



**STAFF REPORT
CITY OF IMPERIAL BEACH**

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: GARY BROWN, CITY MANAGER

MEETING DATE: June 15, 2011

ORIGINATING DEPT.: Jennifer Lyon, City Attorney
Greg Wade, Community Development Director
Tom Clark, Public Safety Director

SUBJECT: Public Hearing to Consider Ordinances 2011-1118 and 2011-1119 Pertaining to Medical Marijuana Distribution Facilities.

BACKGROUND:

In 1996, California voters passed Proposition 215, commonly known as the Compassionate Use Act or CUA (Attachment 4). That initiative immunized seriously ill persons and their primary caregivers from prosecution for growing, possessing, and using medical marijuana, as long as the seriously ill person had a doctor's recommendation for use of medical marijuana. The initiative left many questions unanswered about its proper implementation. The most important of these questions was how the initiative should be squared with federal law, which (in the Federal Controlled Substances Act) prohibits marijuana use, whether for medical purposes or otherwise (Attachment 8).

Years later, the State Legislature passed Senate Bill 420 (commonly known as the Medical Marijuana Program or "MMP"), which took effect January 1, 2004 (Attachment 5). That bill purported to clarify the CUA's rules for medical marijuana in California. The MMP specifies that qualified medical marijuana patients and their primary caregivers are not subject to criminal prosecution solely for associating to collectively or cooperatively grow marijuana for medical purposes. The MMP also required the California Attorney General to develop guidelines governing collective or cooperative medical marijuana activities.

The Attorney General created guidelines in 2008 (Attachment 6), and these guidelines described suggested conditions for the lawful operation of "collective" or "cooperative" activity under the MMP to ensure security, non-diversion of marijuana to illicit markets and compliance with all state and local laws. The Attorney General's guidelines (at page 9) recognize local governments' authority to regulate cooperatives and collectives, requiring them to be in "compliance with all state and local laws."

Since the CUA, and particularly since the MMP, dispensaries started to materialize all over the state, including in San Diego County. Where dispensaries appeared, however, frequently crimes would follow. Dispensaries would frequently be burglarized or robbed, and dispensaries frequently had other drugs and firearms on premises. The crime associated with medical marijuana dispensaries has often alarmed the dispensaries' neighbors (Attachments 8 and 9).

Imperial Beach's Municipal Code has never authorized medical marijuana dispensaries. Dispensaries have never been expressly permitted, so they are generally considered a prohibited use under the Imperial Beach Municipal Code. However, in light of increased medical marijuana dispensary interest in Imperial Beach and questions about whether California's medical marijuana laws can be harmonized with the federal ban on medical marijuana, the City of Imperial Beach adopted Interim Urgency Ordinance Number 2009-1090, a moratorium on dispensaries that would allow the City to study dispensary-related issues in more detail. The City extended the moratorium, through Ordinances 2009-1091 and 2010-1107.

The City used the study period granted by this moratorium to evaluate various approaches to regulating dispensaries. These studies included evaluation of legal cases that have been decided since the moratorium began, evaluating other cities' approaches to dispensaries, and considering what approaches would best balance the needs of medical marijuana patients with the City's need to prevent the deleterious secondary effects associated with dispensaries, including conversion of marijuana to non-medical use. Attached to this report are some key documents that have played a part in this review, including a white paper by the California Police Chiefs Association, which thoroughly documents the negative effects frequently caused by medical marijuana dispensaries (Attachment 8). Periodically, the City Council has considered the issue when staff has presented the Council with updates throughout the process. At the December 15, 2010, City Council meeting, after reviewing some of the City's amassed material for this study, the Council requested that staff prepare an ordinance prohibiting medical marijuana dispensaries in the City of Imperial Beach (Attachments 10 and 11).

Other local jurisdictions have considered medical marijuana dispensary issues as well. Many have adopted bans or moratoria. Still others have zoning codes which effectively prohibit dispensaries by forbidding all land uses not expressly listed in them. The two largest local jurisdictions have decided to allow dispensaries, but under limited circumstances. The County of San Diego only allows them in industrial zones, and then only if they are at least 1,000 feet from residential zoned properties, schools, parks, playgrounds, churches, recreation centers, youth centers, or other dispensaries. The City of San Diego adopted an ordinance recently to only allow dispensaries in industrial zones or commercial zones (with no significant residential uses allowed), with a 600-foot separation requirement from schools, playgrounds, libraries, child care facilities, youth facilities, parks, churches, and other dispensaries.

State law provides that a medical marijuana dispensary cannot be located within a 600 foot radius of schools and specifically provides that a local agency can further restrict the "location or establishment" of a dispensary within its jurisdiction (Attachment 12). Various other bills are pending at the State level related to the location and operation of dispensaries, including Senate Bill 847 which would amend state law to provide that no medical marijuana collective, cooperative, or dispensary shall be located within a 600-foot radius of a residential zone or residential use unless a city or county adopts an ordinance specifically regulating the location of those establishments in relation to residential zones and uses.

DISCUSSION:

The attached ordinances are offered as the best way to balance medical marijuana patients' needs with the health and safety concerns of the general public in the City of Imperial Beach based on the most recent direction from the City Council. They attempt to balance California law, which actively permits medical marijuana for qualified patients, and federal law, which actively prohibits it. What the ordinances prohibit, though, are significant cooperative growth and sale of marijuana within the City through storefront dispensaries.

The ordinances would not ban medical marijuana in the City. Qualified patients and primary caregivers are allowed certain rights to possess, cultivate and use medical marijuana under State law and none of those rights are affected by the proposed ordinances. Further, the ordinances exempt interactions between qualified medical marijuana patients and their primary caregivers, as the definition of a prohibited medical marijuana distribution facility only applies when marijuana is supplied to *two* or more persons.

Several reasons justify this approach. First, the City believes prohibiting large-scale dispensaries is appropriate because of the negative effects dispensaries have on the community's health and safety. Both from the attached white paper and from information obtained from other sources, it is apparent that dispensaries allowed in other communities have frequently attracted criminal conduct, including burglaries and robberies, possession of other drugs, non-medical marijuana possession and consumption, and other secondary impacts. The Sheriff's Department will present further information at the Council meeting related to the secondary effects of dispensaries on surrounding neighborhoods.

Further, large-scale dispensaries are inconsistent with the City's character. The City is a small beach community seeking to attract tourism. Adding dispensaries to the City, with their attendant crime, is inconsistent with this objective. Unlike many other cities which have allowed dispensaries, Imperial Beach does not have industrial zones in which to locate dispensaries or any other zoning with adequate boundaries from sensitive uses. The City, which is only four square miles in area, two of which are entirely occupied by the Tijuana Estuary, has very small commercial zones. The City simply does not have land available that is sufficiently distant from schools, parks, residences and other similar land uses. Accordingly, the City is ill-equipped to provide for dispensaries while providing a safe and clean environment for children and others in the City.

Lastly, the City does not have sufficient personnel to provide the necessary levels for monitoring and regulating dispensaries to ensure security, non-diversion of marijuana to illicit markets and compliance with all State and local laws as is required pursuant to the Attorney General's guidelines.

City Staff has created a map to assist the Council in considering this issue (Attachment 13). The attachment shows that if marijuana dispensaries were permitted no closer than 600 feet from schools, churches, and parks, and 500 feet from residences, there would be no site available in the General Commercial (C-1) Zone. The 500 feet from residential zoned properties is half that required by the County and the 600 foot separation is consistent with San Diego's requirement related to schools, parks, churches and other facilities previously mentioned. If the City were to allow dispensaries in the General Commercial (C-1) Zone, the City's ordinance would be more permissive of dispensaries than either the County or City of San Diego's ordinances. Nonetheless, even by relaxing standards significantly, any dispensary in the C-1 Zone would be located close to residential areas or other sensitive land uses. This map shows that there is no adequate location for a dispensary in the City of Imperial Beach consistent with maintaining the health, safety, and welfare of the City's residents.

As noted in Attachment 7, these proposed ordinances would not deprive City residents of access to dispensaries. There is no shortage of dispensaries near the City to which residents have easy access (Attachment 7). Further, qualified patients and primary caregivers are allowed under state law to cultivate marijuana.

There are two ordinances involved with this action. Ordinance 2011-1119 regulates land use, and 2011-1118 regulates businesses.

The business license ordinance (Ordinance 2011-1118) will take effect thirty (30) days after approval at its second reading (Attachment 1). The business license ordinance defines a "medical marijuana distribution facility" and provides specific exceptions to the definition for certain state licensed medical and care facilities. Further, it prohibits the operation or establishment of a medical marijuana distribution facility within the City limits.

The zoning ordinance (Ordinance 2011-1119) will take effect upon approval by the Coastal Commission (Attachment 3). The zoning ordinance has been circulated (pursuant to California Code of Regulations, Title 14, Section 13515) for public review from April 14, 2011 through May 26, 2011, following the processes required for a Local Coastal Plan amendment, allowing for a 45-day review period prior to this Council meeting. No public comments through this review process have been received to date. Upon passage, the zoning ordinance will be submitted for review and approval by the California Coastal Commission. Additionally, if Council approves the introduction of the zoning ordinance at this meeting, then on July 6, 2011, Council will need to adopt a resolution to certify that the zoning ordinance complies with the Coastal Act and shall be submitted to the Coastal Commission for approval (Attachment 2).

These ordinances do not provide for criminal enforcement. Those who violate the ordinances can still face administrative citations and fines, civil penalties, civil lawsuits, and nuisance abatement actions.

Several attachments to this staff report include various documents submitted by members of the public for Council's consideration (Attachments 14-21).

ENVIRONMENTAL DETERMINATION:

Pursuant to Title 14 of the California Code of Regulations, section 15061(b)(3), these ordinances are exempt from the requirements of the California Environmental Quality Act ("CEQA") in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

FISCAL IMPACT:

None.

DEPARTMENT RECOMMENDATION:

Staff recommends that the Mayor and City Council hold the public hearing and consider the attached ordinances. If Council chooses:

1. Receive this report;
2. Receive public comments;
3. Mayor calls for the introduction of Ordinance No. 2011-1118 (Business ordinance), "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, AMENDING TITLE 4 (BUSINESS LICENSING AND REGULATION) OF THE IMPERIAL BEACH MUNICIPAL CODE BY ADDING CHAPTER 4.60 (MEDICAL MARIJUANA DISTRIBUTION FACILITIES)";
4. City Clerk reads title of Ordinance No. 2011-1118;
5. Motion to dispense first reading of Ordinance No. 2011-1118 and set the matter for adoption at the next regularly scheduled City Council meeting;
6. Mayor calls for the introduction of Ordinance No. 2011-1119 (Zoning ordinance), "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, ADDING CHAPTER 19.61 (MEDICAL MARIJUANA DISTRIBUTION FACILITIES) TO TITLE 19 (ZONING) OF THE IMPERIAL BEACH MUNICIPAL CODE AND REPEALING ORDINANCE 2010-1107";
7. City Clerk reads title of Ordinance No. 2011-1119; and
8. Motion to dispense first reading of Ordinance No. 2011-1119 and set the matter for adoption at the next regularly scheduled City Council meeting.

CITY MANAGER'S RECOMMENDATION:

Approve Department recommendation.



Gary Brown, City Manager

Attachments:

1. Ordinance No. 2011-1118 (Business ordinance)
2. Draft July 6, 2011 Coastal Commission Resolution
3. Ordinance No. 2011-1119 (Zoning ordinance)
4. Proposition 215 (the Compassionate Use Act)
5. Senate Bill 420 (the Medical Marijuana Program)
6. Attorney General Guidelines
7. Nearby Dispensary Locations
8. California Police Chiefs Association: *"White Paper on Marijuana Dispensaries"*
9. Adverse Secondary Effects Summary
10. December 15, 2010 Staff Report: Item No. 6.4 – Consideration of Medical Marijuana Regulation
11. December 15, 2010 Minutes for Item No. 6.4
12. AB 2650
13. Map of Sample Dispensary Buffers
14. E-mail Correspondence received from Roy Gage, dated May 31, 2011
15. E-mail Correspondence received from Jon Sullivan, dated June 1, 2011 and attachment listing cities and counties w/ illegal store front ordinances
16. Letter from Washington State Governor Christine Gregoire, dated April 13, 2011
17. Letter from United States Attorneys Jenny Durkan and Michael Ornsby, dated April 14, 2011
18. 263 Identical letters in support for medical cannabis facilities in Imperial Beach (258 from residents of Imperial Beach; 2 with PO Boxes in Imperial Beach; 3 from outside of Imperial Beach)
19. Article by John Ingold and Nancy Lofholm, The Denver Post, dated 1/24/11
20. Information submitted by Marcus Boyd entitled *"Medical Cannabis Dispensing Collectives and Local Regulation"*
21. E-mail Correspondence received from Monica Moore, dated June 6, 2011
22. E-mail Correspondence received from Diego Di Maria, dated June 9, 2011 (Note: The document referenced in the correspondence is Attachment No. 6.)

ORDINANCE NO. 2011-1118

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF IMPERIAL BEACH, CALIFORNIA, AMENDING TITLE 4 (BUSINESS LICENSING AND REGULATION) OF THE IMPERIAL BEACH MUNICIPAL CODE BY ADDING CHAPTER 4.60 (MEDICAL MARIJUANA DISTRIBUTION FACILITIES).

