estes referred everyone-without a card to Dr. Frank Lucido, a Berkeley family practitioner who allegedly charged a fee for every note. "Estes would tell his buyers to go to Lucido, give him \$215, and he would give the person a prescription. For a while, Estes says, he even accepted photocopies of Lucido's notes, and neighbors used to find them littering the sidewalk in front of his club. Lucido says he used to write such notes and rely on patients to provide verification later. But he says he discontinued that practice two years ago, and now requires independent verification of his patients' ailments from another physician. Lucido says Estes has been a headache for his medical practice. Two years ago, the doctor says, Estes printed business cards that claimed he was working in conjunction with Lucido. The physician says that as soon as he found out, he had a lawyer call Estes and tell him to stop making that claim immediately. Why is Trainor telling so many tales out of school? It all began two years ago, when she began an affair with Rocky Grunner. The feud culminated on August 31, 2000, when Trainor swore out a temporary restraining order against Estes, claiming that Estes threatened to kill her. When the Lafayette cops arrived at his house to serve it, they found more plants growing in the basement. Back went Estes into the pokey, and the cops even raided the club and seized product and financial records. Two months later, Lafayette narcotics agents raided Grunner's own house and seized seventeen pounds of marijuana.

Trainor eventually broke off her affair. Grunner could not be reached for comment. Six months ago, as Estes became the subject of a Contra Costa district attorney investigation, Trainor met with assistant district attorney Phyllis Franks and county investigator Tony Arcado. Over the course of several hours, she told the story of their life together. According to her statement, Estes didn't start his new career dealing medical pot -- but cocaine. "After selling the tanning salon, Estes earned income by selling cocaine," Arcado wrote in his summary of Trainor's interview. "Trainer [sic] said the income from the cocaine business ran out in 1993, and Estes switched to selling marijuana." On the evening of Friday, October 12, 2001, the club was winding down after a long day when someone knocked on the door. An employee pulled the door open and stared straight down the barrel of a silver handgun. "We opened up the door, same as for everybody: 'Hey, what's up?'" Estes says. "The guys came in. They put everybody on the ground and took everything." Time was running out for Estes. The kids and the police raids were bad enough, but now men were waving guns around and racing off with drugs. At the time, Estes had no security guards, no iron gate on the door, just a lot of cash and pot. Neighbors and police representatives claim that this just made things worse. The men were not professional guards, and scared people away from the neighborhood by loitering on the sidewalk during business hours. Estes says the neighbors are giving way to their own racist fears. "If you talk to them, they're big, soft, easygoing guys," he says. "But unfortunately they're black. And in this society, you think of black as criminal. So the moment you see black people standing around, looking at your ID, I guess it looks like a crack house. I have black friends, and that seems to be held against me. None of the other clubs seems to be scrutinized as much as me." Not only did the guards not sit well with the neighbors, they also didn't stop the crime. On the evening of December 13, 2001, one last patient, a young woman, knocked on the door. As an employee opened the door for her, he glanced down to his left and saw three men crouched low. The woman turned and walked back to the sidewalk and the men rushed through the door. One pulled out an Uzi submachine gun, and the second robbery in two months was under way. The thieves probably wouldn't have kept coming back if there hadn't been so much to steal. Estes refuses to say how much pot was lost during the first robbery, but he says he kept an average of three pounds of dried marijuana in his store at all times. "Plus we had hash, we had kief, we had oils and other extracts from marijuana. We had baked goods, brownies, carrot cakes, Reese's peanut butter cups that were done like that. We had everything." At \$65 an eighth, that meant thugs could make off with about \$25,000 with one quick hit, to say nothing of the cash he kept on hand. With this, the city had finally had enough. City Councilmember Linda Maio convened a neighborhood meeting about the club -- which Estes didn't bother to attend -- and told the rest of Berkeley's cannabis dispensaries to bring their colleague to heel. On January 2, Geshuri agreed to the following terms: the club would only operate five hours a day; less than a pound of dope would be on the premises; newspaper advertising would stop immediately; a professional security company would be retained; and security cameras would be installed. The final robbery on June 5 spelled the end for Ken Estes. Despite his promise not to keep more than a pound of pot at the store, neighbors report that during the getaway, the robbers' duffel bag was so heavy that they had to drag it down to the car. As for the security cameras, club officials claimed that they had mysteriously broken down that day, and there was no film of the incident.