WHEREAS, in 1970, Congress enacted the Controlled Substances Act (CSA) which, among other things, makes it illegal to import, manufacture, distribute, possess, or use marijuana in the United States; and

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, known as the Compassionate Use Act ("CUA") (codified as Health and Safety ("H&S") Code Section 11362.5 *et seq.*); and

WHEREAS, the CUA creates a limited exception from criminal liability for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances; and

WHEREAS, on January 1, 2004, the "Medical Marijuana Program" ("MMP"), codified as H&S Code Sections 11362.7 to 11362.83, was enacted by the state Legislature purporting to clarify the scope of the Act and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with the MMP; and

WHEREAS, the CUA expressly anticipates the enactment of additional local legislation. It provides: "Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes." (H&S Code section 11362.5); and

WHEREAS, the City Council takes legislative notice of the fact that several California cities and counties which have permitted the establishment of medical marijuana distribution facilities or "dispensaries" have experienced serious adverse impacts associated with and resulting from such uses. According to these communities, according to news stories widely reported, and according to medical marijuana advocates, medical marijuana dispensaries have resulted in and/or caused an increase in crime, including burglaries, robberies, violence, illegal sales of marijuana to, and use of marijuana by minors and other persons without medical need in the areas immediately surrounding such medical marijuana distribution facilities. The City Council reasonably anticipates that the City of Imperial Beach will experience similar adverse impacts and effects. A California Police Chiefs Association compilation of police reports, news stories, and statistical research regarding such secondary impacts is contained in a 2009 white paper report located at <http://www.procon.org/sourcefiles/CAPCAWhitePaperonMarijuanaDispensaries.pdf>; and

WHEREAS, the City Council further takes legislative notice that as of December 2010, according to at least one compilation, 103 cities and 14 counties in California have adopted moratoria or interim ordinances prohibiting medical marijuana dispensaries. The City Council further takes legislative notice that at least 139 cities and 11 counties have adopted prohibitions against medical marijuana dispensaries. The compilation is available at: <http://www.safeaccessnow.org/article.php?id=3165>; and

WHEREAS, the City Council further takes legislative notice that the California Attorney General has adopted guidelines for the interpretation and implementation of the state's medical marijuana laws, entitled "GUIDELINES FOR THE SECURITY AND NON-DIVERSION OF MARIJUANA GROWN FOR MEDICAL USE (August 2008)" (http://ag.ca.gov/cms_attachments/press/pdfs/n1601_medicalmarijuanaguidelines.pdf). The Attorney General has stated in the guidelines that "[a]lthough medical marijuana 'dispensaries' have been operating in California for years, dispensaries, as such, are not recognized under the law"; and

WHEREAS, the City Council further takes legislative notice that the experience of other cities has been that many medical marijuana distribution facilities or "dispensaries" do not operate as true cooperatives or collectives in compliance with the MMP and the Attorney General Guidelines, and thus these businesses are engaged in cultivation, distribution and sale of marijuana in a manner that remains illegal under both California and federal law; as a result, the City would be obligated to commit substantial resources to regulating and overseeing the operation of medical marijuana distribution facilities to ensure that the facilities operate lawfully and are not fronts for illegal drug trafficking; and, furthermore, it is uncertain whether even with the dedication of significant resources to the problem, the City would be able to prevent illegal conduct associated with medical marijuana distribution facilities, such as illegal cultivation and transport of marijuana and the distribution of marijuana between persons who are not qualified patients or caregivers under the CUA and MMP; and

WHEREAS, the City Council further takes legislative notice that concerns about non-medical marijuana use arising in connection with the CUA and the MMP also have been recognized by state and federal courts. (See, e.g., *Bearman v. California Medical Bd.* (2009) 176 Cal. App. 4th 1588; *People ex rel. Lungren v. Peron* (1997) 59 Cal. App. 4th 1383, 1386-1387; *Gonzales v. Raich* (2005) 545 U.S. 1); and

WHEREAS, the City Council further takes legislative notice that the use, possession, distribution, and sale of marijuana remain illegal under the federal Controlled Substances Act ("CSA") (*Bearman v. California Medical Bd.* (2009) 176 Cal. App. 4th 1588); that the federal courts have recognized that despite California's CUA and MMP, marijuana is deemed to have no accepted medical use (*Gonzales v. Raich*, 545 U.S. 1; *United States v. Oakland Cannabis Buyers' Cooperative* (2001) 532 U.S. 483); that medical necessity has been ruled not to be a defense to prosecution under the CSA (*United States v. Oakland Cannabis Buyers' Cooperative*, 532 U.S. 483); and that the federal government properly may enforce the CSA despite the CUA and MMP (*Gonzales v. Raich*, 545 U.S. 1); and

WHEREAS, the City Council further takes legislative notice that the United States Attorney General in 2008 announced its intention to ease enforcement of federal laws as applied to medical marijuana dispensaries which otherwise comply with state law. There is no certainty how long this uncodified policy will remain in effect, and the underlying conflict between federal and state statutes still remains; and

WHEREAS, the tension between state and federal laws governing marijuana has created confusion about what authority cities have regarding the regulation of medical marijuana; and

WHEREAS, the City Council has discussed the adverse effects associated with medical marijuana dispensaries as shown in the December 15, 2010 City Council discussion, staff report and attachments related to proposed medical marijuana dispensary regulations which are

incorporated by reference and relied upon in approving this Ordinance and directed Staff to prepare this Ordinance; and

WHEREAS, the City Council has been concerned about the adverse effects associated with medical marijuana dispensaries and has discussed such effects adopting a moratorium on August 19, 2009 (Ord. No. 2009-1090) and extending it twice pursuant to applicable law (Ord. No. 2009-1091 and Ord. No. 2010-1107) and such ordinances are incorporated by reference and relied upon in approving this Ordinance; and

WHEREAS, the City of Imperial Beach, with a population of under 30,000, is one of the smallest cities in San Diego County; and

WHEREAS, the City of Imperial Beach is only about four (4) square miles in size, with two (2) square miles occupied by a marine estuary; and

WHEREAS, the City of Imperial Beach lacks industrial zones or any other location in the City that is subject to development which is separated adequately from residential neighborhoods, schools, and other similar sensitive land uses inconsistent with medical marijuana distribution facilities; and

WHEREAS, there are several medical marijuana distribution facilities in portions of the City of San Diego near the border with the City of Imperial Beach and the County of San Diego has regulations which allow medical marijuana distribution facilities to which citizens of Imperial Beach can go to obtain medical marijuana if necessary; and

WHEREAS, an ordinance prohibiting medical marijuana distribution facilities and prohibiting the issuance of any permits or entitlements for medical marijuana distribution facilities is necessary and appropriate to maintain and protect the public health, safety and welfare of the citizens of Imperial Beach; and

WHEREAS, the City Council is mindful of the needs of medical marijuana patients and has crafted this Ordinance in a manner that does not interfere with a patient's ability to produce his or her own medical marijuana or to obtain medical marijuana from a primary caregiver as allowed under applicable State law; and

WHEREAS, the City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and

WHEREAS, the City held a duly noticed public hearing on this Ordinance on June 15, 2011.

NOW, THEREFORE, the City Council of the City of Imperial Beach does ordain as follows:

Section 1. The above-listed findings are true and correct.

Section 2. Chapter 4.60 (Medical Marijuana Distribution Facilities) is added to the Imperial Beach Municipal Code to read as follows:

–Chapter 4.60 Medical Marijuana Distribution Facilities.

Section 4.60.010 Definitions.

Section 4.60.020 Prohibition.

Section 4.60.030 Violations—penalty.

Section 4.60.010 Definitions.

A. “Medical marijuana distribution facility” is (1) any facility or location, whether fixed or mobile, where marijuana is made available, sold, transmitted, given or otherwise provided to two or more persons with identification cards or qualified patients, or primary caregivers, as defined in California Health and Safety Code section 11362.5 *et. seq.* as amended from time to time, or (2) any facility where qualified patients, persons with identification cards and primary caregivers meet or congregate collectively and cooperatively to cultivate or distribute marijuana for medical purposes under the purported authority of California Health and Safety Code section 11362.5 *et. seq.*

B. “Medical marijuana distribution facility” shall not include any of the following facilities licensed and properly operating pursuant to the provisions of Division 2 of the California Health and Safety Code as long as any such use complies strictly with applicable law including, but not limited to California Health and Safety Code section 11362.5 *et. seq.* as amended from time to time:

1. A clinic;
2. A health facility;
3. A residential care facility for persons with chronic, life-threatening illnesses;
4. A licensed residential care facility for the elderly; or
5. A residential hospice or a home health agency.

Section 4.60.020 – Prohibition.

A. Medical marijuana distribution facilities are prohibited in the City of Imperial Beach, and no person shall operate or locate a medical marijuana distribution facility in the City of Imperial Beach. The City shall not issue, approve, or grant any permit, license, or other entitlement for the establishment or operation of a medical marijuana distribution facility in the City of Imperial Beach.

B. This Chapter does not apply where preempted by state or federal law.

Section 4.60.030 - Violations—penalty.

A. Any use or condition caused or permitted to exist in violation of any provisions of this Chapter shall be and is hereby declared a public nuisance and may be abated by the City pursuant to the procedures set forth in this Code.

B. Each violation of this Chapter and each day a violation of this Chapter continues to exist shall be considered a separate and distinct violation.

C. Notwithstanding any other provision in this Code, any person found to be in violation of this Chapter shall not be subject to criminal enforcement remedies as noted in this Code. All other means of enforcement authorized under this Code may be used to address violations of this Chapter, including but not limited to: civil penalties, nuisance abatement, civil actions, and administrative citations.”

Section 3. Severability. If any section, subsection, phrase or clause of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 4. This Ordinance shall take effect thirty (30) days after passage and approval by the City Council.

Section 5. Appeal Process under the California Code of Civil Procedure (CCP): The time within which judicial review of a City Council decision must be sought is governed by Section 1094.6 of the CCP. A right to appeal a City Council decision is governed by CCP Section 1094.5 and Chapter 1.18 of the Imperial Beach Municipal Code.

Section 6. The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, California, on the 15th day of June, 2011; and

THEREAFTER ADOPTED at a regular meeting of the City Council of the City of Imperial Beach, California, on the 6th day of July, 2011, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

JAMES C. JANNEY, MAYOR

ATTEST:

JACQUELINE M. HALD, CMC
CITY CLERK

APPROVED AS TO FORM:

**JENNIFER M. LYON
CITY ATTORNEY**

RESOLUTION NO. 2011-_____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, APPROVING, FOR THE PURPOSE OF SUBMITTING TO THE CALIFORNIA COASTAL COMMISSION, ORDINANCE NO. 2011-__ TO ADD CHAPTER 19.61 TO THE CITY OF IMPERIAL BEACH MUNICIPAL CODE, RELATING TO MEDICAL MARIJUANA DISTRIBUTION FACILITIES**

WHEREAS, the City circulated Ordinance No. 2011- _____ for public review for a period of 45 days pursuant to Title 14 of the California Code of Regulations section 13515 (14 CCR 13515) and California Government Code section 65352;

WHEREAS, the City Council of the City of Imperial Beach, conducted a duly noticed public hearing pursuant to applicable law, on June 15, 2011 to consider Ordinance No. 2011-_____, a proposed amendment to the City of Imperial Beach Local Coastal Program (LCP) Implementation Plan and receive public comments; and

WHEREAS, the City Council adopted Ordinance No. 2011-_____ at the regular meeting of July 6, 2011, which will become effective either thirty days after City Council approval or immediately upon approval by the California Coastal Commission, whichever occurs later; and

WHEREAS, the subject amendment is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines 15061 (b)(3) in that it can be seen with certainty that the ordinance does not have the potential for causing a significant effect on the environment; and

WHEREAS, the City Council certifies that the subject amendment has been properly approved and is consistent with the California Coastal Act of 1976, as amended, and the City of Imperial Beach Local Coastal Program.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Imperial Beach as follows:

1. The above-listed findings are true and correct.
2. Pursuant to Public Resources Code section 30510(a) and Title 14 of the California Code of Regulations section 13551, the City Council hereby certifies that Ordinance No. 2011-_____ which amends Title 19 of the Imperial Beach Municipal Code, will be carried out in a manner fully in conformity with the California Coastal Act of 1976, as amended, and the City of Imperial Beach Local Coastal Program.
3. The City Manager, or his designee, shall submit this Resolution along with Ordinance No. 2011-_____ for filing and approval by the California Coastal Commission, and shall take all steps necessary to obtain approval of Ordinance No. 2011-_____ by the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its meeting held on the 6th day of July 2011, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

JAMES C. JANNEY, MAYOR

ATTEST:

**JACQUELINE M. HALD, CMC
CITY CLERK**

ORDINANCE NO. 2011-1119

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, ADDING CHAPTER 19.61 (MEDICAL MARIJUANA DISTRIBUTION FACILITIES) TO TITLE 19 (ZONING) OF THE IMPERIAL BEACH MUNICIPAL CODE AND REPEALING ORDINANCE 2010-1107.

WHEREAS, in 1970, Congress enacted the Controlled Substances Act (CSA) which, among other things, makes it illegal to import, manufacture, distribute, possess, or use marijuana in the United States; and

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, known as the Compassionate Use Act ("CUA") (codified as Health and Safety ("H&S") Code Section 11362.5 *et seq.*); and

WHEREAS, the CUA creates a limited exception from criminal liability for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances; and

WHEREAS, on January 1, 2004, the "Medical Marijuana Program" ("MMP"), codified as H&S Code Sections 11362.7 to 11362.83, was enacted by the state Legislature purporting to clarify the scope of the Act and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with the MMP; and

WHEREAS, the CUA expressly anticipates the enactment of additional local legislation, providing that "Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes." (H&S Code section 11362.5); and

WHEREAS, the City Council takes legislative notice of the fact that several California cities and counties which have permitted the establishment of medical marijuana distribution facilities or "dispensaries" have experienced serious adverse impacts associated with and resulting from such uses. According to these communities, according to news stories widely reported, and according to medical marijuana advocates, medical marijuana dispensaries have resulted in and/or caused an increase in crime, including burglaries, robberies, violence, illegal sales of marijuana to, and use of marijuana by minors and other persons without medical need in the areas immediately surrounding such medical marijuana distribution facilities. The City Council reasonably anticipates that the City of Imperial Beach will experience similar adverse impacts and effects. A California Police Chiefs Association compilation of police reports, news stories, and statistical research regarding such secondary impacts is contained in a 2009 white paper report located at <http://www.procon.org/sourcefiles/CAPCAWhitePaperonMarijuanaDispensaries.pdf>; and

WHEREAS, the City Council further takes legislative notice that as of December 2010, according to at least one compilation, 103 cities and 14 counties in California have adopted moratoria or interim ordinances prohibiting medical marijuana dispensaries. The City Council further takes legislative notice that at least 139 cities and 11 counties have adopted prohibitions against medical marijuana dispensaries. The compilation is available at: <http://www.safeaccessnow.org/article.php?id=3165>; and

WHEREAS, the City Council further takes legislative notice that the California Attorney General has adopted guidelines for the interpretation and implementation of the state's medical marijuana laws, entitled "GUIDELINES FOR THE SECURITY AND NON-DIVERSION OF MARIJUANA GROWN FOR MEDICAL USE (August 2008)" (http://ag.ca.gov/cms_attachments/press/pdfs/n1601_medicalmarijuanaguidelines.pdf). The Attorney General has stated in the guidelines that "[a]lthough medical marijuana 'dispensaries' have been operating in California for years, dispensaries, as such, are not recognized under the law"; and