Estes had used up his last store of good faith, and even the other clubs agreed he had to go. He, his brother Randy Moses, and Geshuri have signed a lease at a new club in Oakland, near the corner of 18th Street and Broadway, where he promises to tighten up security. If this the best local government can do, Estes is in the clear. Of course, good old-fashioned drug laws may solve the Ken Estes problem for us. Assistant district attorney Phyllis Franks of Contra Costa County is preparing to try Estes on four felonies stemming from the Concord raids, and if convicted, he'll be out of business. This brings up the final legal question unresolved by Proposition 215: how do prosecutors determine whether someone is a legally sanctioned caregiver, or a drug dealer? The answer is there is no answer. When Estes turned himself in, forty demonstrators accompanied him to the station, and his image -- the martyr of Medical Marijuana, persecuted by vindictive prosecutors -- was flashed across the nightly news throughout the Bay Area. Estes admits he's made some mistakes, and vows to improve his operation. I believe I know who's behind this, the robberies. All this stuff that's gone on has happened since Stacey went to the police, and the police believed her. They told me that many times women turn on their drug-dealing boyfriends, and this seems like a case of that. I wish I could have hired better people, but I can't say that I would have done anything different. I really didn't foresee the criminal element making its presence like it did. But I can only do so much." And should Estes revert to his old, seat-of-his-pants ways, we may have no choice but to put up with him.

(Source) www.compassionatecoalition.org/comment/reply/3789

Medical Marijuana merchant defies Oakland order to close. Others might go underground, as city's new rule gets mixed reaction from consumers, business owners (Excerpts from the Article)

Oakland Tribune (CA) Wednesday, June 02, 2004 By Laura Counts, STAFF WRITER
OAKLAND -- Medical Marijuana patients who packed into the Dragonfly Holistic Solutions dispensary on Telegraph Avenue on Tuesday seemed unaware the business had been told by the city to shut down. They said they were seeking the most potent medicine in town -- a strain of marijuana called "Barney Purple" -- and didn't like hearing that new city rules will limit them to four city-sanctioned establishments. Those that received licenses will have to pay a \$20,000 annual fee. Those that did not were supposed to close Tuesday. **Dragonfly did not make it, but owner Ken Estes said he will continue to operate in defiance of city rules until he is arrested.** He planned a protest outside the dispensary Tuesday morning, but the only signs of one emerged when the doors to the club opened 15 minutes late. "There is some kind of discrimination going on behind the scenes," Estes said. Still, no one except Estes continued business as usual. There are too many people who appreciate getting marijuana in a civilized way," said Lee, one of the backers of an initiative now collecting signatures for the November ballot that would all but decriminalize adult use of marijuana in Oakland. Sparky Rose, operator of Compassionate Access on Telegraph -- which also was approved -- said he serves 7,000 patients and is expecting more. He plans to soon move to a larger location nearby. The city will review the new rules in six months. Jeff Jones, director of the Oakland Cannabis Buyers' Cooperative -- which issues identification cards but does not dispense -- said he has been advising clubs to follow the rules.

"The city is our friend, and we are in this together. They are doing what they feel they need to do," Jones said. "I think the best practice is to close down quietly, and we'll spend the next six months lobbying to increase the limit."

<http://www.marijuana.org/OaklandTrib6-02-04.htm>

Marijuana Clubs Question Ethics Of City's Order To Close Friday, May 19, 2006 by Tom Lochner Contra Costa Times (Excerpts from the Article)

Richmond, CA -- With the crafting of a Medical Marijuana regulating ordinance stalled, the Richmond City Attorney's office has ordered the immediate closure of two cannabis clubs, the only ones known to operate in the city. One, Natural Remedies Health Collective on Macdonald Avenue, promptly closed. The other, Holistic Solutions on Hilltop Mall Road, remained open Thursday. Owner Ken Estes said he hopes to persuade Richmond officials and council members that his business benefits both patients and the city at large. In a cease-and-desist order dated May 16, Assistant City Attorney Trisha Aljoe told Natural Remedies owner Linda Jackson that failure to comply will result in the filing of criminal charges. Estes said he received a similar letter. Jackson closed her shop Wednesday, but on Thursday, she questioned the legality and ethics of the city's order. **"This is taking away my livelihood and putting my patients in harm's way,"** said Jackson. On Thursday, the committee declined to adopt a recommendation by the city staff to declare cannabis clubs a "non-permitted use" and referred the matter to the city council to consider as part of a general plan overhaul. Police Chief Chris Magnus said Thursday that cannabis clubs are a drain on police resources. Magnus said there was a burglary at Natural Remedies in May 2005. But Jackson said that occurred under a previous owner. And at Holistic solutions, Magnus said, Richmond officers observed a steady stream of young people coming and going, causing him to doubt they were there for medical reasons. But Estes said many younger people use Medical Marijuana for pain resulting from injuries and that police should come inside to observe how he checks out his patients.

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www.hemp.net/news/index.php?article=1149877045

Clearlake, CA: Moratorium on marijuana dispensaries (June 6, 2006)

Submitted by Nathan on Mon, 06/12/2006 - 9:24am. [Lake County, California](#)

Moratorium on marijuana dispensaries (Excerpts from the Article)

06/06/2006 Denise Rockenstein, Lake County Record-Bee

Source: http://www.record-bee.com/oanews/ci_3906208

Yet, 10 years after the passage of the Compassion Use Act, barriers are still blocking patients' access to medicinal marijuana. It is the city's hope that the issue will be resolved in Federal Court before the moratorium, which has been extended to 10 months, 15 days, is complete. According the staff report submitted to the council on May 25, "Clearlake currently has no permitted Dispensaries, but the Police Department believes there may be businesses distributing Medical Marijuana in the City, and that it is likely that persons will seek land use entitlements and permits from the City to distribute Medical Marijuana." Holistic Solutions, a natural healing center that provides medicinal marijuana, has been operating on Lakeshore Drive in Clearlake for more than a year under City of Clearlake Business License No. 4535.