WHEREAS, the City Council further takes legislative notice that the experience of other cities has been that many medical marijuana distribution facilities or "dispensaries" do not operate as true cooperatives or collectives in compliance with the MMP and the Attorney General Guidelines, and thus these businesses are engaged in cultivation, distribution and sale of marijuana in a manner that remains illegal under both California and federal law; as a result, the City would be obligated to commit substantial resources to regulating and overseeing the operation of medical marijuana distribution facilities to ensure that the facilities operate lawfully and are not fronts for illegal drug trafficking; and, furthermore, it is uncertain whether even with the dedication of significant resources to the problem, the City would be able to prevent illegal conduct associated with medical marijuana distribution facilities, such as illegal cultivation and transport of marijuana and the distribution of marijuana between persons who are not qualified patients or caregivers under the CUA and MMP; and

WHEREAS, the City Council further takes legislative notice that concerns about non-medical marijuana use arising in connection with the CUA and the MMP also have been recognized by state and federal courts. (See, e.g., *Bearman v. California Medical Bd.* (2009) 176 Cal. App. 4th 1588; *People ex rel. Lungren v. Peron* (1997) 59 Cal. App. 4th 1383, 1386-1387; *Gonzales v. Raich* (2005) 545 U.S. 1); and

WHEREAS, the City Council further takes legislative notice that the use, possession, distribution, and sale of marijuana remain illegal under the federal Controlled Substances Act ("CSA") (*Bearman v. California Medical Bd.* (2009) 176 Cal. App. 4th 1588); that the federal courts have recognized that despite California's CUA and MMP, marijuana is deemed to have no accepted medical use (*Gonzales v. Raich*, 545 U.S. 1; *United States v. Oakland Cannabis Buyers' Cooperative* (2001) 532 U.S. 483); that medical necessity has been ruled not to be a defense to prosecution under the CSA (*United States v. Oakland Cannabis Buyers' Cooperative*, 532 U.S. 483); and that the federal government properly may enforce the CSA despite the CUA and MMP (*Gonzales v. Raich*, 545 U.S. 1); and

WHEREAS, the City Council further takes legislative notice that the United States Attorney General in 2008 announced its intention to ease enforcement of federal laws as applied to medical marijuana dispensaries which otherwise comply with state law. There is no certainty how long this uncodified policy will remain in effect, and the underlying conflict between federal and state statutes still remains; and

WHEREAS, the tension between state and federal laws governing marijuana has created confusion about what authority cities have regarding the regulation of medical marijuana; and

WHEREAS, the City Council has discussed the adverse effects associated with medical marijuana dispensaries as shown in the December 15, 2010 City Council discussion, staff report and attachments related to proposed medical marijuana dispensary regulations which are incorporated by reference and relied upon in approving this Ordinance; and

WHEREAS, the City Council has been concerned about the adverse effects associated with medical marijuana dispensaries and has discussed such effects adopting a moratorium on August 19, 2009 (Ord. No. 2009-1090) and extending it twice pursuant to applicable law (Ord. No. 2009-1091 and Ord. No. 2010-1107) and such ordinances are incorporated by reference and relied upon in approving this Ordinance; and

WHEREAS, the City of Imperial Beach, with a population of under 30,000, is one of the smallest cities in San Diego County; and

WHEREAS, the City of Imperial Beach is only about four (4) square miles in size, with two (2) square miles occupied by a marine estuary; and

WHEREAS, the City of Imperial Beach lacks industrial zones or any other location in the City that is subject to development which is separated adequately from residential neighborhoods, schools, and other similar sensitive land uses inconsistent with medical marijuana distribution facilities; and

WHEREAS, there are several medical marijuana distribution facilities in portions of the City of San Diego near the border with the City of Imperial Beach and the County of San Diego has regulations which allow medical marijuana distribution facilities to which citizens of Imperial Beach can go to obtain medical marijuana if necessary; and

WHEREAS, pursuant to Government Code section 65300 *et seq.*, the City of Imperial Beach has adopted a General Plan which, among other things, supports economic development within the City of Imperial Beach; and

WHEREAS, medical marijuana dispensaries of the variety seen in some of the other cities discussed above are contrary to the goals established in the City's General Plan and Local Coastal Program such as Goal 11 "Small Beach Oriented Town" including more specifically:

Economic Development

The City shall foster development of a broader tax base to support residents of, and visitors to the City. However, this development must be compatible with the goal of remaining a small, beach-oriented town. Economic activities should focus on generating income through expanded local services, visitor serving uses and ecotourism and research related to the City's natural resources.; and

WHEREAS, an ordinance prohibiting medical marijuana distribution facilities and prohibiting the issuance of any land use permits or entitlements for medical marijuana distribution facilities is necessary and appropriate to maintain and protect the public health, safety and welfare of the citizens of Imperial Beach; and

WHEREAS, an ordinance prohibiting medical marijuana distribution facilities and prohibiting the issuance of any land use permits or entitlements for medical marijuana distribution facilities conform with and is adequate to carry out the certified land use plan; and

WHEREAS, the City Council certifies, pursuant to Coastal Commission Regulation 13551 and Public Resources Code section 30510 that the proposed zoning ordinance amendment establishing a prohibition on medical marijuana distribution facilities conforms with the provisions of the California Coastal Act of 1976 (Public Resources Code Sections 30000 *et seq.*); and

WHEREAS, the City Council is mindful of the needs of medical marijuana patients and has crafted this Ordinance in a manner that does not interfere with a patient's ability to produce his or her own medical marijuana or to obtain medical marijuana from a primary caregiver as allowed under applicable State law; and

WHEREAS, the City Council finds, pursuant to Title 14 of the California Code of Regulations, section 15061(b)(3), that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and

WHEREAS, on December 15, 2010, the City Council directed staff to prepare this zoning ordinance and circulate it as necessary to allow for Council consideration prior to expiration of Ordinance No. 2010-1107; and

WHEREAS, the City circulated this Ordinance for public review for a period of 45 days pursuant to Title 14 of the California Code of Regulations section 13515 (14 CCR 13515) and California Government Code section 65352 and held a duly noticed public hearing on this Ordinance on June 15, 2011; and

WHEREAS, the City Council finds, pursuant to Government Code Section 65860, the proposed Zoning Ordinance Amendment, Ordinance No. 2011-_____, to be consistent with the General Plan/Local Coastal Program; and

WHEREAS, this is the first submittal of an amendment to the zoning ordinance in this calendar year.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH DOES ORDAIN as follows:

Section 1. The above-listed findings are true and correct.

Section 2. Title 19 (Zoning) of the Imperial Beach Municipal Code is amended by adding a new Chapter 19.61 (Medical Marijuana Distribution Facilities) to read as follows:

"CHAPTER 19.61

19.61.010 Definitions.

19.61.020 Medical Marijuana Distribution Facilities.

19.61.030 Violations--penalty.

19.61.010 Definitions.

"Medical marijuana distribution facility" has the same meaning as in Section 4.60.010 of this Code.

19.61.020 Medical marijuana distribution facilities.

A. Medical marijuana distribution facilities are prohibited uses in all zoning districts in the City of Imperial Beach, and no person shall operate or locate a medical marijuana

distribution facility in the City of Imperial Beach. The City shall not issue, approve, or grant any permit, license, or other entitlement for the establishment or operation of a medical marijuana distribution facility in the City of Imperial Beach.

B. This Chapter does not apply where preempted by state or federal law.

19.61.030 Violations--penalty.

A. Any use or condition caused or permitted to exist in violation of any provisions of this Chapter shall be and is hereby declared a public nuisance and may be abated by the City pursuant to the procedures set forth in this Code.

B. Each violation of this Chapter and each day a violation of this Chapter continues to exist shall be considered a separate and distinct violation.

C. Notwithstanding any other provision in this Code, any person found to be in violation of this Chapter shall not be subject to criminal enforcement remedies as noted in this Code. All other means of enforcement authorized under this Code may be used to address violations of this Chapter, including but not limited to: civil penalties, nuisance abatement, civil actions, and administrative citations.”

Section 3. Severability. If any section, subsection, phrase or clause of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 4. Upon the effective date of this Ordinance (as described in Section 5 below), Ordinance No. 2010-1107 shall be repealed.

Section 5. This Ordinance shall take effect upon certification by the California Coastal Commission, but not sooner than thirty (30) days following its passage and adoption by the City Council.

Section 6. The City Council hereby finds, based on all the evidence in the record, that the proposed zoning code text amendments are consistent with the general plan goals, policies, and programs and the amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the city.

Section 7. Appeal Process under the California Code of Civil Procedure (CCP): The time within which judicial review of a City Council decision must be sought is governed by Section 1094.6 of the CCP. A right to appeal a City Council decision is governed by CCP Section 1094.5 and Chapter 1.18 of the Imperial Beach Municipal Code.

Section 8. The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

INTRODUCED AND FIRST READ during a public hearing at a regular meeting of the City Council of the City of Imperial Beach, California, on the 15th day of June, 2011; and

THEREAFTER ADOPTED at a regular meeting of the City Council of the City of Imperial Beach, California, on the 6th day of July, 2011, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

JAMES C. JANNEY, MAYOR

ATTEST:

JACQUELINE M. HALD, CMC
CITY CLERK

APPROVED AS TO FORM:

JENNIFER M. LYON
CITY ATTORNEY

Proposition 215 Text

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure adds a section to the Health and Safety Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

SECTION 1. Section 11362.5 is added to the Health and Safety Code, to read:

11362.5. (a) This section shall be known and may be cited as the Compassionate Use Act of 1996.

(b)(1) The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:

(A) To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would 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.

(B) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

(C) To encourage 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.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.

(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.

(d) Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

(e) For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

SECTION 2. If any provision of this measure or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the measure that can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

BILL NUMBER: SB 420 CHAPTERED
BILL TEXT

CHAPTER 875
FILED WITH SECRETARY OF STATE OCTOBER 12, 2003
APPROVED BY GOVERNOR OCTOBER 12, 2003
PASSED THE SENATE SEPTEMBER 11, 2003
PASSED THE ASSEMBLY SEPTEMBER 10, 2003
INTRODUCED FEBRUARY 20, 2003 BY Senator Vasconcellos
(Principal coauthor: Assembly Member Leno.)
(Coauthors: Assembly Members Goldberg, Hancock, and Koretz)

An act to add Article 2.5 (commencing with Section 11362.7) to Chapter 6 of Division 10 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 420, Vasconcellos. Medical marijuana.

Existing law, the Compassionate Use Act of 1996, prohibits any physician from being punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes. The act prohibits the provisions of law making unlawful the possession or cultivation of marijuana from applying to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

This bill would require the State Department of Health Services to establish and maintain a voluntary program for the issuance of identification cards to qualified patients and would establish procedures under which a qualified patient with an identification card may use marijuana for medical purposes. The bill would specify the department's duties in this regard, including developing related protocols and forms, and establishing application and renewal fees for the program.

The bill would impose various duties upon county health departments relating to the issuance of identification cards, thus creating a state-mandated local program.

The bill would create various crimes related to the identification card program, thus imposing a state-mandated local program. This bill would authorize the Attorney General to set forth and clarify details concerning possession and cultivation limits, and other regulations, as specified. The bill would also authorize the Attorney General to recommend modifications to the possession or cultivation limits set forth in the bill. The bill would require the Attorney General to develop and adopt guidelines to ensure the security and no diversion of marijuana grown for medical use, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement is required by this act for specified reasons.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) On November 6, 1996, the people of the State of California enacted the Compassionate Use Act of 1996 (hereafter the act), codified in Section 11362.5 of the Health and Safety Code, in order to allow seriously ill residents of the state, who have the oral or written approval or recommendation of a physician, to use marijuana for medical purposes without fear of criminal liability under Sections 11357 and 11358 of the Health and Safety Code.

(2) However, reports from across the state have revealed problems and uncertainties in the act that have impeded the ability of law enforcement officers to enforce its provisions as the voters intended and, therefore, have prevented qualified patients and designated primary caregivers from obtaining the protections afforded by the act.

(3) Furthermore, the enactment of this law, as well as other recent legislation dealing with pain control, demonstrates that more information is needed to assess the number of individuals across the state who are suffering from serious medical conditions that are not being adequately alleviated through the use of conventional medications.

(4) In addition, the act called upon the state and the federal government to develop a plan for the safe and affordable distribution of marijuana to all patients in medical need thereof.

(b) It is the intent of the Legislature, therefore, to do all of the following:

(1) Clarify the scope of the application of the act and facilitate the prompt identification of qualified patients and their designated primary caregivers in order to avoid unnecessary arrest and prosecution of these individuals and provide needed guidance to law enforcement officers.

(2) Promote uniform and consistent application of the act among the counties within the state.

(3) Enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects.

(c) It is also the intent of the Legislature to address additional issues that were not included within the act, and that must be resolved in order to promote the fair and orderly implementation of the act.

(d) The Legislature further finds and declares both of the following:

(1) A state identification card program will further the goals outlined in this section.

(2) With respect to individuals, the identification system established pursuant to this act must be wholly voluntary, and a patient entitled to the protections of Section 11362.5 of the Health and Safety Code need not possess an identification card in order to claim the protections afforded by that section.

(e) The Legislature further finds and declares that it enacts this act pursuant to the powers reserved to the State of California and its people under the Tenth Amendment to the United States Constitution.

SEC. 2. Article 2.5 (commencing with Section 11362.7) is added to Chapter 6 of Division 10 of the Health and Safety Code, to read:

Article 2.5. Medical Marijuana Program

11362.7. For purposes of this article, the following definitions shall apply:

(a) "Attending physician" means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.

(b) "Department" means the State Department of Health Services.

(c) "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article.

(d) "Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

(1) In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

(2) An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

(3) An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

(e) A primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.

(f) "Qualified patient" means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.

(g) "Identification card" means a document issued by the State Department of Health Services that document identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

(h) "Serious medical condition" means all of the following medical conditions:

- (1) Acquired immune deficiency syndrome (AIDS).
- (2) Anorexia.
- (3) Arthritis.
- (4) Cachexia.
- (5) Cancer.
- (6) Chronic pain.
- (7) Glaucoma.
- (8) Migraine.
- (9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.
- (10) Seizures, including, but not limited to, seizures associated with epilepsy.
- (11) Severe nausea.
- (12) Any other chronic or persistent medical symptom that either:
 - (A) Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101- 336).
 - (B) If not alleviated, may cause serious harm to the patient's safety or physical or mental health.

(i) "Written documentation" means accurate reproductions of those portions of a patient's medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of Section 11362.715, and that the patient may submit to a county health department or the county's designee as part of an application for an identification card.

11362.71. (a) (1) The department shall establish and maintain a voluntary program for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.

(2) The department shall establish and maintain a 24-hour, toll-free telephone number that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of an identification card issued by the department, until a cost-effective Internet Web-based system can be developed for this purpose.

(b) Every county health department, or the county's designee, shall do all of the following:

(1) Provide applications upon request to individuals seeking to join the identification card program.

(2) Receive and process completed applications in accordance with Section 11362.72.

(3) Maintain records of identification card programs.

(4) Utilize protocols developed by the department pursuant to paragraph (1) of subdivision (d).

(5) Issue identification cards developed by the department to approved applicants and designated primary caregivers.

(c) The county board of supervisors may designate another health-related governmental or nongovernmental entity or organization to perform the functions described in subdivision (b), except for an entity or organization that cultivates or distributes marijuana.

(d) The department shall develop all of the following:

(1) Protocols that shall be used by a county health department or the county's designee to implement the responsibilities described in subdivision (b), including, but not limited to, protocols to confirm the accuracy of information contained in an application and to protect the confidentiality of program records.

(2) Application forms that shall be issued to requesting applicants.

(3) An identification card that identifies a person authorized to engage in the medical use of marijuana and an identification card that identifies the person's designated primary caregiver, if any. The two identification cards developed pursuant to this paragraph shall be easily distinguishable from each other.

(e) No person or designated primary caregiver in possession of a valid identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana in an amount established pursuant to this article, unless there is reasonable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.

(f) It shall not be necessary for a person to obtain an identification card in order to claim the protections of Section 11362.5.

11362.715. (a) A person who seeks an identification card shall pay the fee, as provided in Section 11362.755, and provide all of the following to the county health department or the county's designee on a form developed and provided by the department:

(1) The name of the person, and proof of his or her residency within the county.

(2) Written documentation by the attending physician in the person's medical records stating that the person has been diagnosed with a serious medical condition and that the medical use of marijuana is appropriate.

(3) The name, office address, office telephone number, and California medical license number of the person's attending physician.

(4) The name and the duties of the primary caregiver.

(5) A government-issued photo identification card of the person and of the designated primary caregiver, if any. If the applicant is a person under 18 years of age, a certified copy of a birth certificate shall be deemed sufficient proof of identity.

(b) If the person applying for an identification card lacks the capacity to make medical decisions, the application may be made by the person's legal representative, including, but not limited to, any of the following:

(1) A conservator with authority to make medical decisions.

(2) An attorney-in-fact under a durable power of attorney for health care or surrogate decision maker authorized under another advanced health care directive.

(3) Any other individual authorized by statutory or decisional law to make medical decisions for the person.

(c) The legal representative described in subdivision (b) may also designate in the application an individual, including himself or herself, to serve as a primary caregiver for the person, provided that the individual meets the definition of a primary caregiver.

(d) The person or legal representative submitting the written information and documentation described in subdivision (a) shall retain a copy thereof.

11362.72. (a) Within 30 days of receipt of an application for an identification card, a county health department or the county's designee shall do all of the following:

(1) For purposes of processing the application, verify that the information contained in the application is accurate. If the person is less than 18 years of age, the county health department or its designee shall also contact the parent with legal authority to make medical decisions, legal guardian, or other person or entity with legal authority to make medical decisions, to verify the information.

(2) Verify with the Medical Board of California or the Osteopathic Medical Board of California that the attending physician has a license in good standing to practice medicine or osteopathy in the state.

(3) Contact the attending physician by facsimile, telephone, or mail to confirm that the medical records submitted by the patient are a true and correct copy of those contained in the physician's office records. When contacted by a county health department or the county's designee, the attending physician shall confirm or deny that the contents of the medical records are accurate.

(4) Take a photograph or otherwise obtain an electronically transmissible image of the applicant and of the designated primary caregiver, if any.

(5) Approve or deny the application. If an applicant who meets the requirements of Section 11362.715 can establish that an identification card is needed on an emergency basis, the county or its designee shall issue a temporary identification card that shall be valid for 30 days from the date of issuance. The county, or its designee, may extend the temporary identification card for no more than 30 days at a time, so long as the applicant continues to meet the requirements of this paragraph.

(b) If the county health department or the county's designee approves the application, it shall, within 24 hours, or by the end of the next working day of approving the application, electronically transmit the following information to the department:

(1) A unique user identification number of the applicant.

(2) The date of expiration of the identification card.

(3) The name and telephone number of the county health department or the county's designee that has approved the application.

(c) The county health department or the county's designee shall issue an identification card to the applicant and to his or her designated primary caregiver, if any, within five working days of approving the application.

(d) In any case involving an incomplete application, the applicant shall assume responsibility for rectifying the deficiency. The county shall have 14 days from the receipt of information from the applicant pursuant to this subdivision to approve or deny the application.

11362.735. (a) An identification card issued by the county health department shall be serially numbered and shall contain all of the following:

(1) A unique user identification number of the cardholder.

(2) The date of expiration of the identification card.

(3) The name and telephone number of the county health department or the county's designee that has approved the application.

(4) A 24-hour, toll-free telephone number, to be maintained by the department, that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of the card.

(5) Photo identification of the cardholder.

(b) A separate identification card shall be issued to the person's designated primary caregiver, if any, and shall include a photo identification of the caregiver.

11362.74. (a) The county health department or the county's designee may deny an application only for any of the following reasons:

(1) The applicant did not provide the information required by Section 11362.715, and upon notice of the deficiency pursuant to subdivision (d) of Section 11362.72, did not provide the information within 30 days.

(2) The county health department or the county's designee determines that the information provided was false.

(3) The applicant does not meet the criteria set forth in this article.

(b) Any person whose application has been denied pursuant to subdivision (a) may not reapply for six months from the date of denial unless otherwise authorized by the county health department or the county's designee or by a court of competent jurisdiction.

(c) Any person whose application has been denied pursuant to subdivision (a) may appeal that decision to the department. The county health department or the county's designee shall make available a telephone number or address to which the denied applicant can direct an appeal.

11362.745. (a) An identification card shall be valid for a period of one year.

(b) Upon annual renewal of an identification card, the county health department or its designee shall verify all new information and may verify any other information that has not changed.

(c) The county health department or the county's designee shall transmit its determination of approval or denial of a renewal to the department.

11362.755. (a) The department shall establish application and renewal fees for persons seeking to obtain or renew identification cards that are sufficient to cover the expenses incurred by the department, including the startup cost, the cost of reduced fees for Medi-Cal beneficiaries in accordance with subdivision (b), the cost of identifying and developing a cost-effective Internet Web-based system, and the cost of maintaining the 24-hour toll-free telephone number.

Each county health department or the county's designee may charge an additional fee for all costs incurred by the county or the county's designee for administering the program pursuant to this article.

(b) Upon satisfactory proof of participation and eligibility in the Medi-Cal program, a Medi-Cal beneficiary shall receive a 50 percent reduction in the fees established pursuant to this section.

11362.76. (a) A person who possesses an identification card shall:

(1) Within seven days, notify the county health department or the county's designee of any change in the person's attending physician or designated primary caregiver, if any.

(2) Annually submit to the county health department or the county's designee the following:

(A) Updated written documentation of the person's serious medical condition.

(B) The name and duties of the person's designated primary caregiver, if any, for the forthcoming year.

(b) If a person who possesses an identification card fails to comply with this section, the card shall be deemed expired. If an identification card expires, the identification card of any designated primary caregiver of the person shall also expire.

(c) If the designated primary caregiver has been changed, the previous primary caregiver shall return his or her identification card to the department or to the county health department or the county's designee.

(d) If the owner or operator or an employee of the owner or operator of a provider has been designated as a primary caregiver pursuant to paragraph (1) of subdivision (d) of Section 11362.7, of the qualified patient or person with an identification card, the owner or operator shall notify the county health department or the county's designee, pursuant to Section 11362.715, if a change in the designated primary caregiver has occurred.

11362.765. (a) Subject to the requirements of this article, the individuals specified in subdivision (b) shall not be subject, on that sole basis, to criminal liability under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. However, nothing in this section shall authorize the individual to smoke or otherwise consume marijuana unless otherwise authorized by this article, nor shall anything in this section authorize any individual or group to cultivate or distribute marijuana for profit.

(b) Subdivision (a) shall apply to all of the following:

(1) A qualified patient or a person with an identification card who transports or processes marijuana for his or her own personal medical use.

(2) A designated primary caregiver who transports, processes, administers, delivers, or gives away marijuana for medical purposes, in amounts not exceeding those established in subdivision (a) of Section 11362.77, only to the

qualified patient of the primary caregiver, or to the person with an identification card who has designated the individual as a primary caregiver.

(3) Any individual who provides assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in administering medical marijuana to the qualified patient or person or acquiring the skills necessary to cultivate or administer marijuana for medical purposes to the qualified patient or person.

(c) A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient or person with an identification card to enable that person to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, shall not, on the sole basis of that fact, be subject to prosecution or punishment under Section 11359 or 11360.

11362.77. (a) A qualified patient or primary caregiver may possess no more than eight ounces of dried marijuana per qualified patient. In addition, a qualified patient or primary caregiver may also maintain no more than six mature or 12 immature marijuana plants per qualified patient.

(b) If a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs.

(c) Counties and cities may retain or enact medical marijuana guidelines allowing qualified patients or primary caregivers to exceed the state limits set forth in subdivision (a).

(d) Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of marijuana under this section.

(e) The Attorney General may recommend modifications to the possession or cultivation limits set forth in this section. These recommendations, if any, shall be made to the Legislature no later than December 1, 2005, and may be made only after public comment and consultation with interested organizations, including, but not limited to, patients, health care professionals, researchers, law enforcement, and local governments. Any recommended modification shall be consistent with the intent of this article and shall be based on currently available scientific research.

(f) A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, may possess amounts of marijuana consistent with this article.

11362.775. Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall

not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

11362.78. A state or local law enforcement agency or officer shall not refuse to accept an identification card issued by the department unless the state or local law enforcement agency or officer has reasonable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.

11362.785. (a) Nothing in this article shall require any accommodation of any medical use of marijuana on the property or premises of any place of employment or during the hours of employment or on the property or premises of any jail, correctional facility, or other type of penal institution in which prisoners reside or persons under arrest are detained.

(b) Notwithstanding subdivision (a), a person shall not be prohibited or prevented from obtaining and submitting the written information and documentation necessary to apply for an identification card on the basis that the person is incarcerated in a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained.

(c) Nothing in this article shall prohibit a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained, from permitting a prisoner or a person under arrest who has an identification card, to use marijuana for medical purposes under circumstances that will not endanger the health or safety of other prisoners or the security of the facility.

(d) Nothing in this article shall require a governmental, private, or any other health insurance provider or health care service plan to be liable for any claim for reimbursement for the medical use of marijuana.

11362.79. Nothing in this article shall authorize a qualified patient or person with an identification card to engage in the smoking of medical marijuana under any of the following circumstances:

(a) In any place where smoking is prohibited by law.

(b) In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence.

(c) On a school bus.

(d) While in a motor vehicle that is being operated.

(e) While operating a boat.

11362.795. (a)(1) Any criminal defendant who is eligible to use marijuana pursuant to Section 11362.5 may request that the court confirm that he or she is allowed to use medical marijuana while he or she is on probation or released on bail.

(2) The court's decision and the reasons for the decision shall be stated on the record and an entry stating those reasons shall be made in the minutes of the court.

(3) During the period of probation or release on bail, if a physician recommends that the probationer or defendant use medical marijuana, the probationer or defendant may request a modification of the conditions of probation or bail to authorize the use of medical marijuana.

(4) The court's consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

(b) (1) Any person who is to be released on parole from a jail, state prison, school, road camp, or other state or local institution of confinement and who is eligible to use medical marijuana pursuant to Section 11362.5 may request that he or she be allowed to use medical marijuana during the period he or she is released on parole. A parolee's written conditions of parole shall reflect whether or not a request for a modification of the conditions of his or her parole to use medical marijuana was made, and whether the request was granted or denied.

(2) During the period of the parole, where a physician recommends that the parolee use medical marijuana, the parolee may request a modification of the conditions of the parole to authorize the use of medical marijuana.

(3) Any parolee whose request to use medical marijuana while on parole was denied may pursue an administrative appeal of the decision. Any decision on the appeal shall be in writing and shall reflect the reasons for the decision.

(4) The administrative consideration of the modification request authorized by this subdivision shall comply with the requirements of this section. 11362.8. No professional licensing board may impose a civil penalty or take other disciplinary action against a licensee based solely on the fact that the licensee has performed acts that are necessary or appropriate to carry out the licensee's role as a designated primary caregiver to a person who is a qualified patient or who possesses a lawful identification card issued pursuant to Section 11362.72. However, this section shall not apply to acts performed by a physician relating to the discussion or recommendation of the medical use of marijuana to a patient. These discussions or recommendations, or both, shall be governed by Section 11362.5.

11362.81. (a) A person specified in subdivision (b) shall be subject to the following penalties:

(1) For the first offense, imprisonment in the county jail for no more than six months or a fine not to exceed one thousand dollars (\$1,000), or both.

(2) For a second or subsequent offense, imprisonment in the county jail for no more than one year, or a fine not to exceed one thousand dollars (\$1,000), or both.

(b) Subdivision (a) applies to any of the following:

(1) A person who fraudulently represents a medical condition or fraudulently provides any material misinformation to a physician, county health department or the county's designee, or state or local law enforcement agency or officer, for the purpose of falsely obtaining an identification card.

(2) A person who steals or fraudulently uses any person's identification card in order to acquire, possess, cultivate, transport, use, produce, or distribute marijuana.

(3) A person who counterfeits, tampers with, or fraudulently produces an identification card.

(4) A person who breaches the confidentiality requirements of this article to information provided to, or contained in the records of, the department or of a county health department or the county's designee pertaining to an identification card program.

(c) In addition to the penalties prescribed in subdivision (a), any person described in subdivision (b) may be precluded from attempting to obtain, or obtaining or using, an identification card for a period of up to six months at the discretion of the court.

(d) In addition to the requirements of this article, the Attorney General shall develop and adopt appropriate guidelines to ensure the security and non-diversion of marijuana grown for medical use by patients qualified under the Compassionate Use Act of 1996.

11362.82. If any section, subdivision, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portion thereof.

11362.83. Nothing in this article shall prevent a city or other local governing body from adopting and enforcing laws consistent with this article.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

In addition, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for other costs mandated by the state because this act includes additional revenue that is specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate, within the meaning of Section 17556 of the Government Code.