Another distributor, **Barrett Consulting**, which operates Alternative Patient Services out of the Java Express Mall, has been a permitted business in the City of Clearlake for more than four years. Both Holistic Solutions and Barrett Consulting have been successful in obtaining a business license as well as renewals of those licenses. "If something doesn't change before (Sept. 30) I will be out of business," said James Barrett, Barrett Consulting proprietor who began his business after recognizing a need for local access. He further identified the elderly as being most affected by access barriers, stating that the teenage population basically has unlimited street access to marijuana. "The thing with the moratorium is that there is going to be a lot of (elderly) patients that can't get their medicine." Barrett agrees that zoning regulations on Medical Marijuana dispensaries are needed as does Holistic Solutions co-owner Dave Moses. "Zoning regulations are badly needed," Barrett said, "but, in my opinion, that should have been taken care of in 1997." Moses has extended his assistance to the city staff in establishing regulations on businesses providing medicinal marijuana to patients. **Moses, along with his brother Ken Estes, have been involved in the marijuana movement for more than 13 years.** Estes, president of Holistic Solutions, began using Medical Marijuana following a paralyzing motorcycle accident in 1993. "When I was going through my rehab I tried marijuana for the first time and it really worked. It did something that the pills weren't doing. It gave me my appetite back and I could sleep," Estes explained from his wheelchair. "The pills were breaking me down and the marijuana was kind of filling me up. Making me eat; giving me a good positive attitude. There are some good characteristics to marijuana that pharmaceuticals long to have." **Estes and Moses were instrumental in the establishment of regulations in the San Francisco area where they operate two more dispensaries.** An outline of those regulations has been submitted to city staff. As of Tuesday, June 6, the city has made no attempt to contact either Estes or Moses although they are eager to help put zoning regulations in place. "We want regulation and control because we believe in that," Moses said. "We don't think that we should be within 100 feet of a school, or operate all hours of the night, for example, and we would be like to be contributing our fair share to the city's coffers." Although Moses had requested that the council include in its moratorium authorization for renewal of existing business licenses, his request was denied. However, Mayor Joyce Overton recommended that the item be brought back before the council for a progress update in August. Contact Denise Rockenstein at drockenstein@clearlakeobserver.com.

Pot club owner unable to retrieve seized items 09/02/2006

By Tom Lochner

CONTRA COSTA TIMES

The owner of a cannabis club and his deliveryman have struck out at Richmond police headquarters trying to retrieve confiscated property: the club owner's 27 pounds of marijuana and the driver's personal effects, which include more than \$23,000 in cash he called his life's savings. "They're denying patients their medicine," said Ken Estes, who owns Holistic Solutions on Hilltop Mall Road and the marijuana that was in the truck. On Thursday, a WestNET officer handed the deliveryman, Richard Barrett, a notice of intended forfeiture of the cash. **Barrett said he has carried his savings with him since the Sept. 11, 2001, terrorist attacks.**

Estes described as "pure harassment" a police action that began Tuesday with a traffic stop and culminated in Barrett's arrest on suspicion of illegally transporting narcotics and confiscation of the truck's cargo. Barrett was released later Tuesday after the cannabis club's legal team posted \$15,000 bail. Barrett has an Oct. 2 date to appear in court but has not been charged with any crime. By then, Estes said, the marijuana, which he described as top-grade with the name "Ken's granddaddy," likely will be useless. "The product can go bad," Estes said. "It's like any kind of perishable." Richmond has no cannabis club-regulating ordinance. Administrative officials have said the clubs are therefore illegal, but they have not enforced a cease-and-desist order against Holistic Solutions issued May 16. Other cities have held that without an ordinance, there is no legal basis to control or ban the clubs. Estes said he considers Richmond's cease-and-desist order illegal.

Source: <http://www.contracostatimes.com/mld/cctimes/news/15425405.htm>

In closing, what we have learned over the ten years since the adoption of Proposition 215? We have learned that what was intended as "Compassionate use" has turned into an unregulated multi-million dollar cash and carry industry. There are appears to be little or no controls in place to govern the issuance of "medical recommendations" from doctors, the cultivation and transportation of marijuana to the dispensaries, as well as the operation of the dispensaries themselves. In those rare instances when the blurry line has been egregiously crossed, there is seldom a successful prosecution as a result.

We as the Law Enforcement component of our society must find a means of controlling this situation within our communities. The first step in the process must be the accurate recording of data relating to Medical Marijuana. Each of us at some point will be expected to inform our local governments as to the actual extent of the problem and our suggested course of action. Only by being well informed, with quantifiable and defensible statistics, will be able to broach this sensitive issue and make our recommendations to either ban these activities or at the very least put in place reasonable restrictions to reduce their impact.