EDMUND G. BROWN JR.
Attorney General



DEPARTMENT OF JUSTICE
State of California

**GUIDELINES FOR THE SECURITY AND NON-DIVERSION
 OF MARIJUANA GROWN FOR MEDICAL USE**
August 2008

In 1996, California voters approved an initiative that exempted certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana. In 2003, the Legislature enacted additional legislation relating to medical marijuana. One of those statutes requires the Attorney General to adopt “guidelines to ensure the security and nondiversion of marijuana grown for medical use.” (Health & Saf. Code, § 11362.81(d).¹) To fulfill this mandate, this Office is issuing the following guidelines to (1) ensure that marijuana grown for medical purposes remains secure and does not find its way to non-patients or illicit markets, (2) help law enforcement agencies perform their duties effectively and in accordance with California law, and (3) help patients and primary caregivers understand how they may cultivate, transport, possess, and use medical marijuana under California law.

I. SUMMARY OF APPLICABLE LAW

A. California Penal Provisions Relating to Marijuana.

The possession, sale, cultivation, or transportation of marijuana is ordinarily a crime under California law. (See, e.g., § 11357 [possession of marijuana is a misdemeanor]; § 11358 [cultivation of marijuana is a felony]; Veh. Code, § 23222 [possession of less than 1 oz. of marijuana while driving is a misdemeanor]; § 11359 [possession with intent to sell any amount of marijuana is a felony]; § 11360 [transporting, selling, or giving away marijuana in California is a felony; under 28.5 grams is a misdemeanor]; § 11361 [selling or distributing marijuana to minors, or using a minor to transport, sell, or give away marijuana, is a felony].)

B. Proposition 215 - The Compassionate Use Act of 1996.

On November 5, 1996, California voters passed Proposition 215, which decriminalized the cultivation and use of marijuana by seriously ill individuals upon a physician’s recommendation. (§ 11362.5.) Proposition 215 was enacted to “ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person’s health would benefit from the use of marijuana,” and to “ensure that patients and their primary caregivers who obtain and use marijuana for

¹ Unless otherwise noted, all statutory references are to the Health & Safety Code.

medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.” (§ 11362.5(b)(1)(A)-(B).)

The Act further states that “Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient’s primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or verbal recommendation or approval of a physician.” (§ 11362.5(d).) Courts have found an implied defense to the transportation of medical marijuana when the “quantity transported and the method, timing and distance of the transportation are reasonably related to the patient’s current medical needs.” (*People v. Trippet* (1997) 56 Cal.App.4th 1532, 1551.)

C. Senate Bill 420 - The Medical Marijuana Program Act.

On January 1, 2004, Senate Bill 420, the Medical Marijuana Program Act (MMP), became law. (§§ 11362.7-11362.83.) The MMP, among other things, requires the California Department of Public Health (DPH) to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers through a statewide identification card system. Medical marijuana identification cards are intended to help law enforcement officers identify and verify that cardholders are able to cultivate, possess, and transport certain amounts of marijuana without being subject to arrest under specific conditions. (§§ 11362.71(e), 11362.78.)

It is mandatory that all counties participate in the identification card program by (a) providing applications upon request to individuals seeking to join the identification card program; (b) processing completed applications; (c) maintaining certain records; (d) following state implementation protocols; and (e) issuing DPH identification cards to approved applicants and designated primary caregivers. (§ 11362.71(b).)

Participation by patients and primary caregivers in the identification card program is voluntary. However, because identification cards offer the holder protection from arrest, are issued only after verification of the cardholder’s status as a qualified patient or primary caregiver, and are immediately verifiable online or via telephone, they represent one of the best ways to ensure the security and non-diversion of marijuana grown for medical use.

In addition to establishing the identification card program, the MMP also defines certain terms, sets possession guidelines for cardholders, and recognizes a qualified right to collective and cooperative cultivation of medical marijuana. (§§ 11362.7, 11362.77, 11362.775.)

D. Taxability of Medical Marijuana Transactions.

In February 2007, the California State Board of Equalization (BOE) issued a Special Notice confirming its policy of taxing medical marijuana transactions, as well as its requirement that businesses engaging in such transactions hold a Seller’s Permit. (<http://www.boe.ca.gov/news/pdf/medseller2007.pdf>.) According to the Notice, having a Seller’s Permit does not allow individuals to make unlawful sales, but instead merely provides a way to remit any sales and use taxes due. BOE further clarified its policy in a

June 2007 Special Notice that addressed several frequently asked questions concerning taxation of medical marijuana transactions. (<http://www.boe.ca.gov/news/pdf/173.pdf>.)

E. Medical Board of California.

The Medical Board of California licenses, investigates, and disciplines California physicians. (Bus. & Prof. Code, § 2000, et seq.) Although state law prohibits punishing a physician simply for recommending marijuana for treatment of a serious medical condition (§ 11362.5(c)), the Medical Board can and does take disciplinary action against physicians who fail to comply with accepted medical standards when recommending marijuana. In a May 13, 2004 press release, the Medical Board clarified that these accepted standards are the same ones that a reasonable and prudent physician would follow when recommending or approving any medication. They include the following:

1. Taking a history and conducting a good faith examination of the patient;
2. Developing a treatment plan with objectives;
3. Providing informed consent, including discussion of side effects;
4. Periodically reviewing the treatment's efficacy;
5. Consultations, as necessary; and
6. Keeping proper records supporting the decision to recommend the use of medical marijuana.

(http://www.mbc.ca.gov/board/media/releases_2004_05-13_marijuana.html.)

Complaints about physicians should be addressed to the Medical Board (1-800-633-2322 or www.mbc.ca.gov), which investigates and prosecutes alleged licensing violations in conjunction with the Attorney General's Office.

F. The Federal Controlled Substances Act.

Adopted in 1970, the Controlled Substances Act (CSA) established a federal regulatory system designed to combat recreational drug abuse by making it unlawful to manufacture, distribute, dispense, or possess any controlled substance. (21 U.S.C. § 801, et seq.; *Gonzales v. Oregon* (2006) 546 U.S. 243, 271-273.) The CSA reflects the federal government's view that marijuana is a drug with "no currently accepted medical use." (21 U.S.C. § 812(b)(1).) Accordingly, the manufacture, distribution, or possession of marijuana is a federal criminal offense. (*Id.* at §§ 841(a)(1), 844(a).)

The incongruity between federal and state law has given rise to understandable confusion, but no legal conflict exists merely because state law and federal law treat marijuana differently. Indeed, California's medical marijuana laws have been challenged unsuccessfully in court on the ground that they are preempted by the CSA. (*County of San Diego v. San Diego NORML* (July 31, 2008) --- Cal.Rptr.3d ---, 2008 WL 2930117.) Congress has provided that states are free to regulate in the area of controlled substances, including marijuana, provided that state law does not positively conflict with the CSA. (21 U.S.C. § 903.) Neither Proposition 215, nor the MMP, conflict with the CSA because, in adopting these laws, California did not "legalize" medical marijuana, but instead exercised the state's reserved powers to not punish certain marijuana offenses under state law when a physician has recommended its use to treat a serious medical condition. (See *City of Garden Grove v. Superior Court (Kha)* (2007) 157 Cal.App.4th 355, 371-373, 381-382.)

In light of California's decision to remove the use and cultivation of physician-recommended marijuana from the scope of the state's drug laws, this Office recommends that state and local law enforcement officers not arrest individuals or seize marijuana under federal law when the officer determines from the facts available that the cultivation, possession, or transportation is permitted under California's medical marijuana laws.

II. DEFINITIONS

A. **Physician's Recommendation:** Physicians may not prescribe marijuana because the federal Food and Drug Administration regulates prescription drugs and, under the CSA, marijuana is a Schedule I drug, meaning that it has no recognized medical use. Physicians may, however, lawfully issue a verbal or written recommendation under California law indicating that marijuana would be a beneficial treatment for a serious medical condition. (§ 11362.5(d); *Conant v. Walters* (9th Cir. 2002) 309 F.3d 629, 632.)

B. **Primary Caregiver:** A primary caregiver is a person who is designated by a qualified patient and "has consistently assumed responsibility for the housing, health, or safety" of the patient. (§ 11362.5(e).) California courts have emphasized the consistency element of the patient-caregiver relationship. Although a "primary caregiver who consistently grows and supplies . . . medicinal marijuana for a section 11362.5 patient is serving a health need of the patient," someone who merely maintains a source of marijuana does not automatically become the party "who has consistently assumed responsibility for the housing, health, or safety" of that purchaser. (*People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1390, 1400.) A person may serve as primary caregiver to "more than one" patient, provided that the patients and caregiver all reside in the same city or county. (§ 11362.7(d)(2).) Primary caregivers also may receive certain compensation for their services. (§ 11362.765(c) ["A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided . . . to enable [a patient] to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, . . . shall not, on the sole basis of that fact, be subject to prosecution" for possessing or transporting marijuana].)

C. **Qualified Patient:** A qualified patient is a person whose physician has recommended the use of marijuana to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief. (§ 11362.5(b)(1)(A).)

D. **Recommending Physician:** A recommending physician is a person who (1) possesses a license in good standing to practice medicine in California; (2) has taken responsibility for some aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient; and (3) has complied with accepted medical standards (as described by the Medical Board of California in its May 13, 2004 press release) that a reasonable and prudent physician would follow when recommending or approving medical marijuana for the treatment of his or her patient.

III. GUIDELINES REGARDING INDIVIDUAL QUALIFIED PATIENTS AND PRIMARY CAREGIVERS

A. State Law Compliance Guidelines.

1. **Physician Recommendation:** Patients must have a written or verbal recommendation for medical marijuana from a licensed physician. (§ 11362.5(d).)

2. **State of California Medical Marijuana Identification Card:** Under the MMP, qualified patients and their primary caregivers may voluntarily apply for a card issued by DPH identifying them as a person who is authorized to use, possess, or transport marijuana grown for medical purposes. To help law enforcement officers verify the cardholder's identity, each card bears a unique identification number, and a verification database is available online (www.calmmp.ca.gov). In addition, the cards contain the name of the county health department that approved the application, a 24-hour verification telephone number, and an expiration date. (§§ 11362.71(a); 11362.735(a)(3)-(4); 11362.745.)

3. **Proof of Qualified Patient Status:** Although verbal recommendations are technically permitted under Proposition 215, patients should obtain and carry written proof of their physician recommendations to help them avoid arrest. A state identification card is the best form of proof, because it is easily verifiable and provides immunity from arrest if certain conditions are met (see section III.B.4, below). The next best forms of proof are a city- or county-issued patient identification card, or a written recommendation from a physician.

4. Possession Guidelines:

a) **MMP:**² Qualified patients and primary caregivers who possess a state-issued identification card may possess 8 oz. of dried marijuana, and may maintain no more than 6 mature or 12 immature plants per qualified patient. (§ 11362.77(a).) But, if “a qualified patient or primary caregiver has a doctor’s recommendation that this quantity does not meet the qualified patient’s medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient’s needs.” (§ 11362.77(b).) Only the dried mature processed flowers or buds of the female cannabis plant should be considered when determining allowable quantities of medical marijuana for purposes of the MMP. (§ 11362.77(d).)

b) **Local Possession Guidelines:** Counties and cities may adopt regulations that allow qualified patients or primary caregivers to possess

² On May 22, 2008, California’s Second District Court of Appeal severed Health & Safety Code § 11362.77 from the MMP on the ground that the statute’s possession guidelines were an unconstitutional amendment of Proposition 215, which does not quantify the marijuana a patient may possess. (See *People v. Kelly* (2008) 163 Cal.App.4th 124, 77 Cal.Rptr.3d 390.) The Third District Court of Appeal recently reached a similar conclusion in *People v. Phomphakdy* (July 31, 2008) --- Cal.Rptr.3d ---, 2008 WL 2931369. The California Supreme Court has granted review in *Kelly* and the Attorney General intends to seek review in *Phomphakdy*.

medical marijuana in amounts that exceed the MMP's possession guidelines. (§ 11362.77(c).)

c) **Proposition 215:** Qualified patients claiming protection under Proposition 215 may possess an amount of marijuana that is “reasonably related to [their] current medical needs.” (*People v. Trippet* (1997) 56 Cal.App.4th 1532, 1549.)

B. **Enforcement Guidelines.**

1. **Location of Use:** Medical marijuana may not be smoked (a) where smoking is prohibited by law, (b) at or within 1000 feet of a school, recreation center, or youth center (unless the medical use occurs within a residence), (c) on a school bus, or (d) in a moving motor vehicle or boat. (§ 11362.79.)

2. **Use of Medical Marijuana in the Workplace or at Correctional Facilities:** The medical use of marijuana need not be accommodated in the workplace, during work hours, or at any jail, correctional facility, or other penal institution. (§ 11362.785(a); *Ross v. RagingWire Telecomms., Inc.* (2008) 42 Cal.4th 920, 933 [under the Fair Employment and Housing Act, an employer may terminate an employee who tests positive for marijuana use].)

3. **Criminal Defendants, Probationers, and Parolees:** Criminal defendants and probationers may request court approval to use medical marijuana while they are released on bail or probation. The court's decision and reasoning must be stated on the record and in the minutes of the court. Likewise, parolees who are eligible to use medical marijuana may request that they be allowed to continue such use during the period of parole. The written conditions of parole must reflect whether the request was granted or denied. (§ 11362.795.)

4. **State of California Medical Marijuana Identification Cardholders:** When a person invokes the protections of Proposition 215 or the MMP and he or she possesses a state medical marijuana identification card, officers should:

a) Review the identification card and verify its validity either by calling the telephone number printed on the card, or by accessing DPH's card verification website (<http://www.calmmmp.ca.gov>); and

b) If the card is valid and not being used fraudulently, there are no other indicia of illegal activity (weapons, illicit drugs, or excessive amounts of cash), and the person is within the state or local possession guidelines, the individual should be released and the marijuana should not be seized. Under the MMP, “no person or designated primary caregiver in possession of a valid state medical marijuana identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana.” (§ 11362.71(e).) Further, a “state or local law enforcement agency or officer shall not refuse to accept an identification card issued by the department unless the state or local law enforcement agency or officer

has reasonable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.” (§ 11362.78.)

5. **Non-Cardholders:** When a person claims protection under Proposition 215 or the MMP and only has a locally-issued (i.e., non-state) patient identification card, or a written (or verbal) recommendation from a licensed physician, officers should use their sound professional judgment to assess the validity of the person’s medical-use claim:

a) Officers need not abandon their search or investigation. The standard search and seizure rules apply to the enforcement of marijuana-related violations. Reasonable suspicion is required for detention, while probable cause is required for search, seizure, and arrest.

b) Officers should review any written documentation for validity. It may contain the physician’s name, telephone number, address, and license number.

c) If the officer reasonably believes that the medical-use claim is valid based upon the totality of the circumstances (including the quantity of marijuana, packaging for sale, the presence of weapons, illicit drugs, or large amounts of cash), and the person is within the state or local possession guidelines or has an amount consistent with their current medical needs, the person should be released and the marijuana should not be seized.

d) Alternatively, if the officer has probable cause to doubt the validity of a person’s medical marijuana claim based upon the facts and circumstances, the person may be arrested and the marijuana may be seized. It will then be up to the person to establish his or her medical marijuana defense in court.

e) Officers are not obligated to accept a person’s claim of having a verbal physician’s recommendation that cannot be readily verified with the physician at the time of detention.

6. **Exceeding Possession Guidelines:** If a person has what appears to be valid medical marijuana documentation, but exceeds the applicable possession guidelines identified above, all marijuana may be seized.

7. **Return of Seized Medical Marijuana:** If a person whose marijuana is seized by law enforcement successfully establishes a medical marijuana defense in court, or the case is not prosecuted, he or she may file a motion for return of the marijuana. If a court grants the motion and orders the return of marijuana seized incident to an arrest, the individual or entity subject to the order must return the property. State law enforcement officers who handle controlled substances in the course of their official duties are immune from liability under the CSA. (21 U.S.C. § 885(d).) Once the marijuana is returned, federal authorities are free to exercise jurisdiction over it. (21 U.S.C. §§ 812(c)(10), 844(a); *City of Garden Grove v. Superior Court (Kha)* (2007) 157 Cal.App.4th 355, 369, 386, 391.)

IV. GUIDELINES REGARDING COLLECTIVES AND COOPERATIVES

Under California law, medical marijuana patients and primary caregivers may “associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes.” (§ 11362.775.) The following guidelines are meant to apply to qualified patients and primary caregivers who come together to collectively or cooperatively cultivate physician-recommended marijuana.

A. Business Forms: Any group that is collectively or cooperatively cultivating and distributing marijuana for medical purposes should be organized and operated in a manner that ensures the security of the crop and safeguards against diversion for non-medical purposes. The following are guidelines to help cooperatives and collectives operate within the law, and to help law enforcement determine whether they are doing so.

1. **Statutory Cooperatives:** A cooperative must file articles of incorporation with the state and conduct its business for the mutual benefit of its members. (Corp. Code, § 12201, 12300.) No business may call itself a “cooperative” (or “co-op”) unless it is properly organized and registered as such a corporation under the Corporations or Food and Agricultural Code. (*Id.* at § 12311(b).) Cooperative corporations are “democratically controlled and are not organized to make a profit for themselves, as such, or for their members, as such, but primarily for their members as patrons.” (*Id.* at § 12201.) The earnings and savings of the business must be used for the general welfare of its members or equitably distributed to members in the form of cash, property, credits, or services. (*Ibid.*) Cooperatives must follow strict rules on organization, articles, elections, and distribution of earnings, and must report individual transactions from individual members each year. (See *id.* at § 12200, et seq.) Agricultural cooperatives are likewise nonprofit corporate entities “since they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers.” (Food & Agric. Code, § 54033.) Agricultural cooperatives share many characteristics with consumer cooperatives. (See, e.g., *id.* at § 54002, et seq.) Cooperatives should not purchase marijuana from, or sell to, non-members; instead, they should only provide a means for facilitating or coordinating transactions between members.

2. **Collectives:** California law does not define collectives, but the dictionary defines them as “a business, farm, etc., jointly owned and operated by the members of a group.” (*Random House Unabridged Dictionary*; Random House, Inc. © 2006.) Applying this definition, a collective should be an organization that merely facilitates the collaborative efforts of patient and caregiver members – including the allocation of costs and revenues. As such, a collective is not a statutory entity, but as a practical matter it might have to organize as some form of business to carry out its activities. The collective should not purchase marijuana from, or sell to, non-members; instead, it should only provide a means for facilitating or coordinating transactions between members.

B. Guidelines for the Lawful Operation of a Cooperative or Collective:

Collectives and cooperatives should be organized with sufficient structure to ensure security, non-diversion of marijuana to illicit markets, and compliance with all state and local laws. The following are some suggested guidelines and practices for operating collective growing operations to help ensure lawful operation.

1. **Non-Profit Operation:** Nothing in Proposition 215 or the MMP authorizes collectives, cooperatives, or individuals to profit from the sale or distribution of marijuana. (See, e.g., § 11362.765(a) [“nothing in this section shall authorize . . . any individual or group to cultivate or distribute marijuana for profit”]).

2. **Business Licenses, Sales Tax, and Seller’s Permits:** The State Board of Equalization has determined that medical marijuana transactions are subject to sales tax, regardless of whether the individual or group makes a profit, and those engaging in transactions involving medical marijuana must obtain a Seller’s Permit. Some cities and counties also require dispensing collectives and cooperatives to obtain business licenses.

3. **Membership Application and Verification:** When a patient or primary caregiver wishes to join a collective or cooperative, the group can help prevent the diversion of marijuana for non-medical use by having potential members complete a written membership application. The following application guidelines should be followed to help ensure that marijuana grown for medical use is not diverted to illicit markets:

a) Verify the individual’s status as a qualified patient or primary caregiver. Unless he or she has a valid state medical marijuana identification card, this should involve personal contact with the recommending physician (or his or her agent), verification of the physician’s identity, as well as his or her state licensing status. Verification of primary caregiver status should include contact with the qualified patient, as well as validation of the patient’s recommendation. Copies should be made of the physician’s recommendation or identification card, if any;

b) Have the individual agree not to distribute marijuana to non-members;

c) Have the individual agree not to use the marijuana for other than medical purposes;

d) Maintain membership records on-site or have them reasonably available;

e) Track when members’ medical marijuana recommendation and/or identification cards expire; and

f) Enforce conditions of membership by excluding members whose identification card or physician recommendation are invalid or have expired, or who are caught diverting marijuana for non-medical use.

4. **Collectives Should Acquire, Possess, and Distribute Only Lawfully Cultivated Marijuana:** Collectives and cooperatives should acquire marijuana only from their constituent members, because only marijuana grown by a qualified patient or his or her primary caregiver may lawfully be transported by, or distributed to, other members of a collective or cooperative. (§§ 11362.765, 11362.775.) The collective or cooperative may then allocate it to other members of the group. Nothing allows marijuana to be purchased from outside the collective or cooperative for distribution to its members. Instead, the cycle should be a closed-circuit of marijuana cultivation and consumption with no purchases or sales to or from non-members. To help prevent diversion of medical marijuana to non-medical markets, collectives and cooperatives should document each member's contribution of labor, resources, or money to the enterprise. They also should track and record the source of their marijuana.

5. **Distribution and Sales to Non-Members are Prohibited:** State law allows primary caregivers to be reimbursed for certain services (including marijuana cultivation), but nothing allows individuals or groups to sell or distribute marijuana to non-members. Accordingly, a collective or cooperative may not distribute medical marijuana to any person who is not a member in good standing of the organization. A dispensing collective or cooperative may credit its members for marijuana they provide to the collective, which it may then allocate to other members. (§ 11362.765(c).) Members also may reimburse the collective or cooperative for marijuana that has been allocated to them. Any monetary reimbursement that members provide to the collective or cooperative should only be an amount necessary to cover overhead costs and operating expenses.

6. **Permissible Reimbursements and Allocations:** Marijuana grown at a collective or cooperative for medical purposes may be:

- a) Provided free to qualified patients and primary caregivers who are members of the collective or cooperative;
- b) Provided in exchange for services rendered to the entity;
- c) Allocated based on fees that are reasonably calculated to cover overhead costs and operating expenses; or
- d) Any combination of the above.

7. **Possession and Cultivation Guidelines:** If a person is acting as primary caregiver to more than one patient under section 11362.7(d)(2), he or she may aggregate the possession and cultivation limits for each patient. For example, applying the MMP's basic possession guidelines, if a caregiver is responsible for three patients, he or she may possess up to 24 oz. of marijuana (8 oz. per patient) and may grow 18 mature or 36 immature plants. Similarly, collectives and cooperatives may cultivate and transport marijuana in aggregate amounts tied to its membership numbers. Any patient or primary caregiver exceeding individual possession guidelines should have supporting records readily available when:

- a) Operating a location for cultivation;
- b) Transporting the group's medical marijuana; and
- c) Operating a location for distribution to members of the collective or cooperative.

8. **Security:** Collectives and cooperatives should provide adequate security to ensure that patients are safe and that the surrounding homes or businesses are not negatively impacted by nuisance activity such as loitering or crime. Further, to maintain security, prevent fraud, and deter robberies, collectives and cooperatives should keep accurate records and follow accepted cash handling practices, including regular bank runs and cash drops, and maintain a general ledger of cash transactions.

C. **Enforcement Guidelines:** Depending upon the facts and circumstances, deviations from the guidelines outlined above, or other indicia that marijuana is not for medical use, may give rise to probable cause for arrest and seizure. The following are additional guidelines to help identify medical marijuana collectives and cooperatives that are operating outside of state law.

1. **Storefront Dispensaries:** Although medical marijuana “dispensaries” have been operating in California for years, dispensaries, as such, are not recognized under the law. As noted above, the only recognized group entities are cooperatives and collectives. (§ 11362.775.) It is the opinion of this Office that a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law, but that dispensaries that do not substantially comply with the guidelines set forth in sections IV(A) and (B), above, are likely operating outside the protections of Proposition 215 and the MMP, and that the individuals operating such entities may be subject to arrest and criminal prosecution under California law. For example, dispensaries that merely require patients to complete a form summarily designating the business owner as their primary caregiver – and then offering marijuana in exchange for cash “donations” – are likely unlawful. (*Peron, supra*, 59 Cal.App.4th at p. 1400 [cannabis club owner was not the primary caregiver to thousands of patients where he did not consistently assume responsibility for their housing, health, or safety].)

2. **Indicia of Unlawful Operation:** When investigating collectives or cooperatives, law enforcement officers should be alert for signs of mass production or illegal sales, including (a) excessive amounts of marijuana, (b) excessive amounts of cash, (c) failure to follow local and state laws applicable to similar businesses, such as maintenance of any required licenses and payment of any required taxes, including sales taxes, (d) weapons, (e) illicit drugs, (f) purchases from, or sales or distribution to, non-members, or (g) distribution outside of California.



This Episode: WeedMaps TV Ep.5: Paid Dues



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South Bay SD Marijuana Dispensaries

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<p>Progressive Medical Collective, Inc. FEATURED 1100 Written by Progressive Medical January 03, 2011 Hits: 12851 12</p> <p>No longer the newest, but still the best! Come check out the South Bay's finest collective, Progressive Medical. Our friendly and knowledgeable staff is here to provide safe access to top quality medication at a discreet location. There is parking for disabled persons right in front, and our facility is...</p> <p>Read more Read reviews Write review</p>	12851	4.7 avg of 41 reviewers
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<p>POK Planet of Kind 1000 Written by Trofi August 01, 2010 Hits: 17505 17</p> <p>POK HAS REACHED FULL CAPACITY AND IS NO LONGER EXCEPTING NEW MEMBERS !!! BHANG CANNABIS CHOCOLATE BARS ARE NOW HERE!!! SOUTH BAYS ONLY SOURCE!!! NEW DELIVERY MINIMUM FOR SOUTH BAY PATIENTS 92154 ZIP CODE: 20 MINIMUM DONATION ALL OF SOUTH BAY: 25 MINIMUM DONATION EXISTING MEMBERS BY APPOINTMENT...</p> <p>Read more Read reviews Write review</p>	17505	4.8 avg of 117 reviewers
<p>GSC Wellness 1000 Written by EdensGarden November 25, 2010 Hits: 12341 17</p> <p>PUNA BUDDAH is Still BACK... What did we tell you!!! *****</p>	12341	4.3 avg of 76 reviewers

	<p>Read more Read reviews Write review</p> <p>Tree House Club NEW 7825 11</p> <p>Written by treehousesandiego November 10, 2010 Hits: 7825 11</p> <p>see the strains page on our website www.thcsandiego.com for current menu We are a non-profit association of patients and caregivers providing a safe and secure environment to resources in compliance with the Compassionate Use Act (CA Health and Safety Code</p> <p>11362.5) We help patients and caregivers to safely promote...</p> <p>Read more Read reviews Write review</p>	4.2 avg of 41 reviewers
	<p>ATA - American Treatment Advancement Cooperative 6740 14</p> <p>Written by ATA January 31, 2011 Hits: 6740 14</p> <p>NEW PATIENTS & REFFERALS: (4.5 gm 1/8) + (FREE EDIBLE) OR (1.5 gm single gram) + (FREE EDIBLE)Most Compassionate Prices And Care, Come Experience The Difference!RETURN PATIENTS ALWAYS RECEIVE A GIFT WITH MINIMUM DONATION!!!</p> <p>Read more Read reviews Write review</p>	4.8 avg of 23 reviewers
	<p>San Diego Medical Chula Vista; For Specials Call: 619 699 9968 4042 3</p> <p>Written by sandm February 15, 2011 Hits: 4042 3</p> <p>NEW ARRIVALS & SPECIALS: STRAWBERRY ROMULAN ✓; MENDOCINO BLUE DREAM ✓ (INDOOR, SMOOTH & EFFECTIVE); BLUE DREAM ✓ SHAKE (IT'S A KEEPER) TOP SHELF SHAKE (only 80 per oz.); OVER SIZED CHARLIE SHEEN ✓ BROWNIES \$15 ! Call 4 Specials : \$8.40 PER GRAM 4 1oz purch/FREE DELIV ! (2 select...</p> <p>Read more Read reviews Write review</p>	5.0 avg of 11 reviewers
	<p>Calibis Collective 2961 2</p> <p>Written by CalibisCollective March 24, 2011 Hits: 2961 2</p> <p>::BRAND NEW LOCATION:: Open for regular 10am-9pm hours Monday thru Saturday, at our new location below! We will be Honored to serve you with knowledgable staff and great meds at 2360 Reo Drive San Diego, CA 92139 Hope to See you! thanks! 1ST TIME PATIENT GIFT - preroll!Lots of strains...</p> <p>Read more Read reviews Write review</p>	4.7 avg of 7 reviewers
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	<p>Natures Best Collective South Bay 1/2 ounces+ delivery 3707 1</p> <p>Written by D.L. January 29, 2011 Hits: 3707 1</p> <p>WE DELIVER TOP MEDS DIRECT FROM OUR GROWS TO YOU!!ALL full ounces 260 or less. All 1/2 ounces 140 or less! Any two ounces 500 or less! Menu for Tuesday 5/24 GRAND DADDY 90/180 GRUMPY OG 110/200 PURPLE G13 ✓ 120/230 OGIESEL 120/230 GOLD KUSH 130/250 PURKLE URKLE 130/250 ...</p> <p>Read more Read reviews Write review</p>	5.0 avg of 1 reviewers
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- 

Paradise Harvest - we deliver to imperial beach, san ysidro, esca, and chula vista
 Written by paradiseharvest May 07, 2011 Hits: 376 1
 Buy a top shelf 1/8th get next 1/8th for \$154 gram 1/8th's Buy one 1/8th and get one free on select strains for first time patients Paradise Harvest is committed to providing members of our collective safe and alternative choices in medicinal marijuana products. Whether you are shopping for pre...

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 Written by OasisOG March 28, 2011 Hits: 614 1
 Oasis OG is the highest grade of medicinal cannabis available and every batch is lab tested and certified by an independent lab. The flavor, smell and potency are in a league of its own. Oasis OG \$180/half oz, \$350/oz Free Delivery 1/4oz and up Visit OasisOG.com or call...

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 Written by OasisOG March 28, 2011 Hits: 837 1
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I'm Smoking on...

- 

BigNickSD Super Lemon OG v Kush!! A great way to start the day and exclusively at BANKERS HILL CARE!! ... [+]
 27 minutes ago 0 comment
- 

LegendaryWellness Vapin' Dr. Greenthumbs Soul Assassin OG Kush v outta our Digital Volcano! Loving it! Exclusively available at Legendary Wellness! ... [+]
 29 minutes ago 0 comment
- 

KoalaSmoke X-Rated Dreams - makin my 'O' faces right now! ... [+]
 33 minutes ago 0 comment
- 

RockBrook, Inc. Volcano Bags of MK ULTRA v and DEATHSTAR! ... [+]
 38 minutes ago 0 comment

COMMUNITY ACTIVITY STREAM

- 

Green Stop Wellness Center (On the corner of Beryl and Mentone Blvd.) added a new item to their WeedMenu, Hardball OG \$18 55 110 200!
 6 seconds ago
- 

MedMar Healing Center's listing MedMar Healing Center has been updated by MedMar Healing Center.
 21 seconds ago
- 

helpinguout's listing take away the pain with \$10 grams \$30 1/8ths ***We now have an ATM*** has been updated by helpinguout.
 40 seconds ago



TODAY'S PRIZE
Party Hammer
 Donated By:
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Home >> South Bay SD Marijuana Dispensaries

ATA - American Treatment Advancement Cooperative



Written by ATA January 31, 2011 Hits: 6746

4.8 avg of 23 reviewers

DISPENSARIES

Dispensary American Treatment Advancement Cooperative Inc.
Name
Dispensary 3025 Beyer Boulevard Suite E-102
Address
City San Diego
State California
Zip Code 92154
Phone (619) 781-8155
Number
Hours of Operation Mon & Thur - 8AM-6:30PM, Tue-Wed - 8AM-8PM, Fri-Sat - 8AM-8PM, Sunday - Community Volunteering Day
Website URL <http://www.ATA-CA.ORG>
E-Mail info@ata-ca.org
...and is it Yes
Brick & Mortar?
Accepts Credit Cards? Yes
18 Years Old Yes
OK?



0
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Search: eg. "grape ape"

updated yesterday

Lemon Frost Og	18^g	50^{1/8}	100^{1/4}	170^{1/2}	340^{oz}	Low
Purple Bubba ✓	18^g	50^{1/8}	100^{1/4}	170^{1/2}	340^{oz}	SALE!
Icy Purple	15^g	45^{1/8}	90^{1/4}	150^{1/2}	300^{oz}	Purple
Cherry Og	15^g	40^{1/8}	80^{1/4}	140^{1/2}	260^{oz}	Low
Purple Kush ✓	15^g	40^{1/8}	80^{1/4}	140^{1/2}	260^{oz}	NEW
average prices	17.0 ^g	47.9 ^{1/8}	95.7 ^{1/4}	168.6 ^{1/2}	320.0 ^{oz}	

SATIVA

Green Crack ✓	18^g	50^{1/8}	100^{1/4}	170^{1/2}	340^{oz}	NEW
True Blue Dream ✓	15^g	45^{1/8}	90^{1/4}	150^{1/2}	300^{oz}	DANK!
Pineapple Express ✓	10^g	35^{1/8}	60^{1/4}	120^{1/2}	230^{oz}	NEW
average prices	14.3 ^g	43.3 ^{1/8}	83.3 ^{1/4}	146.7 ^{1/2}	290.0 ^{oz}	

HYBRID

Blackberry Kush ✓	18^g	50^{1/8}	100^{1/4}	170^{1/2}	340^{oz}	Pom
Raspberry Bubba ✓	18^g	55^{1/8}	105^{1/4}	175^{1/2}	345^{oz}	RARE
King Bubba ✓	18^g	55^{1/8}	105^{1/4}	175^{1/2}	345^{oz}	FROSTY
Master Yoda	18^g	55^{1/8}	105^{1/4}	175^{1/2}	345^{oz}	DANK!
Dark Angel	18^g	55^{1/8}	105^{1/4}	175^{1/2}	345^{oz}	
Grand Daddy Purple	10^g	35^{1/8}	60^{1/4}	120^{1/2}	230^{oz}	SALE!
average prices	16.7 ^g	50.8 ^{1/8}	96.7 ^{1/4}	165.0 ^{1/2}	325.0 ^{oz}	

EDIBLE

Chocolate Chip Pecan Pie (Slice)	10^{ea.}	RARE
Chocolate Peanut Butter Popcom With Nuts	10^{ea.}	Low
Banana Bread Mini Loaf	10^{ea.}	Popular
Mini Palm Ear Cookies With Butterscotch Drizzle	5^{ea.}	Low
Chocolate Dipped Strawberry With White Chocolate Drizzle (3 Pack)	5^{ea.}	Back
Powder Sugar Dusted Brownies	5^{ea.}	Fire!
Cinnamon Toasties	3^{ea.}	Popular
Fruiti Treats	3^{ea.}	Back
Chocolate Chip Cookie (Single)	3^{ea.}	NEW
White Chocolate Chip Macadamia Nut Cookie (Single)	3^{ea.}	NEW
Sugar Cookie (Single)	3^{ea.}	NEW

71,389 items & 2,005 dispensaries!

NEW PATIENTS & REFFERALS: (4.5 gm 1/8) + (FREE EDIBLE) OR (1.5 gm single gram) + (FREE EDIBLE)!

Most Compassionate Prices And Care, Come Experience The Difference!

RETURN PATIENTS ALWAYS RECEIVE A GIFT WITH MINIMUM DONATION!!!

medical menu

New items may become available and pictures and prices may not be updated immediately



G6 OG Kush



Lemon Kush

Co-op Gallery



Image hosting and Zoom Gallery by VillagePhotos.com

Quality Assurance guarantee

- Guaranteed accuracy of our measurements with NTEP (National Conference on Weights and Measures) certified equipment
- Staff that is knowledgeable both in product and health because all of our staff are LVN (Licensed Vocational Nurse) by the State of California
- Our Top Shelf product is grown indoor with 100% soil less hydroponics for complete quality and taste in mind
- We have our customer in mind, so we have complimentary candy, hot/cold tea, hot/cold water for your convenience
- First Class Leather Chairs and soft music in the background for a relaxing environment while your information is being processed
- Safety is always our number one goal and delays may occur, so we will make sure your visit is as comfortable and enjoyable as possible

Karma Guidelines

- No Smoking of Any Kind While Inside ATA Or The Three-Flags Business Park Premises
- Any medication received must stay sealed in its dispensed container and bag until you have arrived at your final destination, NEVER OPEN YOUR RECEIVED MEDICATION BEFORE ARRIVING TO YOUR FINAL DESTINATION
- Parking Spaces Directly In Front Of ATA Should Be Reserved For Our Handicapped And Disabled Members, Please Be Considerate
- No Operating of Any Hand Held Devices While in the Facility, At Any time, NO EXCEPTIONS. This includes devices such as but not limited to: iPods, Cell Phones, cameras, game devices, laptops, netbooks, etc. If you have any questions regarding your devices please see a staff member for assistance
- Members of ATA are responsible citizens and members of this community, please treat all members, staff, and this community with the respect you and the community deserves. Actions proven contrary to this statement will result in immediate termination of your membership
- ATA operates as a private Co-Operative; as such ATA reserves the right to deny membership or service to anybody at any time. Note that membership may be revoked or altered at any time, and at will
- Possession or use of Weapons, Illegal Drugs or Substances/Prescribed Narcotics, Alcohol or other contraband is STRICTLY PROHIBITED and will result in Law Enforcement action. For your safety and the safety of others, please do not bring any object that may be used as a weapon into our facility or within the Three-Flag business park property
- ATA is a health treatment center specializing in the treatment of patients suffering from painful, chronic, and terminal illnesses; as such, please dress and conduct yourself in a manner that is reflective of this environment. Members failing to do so may be asked to return at a later time when either attire or attitude is appropriate for our environment and will not be granted entry. Please do not bring non-patients with you, unless you require a caregiver. All members are asked to not leave anyone in your vehicle while you are inside as well.

Notice to law enforcement:

American Treatment Advancement Cooperative Inc. doing business as incorporated and is a CA Not For Profit Cooperative in accordance with California law. We have all the required and recommended legal paperwork and are following the state attorney general's dispensary guidelines. We operate as a Not For Profit and any funds earned will be used to provide member discounts, member services and to support charities and volunteer activities. We pay all applicable federal, state and local taxes. No one is enriched through our cooperative and we are here to provide safe access of medicine.

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User reviews

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Average user rating from: 23 user(s)

To write a review please register or login.

Overall rating:	4.8
Bud Quality:	4.7 (23)
Atmosphere:	5.0 (23)
Staff:	4.8 (23)
Accessibility:	4.8 (23)
Price:	4.7 (23)

Bad Banana

0 of 0 people found the following review helpful

Let me start out by saying that I go to this shop quite often and have never been dissatisfied.....until now. My first gripe is the fact that every time I ask what the details on a strain are they never know.....So, what is it that makes it Master Yoda?, I asked,.....uummmm, uhhhh, well, I dont know, uuuhhh, thats just what the grower calls it, is the answer I got. I thought you guys were supposed to knowledgeable about the product you offer. Anyways thats not such a big deal as I can usually figure it out for myself. Second and last gripe is that I got an 1/8 of the banana diesel # yesterday after asking the BT how it was and getting a response of "I wouldnt sell anything that I wouldnt smoke". After getting it home and breaking down the first nug I discovered the it was full of what I call "micro seeds", you know, those tiny little white seeds that if you werent paying attention you would miss. As I know that this can sometimes happen, I just let it go, removed the seeds that I could and then got not so medicated on some pretty nasty lasting banana diesel #. This morning I discovered that the second bud that I have broken down also contains the "micro seeds" and is quite unpleasant tasting. Now Im not saying dont go here. Just dont expect for the staff to be well informed about thier meds, and slay away from the banana diesel #.....just about everything else here is quite good.

Overall rating:	4.0
Bud Quality:	3.0
Atmosphere:	5.0
Staff:	3.0
Accessibility:	5.0
Price:	4.0

 Reviewed by Shneeks
May 24, 2011
Top 500 Reviewer

Comments (0)
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Last updated: May 24, 2011

---* Official Collective Response *---

Dear Shneeks,

We at ATA deeply apologize for any dissatisfaction that you may have at ATA, and we care about our members satisfaction very much. We want to replace any member who has donated Banana Diesel # with an exchange or a full refund, we have removed this item from our shelf as of immediately. Please understand that our staff are nurses and may not know everything about the medicines that we carry at the moment and due to new medicines constantly arriving, they are really doing their best jobs already! We do see this as a concern and will address this with our internal staff and make sure all of our nurses understand our medicines. Please do come in and we'll do all we can to bring you the best out of ATA!

-ATA

Once Again...

0 of 0 people found the following review helpful

I gotta say ATA is one of my tops spots in San Diego. they are at a discreet location always fast friendly service and always fresh eye appealing buds. I got a g of the G6 OG Prestige ..always does the job dense light to med green buds with nice red hairs ..high is heavy and lasts a while excellent taste...I also got a sample of the icy purple...dense ALL PURPLE nug with Orange hairs...the high was moderate mostly in the head lil tingling in the lounge..Again I'm always pleased with the quality and service that ATA provides ...recommend this spot to everyone

Overall rating: 5.0
 Bud Quality: 5.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 5.0

 Reviewed by sdbolts420
 May 21, 2011

Comments (0)
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G6-prestige OG KUSH # Will blow your mind!! 1RST R

0 of 0 people found the following review helpful

Whats up San diego. gone keep it simple.was getting my Meds up in east diego they had lot good deals up there but to far from my pad. gas is to much i still go when Im around there. Anyways this place is real close to the pad so I like that about it.This shop really feels like a Medical clinic! A real dispensarie feeling and look to it. Not just some stoner shop. and there willing to talk to you and take there time. they dont make you feel rush. The staff new there sh..!!! friendly and good parking close to freeway. Now about there Meds. G6-prestige Og Kush# was the sh..!!! strong high lasted forever. SFV kush great cheap price 40 the 8th. but the have given it to me for 60 for the 1/4. good high disent bud but would love to get for 30 an 8th. its all good still think its worth it.Icy purple is all write good calm high.45 8th needs to be 40 an 8th. GDP# is like the same but little weaker still good tho 40 an 8th needs to be 35 an 8th. to make ihis direct all the 55 an 8th need to be 50. and the 50 an 8th need to be 45. the 45 8ths 40. G6 is the best indica they have love it but they need more like it that can blow your mind. just a little more strains in the 30 to 35 an 8th. for those low money days. this is just what i think.Other than that all the meds they got here our fresh and good quality buds. no matter what prise its fresh and does the jop.So no matter what i say i still love this place ther the Sh..!!! QUALITY and fare. So i will keep coming back. thanks foe the Great Meds.

Overall rating: 4.8
 Bud Quality: 5.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 4.0

 Reviewed by menece051
 May 19, 2011

Comments (0)
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 Last updated: May 19, 2011

Best Dispencery Around 10/10

0 of 0 people found the following review helpful

2 words Top Notch

the atmosphere, staff, bottom to top shelf, every strain medicates.

and i mean MEDICATE its impossible to wake up sometimes lol.

but when i do i eat edibles from here and they last me a great day @ work.

basicyly your search for the best dispencery is over too bad it was a secret haa

good lookin out to mike for all the compassionate service , 1.

i will be in there wensday forsure !!

Overall rating: 5.0
 Bud Quality: 5.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 5.0

 Reviewed by NotainsSeedlesS
 May 19, 2011

Comments (0)
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 Last updated: May 19, 2011

G6 Prestige!!!!

0 of 0 people found the following review helpful

So i went in there on tuesdays afternoon. Being my first time they gave me and another guy in there an orientation which i thought was great cuz the nurse gave us all kinds of information. Any way i got a g of the G6 Prestige, hands down THE BEST strain ive ever tried EVER!!! and thats not an understatement. I took the smallest piece cuz like i told the BT (sorry i forgot you name) im a super lighte wieght with a really low tolerance, so pretty much anything gets me, but none like the G6. The place has an awesome vibe to it, its welcoming and chill. Doesnt look scetchy at all, on the contrary its inviling, Props to everyone who runs the place. I will definitely be going back again, Thanks alot ATA and the crew.

Overall rating: 5.0
 Bud Quality: 5.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 5.0

 Reviewed by garcia619
 May 19, 2011

Comments (0)
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g6 superb...

0 of 0 people found the following review helpful

The G6 is probably 1 of the better buds I have smoked in san diego... But with the friendly and knowledgeable staff And outstanding pricing.. My favorite should be your favorite Place to get your medicine. The only thing that this place Could do to make them better is to higher some cute chicks but otherwise A++

Overall rating: 5.0
 Bud Quality: 5.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 5.0

SFV O.G. KUSH

0 of 0 people found the following review helpful

A DARK SHADE OF GREEN WITH ALMOST NO VISIBLE HAIRS...AT FIRST GLANCE THIS KUSH ISN'T REALLY TOO EYE OPENING...A MORE YELLOWISH GREEN COLOR BECOMES MORE NOTICEABLE THROUGHOUT THE CENTER OF THE BUD AND ESPECIALLY AROUND THE STEM...JUST TO PUT IT IN PERSPECTIVE THE BUDS ARE LIGHTLY POWDERED WITH TRICHES AND ARE MOSTLY, ON AVERAGE, THE SIZE OF MIKE AND IKE'S...BUT DON'T LET ANY OF THAT FOOL YOU...IF THERE WAS A PICTURE RIGHT NEXT TO THE DEFINITION OF "BUDGET BUD," THIS WOULD DEFINITELY BE THAT IMAGE...STICKY WITH A DEEP EARTHY O.G. SMELL AND A VERY POTENT HIGH FOR ONLY TENNAGRAM???(A VERY COMPASSIONATE PRICE FOR G-6'S LITTLE BROTHER).....COMPARED TO THE PLACES I'VE BEEN TO, THIS MOST CERTAINLY TOPS WHAT THEY HAVE TO OFFER.....I'M SOLD!!!

---* Official Collective Response *---

CHEEF,

Thanks again, and again, and again! SFV was a great find for us and our patients, it really delivers and at that price point it just makes it that more of an awesome find. For me it delivers a good blended hybrid experience and is easy to smoke or vapo. :)

-ATA



Reviewed by faileddrew
May 18, 2011

Comments (0)
View all my reviews
Report this review

Overall rating: 4.8
Bud Quality: 4.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by CHEEFINDAREEFA
May 13, 2011
Top 500 Reviewer

Comments (0)
View all my reviews
Report this review

LEMON FROST.....

0 of 0 people found the following review helpful

A VERY BEAUTIFUL LOOKING STRAIN...FROM WHAT I OBSERVED, REFLECTIONS OF SOUR DIESEL ARE NOTHING SHORT OF OBVIOUS...ANGLED IN THE RIGHT LIGHT, YOU CAN SOMEWHAT NOTICE LIGHT PINKISH TONES...DARK GREEN SPOTS ON THE BUD ARE FROM THE SMALLER INNER LEAVES THAT DIDN'T GET CLIPPED ALL THE WAY DOWN.....THE INHALE WAS QUITE SOUR...AND THE SMOKE WAS ACTUALLY A LITTLE SPICY ON THE EXHALE...DIDN'T SEE THAT COMING..I WAS EXPECTING THAT DIESEL TASTE THROUGHOUT THE WHOLE PROCESS...THE EFFECTS ARE QUICKLY FELT, AND A PROLONGED HIGH EASES YOU BACK DOWN TO EARTH AFTER YOUR VISIT TO CLOUD 9...AND BY TAKING A LOOK AT THE PRICE AND THE NUMBER OF STARS I LIT UP, IT IS DEFINITELY SOMETHING TO CONSIDER DURING YOUR NEXT VISIT TO ATA.....

---* Official Collective Response *---

CHEEF,

Great details and right on the money, as usual! Thanks again for a great review and the positive ratings. :)

-ATA

Overall rating: 4.8
Bud Quality: 4.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by CHEEFINDAREEFA
May 12, 2011
Top 500 Reviewer

Comments (0)
View all my reviews
Report this review

SATIVA SPOT**

0 of 0 people found the following review helpful

ALWAYS COME HERE BECAUSE I KNOW EXACTLY WHAT IM GETTING .

FOR ALL POCKET'S

AND WHEN THEY SAY ITS "STRAIN NAME" YOU CAN SURELY GOOGLE SEARCH AND FIND THAT THEY ALWAYS MATCH.

G6 PRESTIGE THEY SHOULD PUT A "FIRE" NEXT TO IT.

THERE SATIVAS REALLY WORK, GREAT FOR WAKE AND BAKE WIT NO AFTER HAZE

THESE DUDES ARE REAL NURSES THEY HOOK UP DA MEDS PHAT.

!!! ALWAYS WALK OUT WIT A PHAT BAG !!!

---* Official Collective Response *---

NolansSeedlesS,

Thanks for the kind words and review :) I think we may have spoken when you came in and I'm glad that the Sativa's we picked out worked for you. It's always touchy trying to find that "perfect fit" and I remember specifically you needed a good Sativa to get going. Glad it all worked out. See you again soon...



Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0

Reviewed by NolansSeedlesS
May 11, 2011

Comments (0)
View all my reviews
Report this review

-ATA

ABUSIVE OG

0 of 0 people found the following review helpful

IT HAS AN OUTDOOR KIND OF LOOK TO IT AND IT'S NOT VERY FROSTY IN TERMS OF TRICHES...BUT ONCE YOU CRACK IT OPEN THE INSIDE ALMOST LOOKS WET...THAT GOOD OL' STICKY ICKY...A VERY FRESH ALMOST SOUR SMELL TO THIS BUD...NOT THE TYPICAL DEEP FLORAL AROMA I'VE COME TO EXPECT FROM MOST OG'S...BUT THE BODY HIGH WAS EXTREMELY PLEASANT MIXED IN WITH THE USUAL BRAIN FOG, I WAS FEELING QUITE RIGHT...WELL MANICURED NUGS DISPLAY THICK BRIGHT ORANGE HAIRS THAT WEB ACROSS THE LANDSCAPE OF THE BUD GIVING IT A REALLY DEFINED APPEARANCE...ALMOST MAGAZINE READY BUT NOT QUITE THERE YET...IT WAS A LITTLE HARSH ON THE EXHALE...IT COULD HAVE MAYBE BEEN FLUSHED OUT A LITTLE BETTER BUT ALL IN ALL I WAS PLEASED WITH THE END RESULT....

---[^] Official Collective Response [^]---

CHEEF,

I felt the same way, it's so funny how alike we think! It was nothing special at first, but a nice deep rip or smooch, and you got the good old fashioned sticky that delivers! Good call on the exhale, I could see what you're saying. See you soon :)

-ATA

Overall rating: 4.6
 Bud Quality: 4.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 4.0

 Reviewed by CHEEFINDAREEFA
 May 04, 2011
 Top 500 Reviewer

Comments (0)
[View all my reviews](#)
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Last updated: May 04, 2011

BLACKBERRY KUSH [^]

0 of 0 people found the following review helpful

FIRST LET ME SAY THAT THIS BUD WAS FROSTY...VERY, VERY FROSTY!!...SHADES OF GREEN ARE BARELY SEEN UNDERNEATH ALL THE FROSTINESS...SPOTS OF PURPLE PEPPERED ACROSS THE BUD ARE BASICALLY THE ONLY THINGS NOTICEABLE ALONG WITH THE FROSTINESS...HAVE I MENTIONED HOW FROSTY IT WAS???...THE ONLY THING I WASN'T TOO EXCITED ABOUT WAS THE SMELL OF IT...IT REALLY DIDN'T FILL MY NASAL CAVITY WITH THE AROMA OF BLACKBERRY KUSH [^] STRAINS I'VE HAD IN THE PAST...BUT THE HEAVY BODY NUMBING EFFECT I EXPERIENCED FROM THIS STRAIN IS IN THE SAME BALL PARK...I RECOMMEND THIS TO BE USED RIGHT BEFORE BEDTIME...ONE REALLY GOOD BOWL RIP OF THIS KUSH IS IDEAL RELIEF FOR ANY RESTLESSNESS YOU MAY ENCOUNTER DURING THE EVENING HOURS...THINK OF IT AS AN HERBAL TYLENOL PM JUST WITHOUT THE PILLS AND THE LIVER DAMAGE...I GUARANTEE YOU A GOOD NIGHT'S SLEEP...DON'T FORGET TO SET YOUR ALARM CLOCKS!!!

---[^] Official Collective Response [^]---

CHEEF,

Another fine analysis! It really is an effective sleep aid for me as well, it's a great replacement for some of my prescription sleep aids as well as OTC remedies. Very comfortable lasting body high, and a smooth nice sleepy time. See you soon... (sleepy....) ;)

Overall rating: 4.6
 Bud Quality: 4.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 4.0

 Reviewed by CHEEFINDAREEFA
 May 04, 2011
 Top 500 Reviewer

Comments (0)
[View all my reviews](#)
[Report this review](#)

-ATA

BERRY BLUE DREAM [^].....

0 of 0 people found the following review helpful

THIS STRAIN HAS ALL THE CHARACTERISTIC TRAITS OF ATA'S TRUE BLUE DREAM [^]...DENSE, BEAUTIFUL NUGS COVERED BY A NICE LAYER OF TRICH'S AND LIGHT ORANGE HAIRS...THE ONLY MAJOR DIFFERENCE I NOTICE BETWEEN THE TWO IS THAT THE BERRY BLUE DREAM [^] HAD A MUCH SWEETER, MUCH MORE FRUITIER AROMA...DEFINITELY NOT A BEDTIME BUD...POTENCY IS ABOVE AVERAGE BUT THIS DAYTIME BUD STIMULATES A MORE ACTIVE HIGH...HIGHLY RECOMMENDED..

---[^] Official Collective Response [^]---

CHEEF,

As always it's a pleasure to reply to another great review. I also really liked the Berry Blue Dream [^], and so many other patients have remarked about the BBD's sweet flavor and smooth vapor. Agreed across the board my friend!

-ATA

Overall rating: 4.6
 Bud Quality: 4.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 4.0

 Reviewed by CHEEFINDAREEFA
 May 04, 2011
 Top 500 Reviewer

Comments (0)
[View all my reviews](#)
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Professional and outstanding

0 of 0 people found the following review helpful

I went into the building around 7:40 pm and they were more than happy to help me.. They do things differently here, they take the time to talk to you and go over laws and your condition.. The young man was very informative and nice. After we talked we went into the room and i looked at different flowers, I got edibes and bubba kush [^] =D I will be going there again!

---[^] Official Collective Response [^]---

Overall rating: 5.0
 Bud Quality: 5.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 5.0

 Reviewed by strange

Strange,

May 02, 2011

Thanks for giving us a try, and glad you noticed the difference! As you can see we are big believers on ensuring everyone does thing legally, and understands their rights and protections. If you feel you have any questions or need explanation, please feel free to ask any staff member for help. Especially as our local laws and regulations continue to rapidly change, we understand our patients may have questions or concerns, and we want everyone to know we will be here to address them whenever you need.

Comments (0)
View all my reviews
Report this review

Hope you enjoyed the Bubba and the Grubba :)

-ATA

cd d_-b

0 of 0 people found the following review helpful

This place was amazing! The nurses knew everything about the medication they are dispensing. The atmosphere was very comfortable and enjoyable. The nurses back up thier product. I told one of the nurses I write poems and he knew what medication to show me. It is very high grade, high - ness. I will always be a customer at ATA. Everything was just great! Nurses = AWESOME Medication = AWESOME.

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0

At ATA you get the best high grade/ new flavors different colors some in different shapes/ fruttie treats out the oven what a fresh bake/ in the clouds flying round such a heaven's sake/ can i have a gram of "PRESTIGE" just for me/ and an eighth of that 'oh so very "Berry Blue Dream" each strain is entering a new dream/ inhale "Dark Angel" and we blew out white steam/ Whatever you like indica sativa hybrid/ if they dont have the strain, ATA will have something like it/ or better/ the meds will make you feel above the weather/ BEST EDIBLES BEST BUDS SO NO CAN DO IT BETTER.

Reviewed by Cdliving4
April 30, 2011



Comments (0)
View all my reviews
Report this review

CD4

---* Official Collective Response *---

Cdving4,

Thanks for the praise! We always work to try and match each patient with the medication they need or that best treats them.

Although I'd like to stay and rhyme, I'm running late and runnin' outta time, so for the sake of being short and a little bit of sassy, peace to you Cdving, you and San Diego be cool and Stay Classy. :) Peace!

-ATA

nice place to go to

0 of 0 people found the following review helpful

if you wanna know a lot about what you're getting, this is a spot to go! they know a lot about everything your getting there, a great place great selection great prices and is great staff! good spot in south bay

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0

---* Official Collective Response *---

Stefanie86,

Thanks for the kind words! We're proud of the knowledge that our staff and vendors bring to the table for our membership. It's another way we work hard to ensure that our patients stay healthy and happy. Looking forward to seeing you soon!

Reviewed by stefanie86
April 29, 2011



Comments (0)
View all my reviews
Report this review

Thanks!

-ATA

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TODAY'S PRIZE
Party Hammer
Donated By:
Marijuana County
Collective



MAY 24, 2011
Earth OG
Orange County
ICOC



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GSC Wellness

GSC Wellness

888-877-6455 (Toll-Free)

4.3 with 76 reviews

15 indica 5 sativa 10 hybrid 19 edible 3

concentrate [Coupon!](#)

1603 Palm Ave., San Diego 92154

enter starting address here ...



Home >> South Bay SD Marijuana Dispensaries

GSC Wellness



Written by EdensGarden

November 25, 2010

Hits: 12344

17

4.3 avg. of

76 reviewers

DISPENSARIES

Dispensary Name GSC Wellness

Dispensary Address 1603 Palm Ave.

City San Diego

State CA.

Zip Code 92154

Phone Number 888-877-6455 (Toll-Free)

Hours of Operation 10:00am - 10:00pm everyday

...and is it Yes

Brick & Mortar?

Accepts Credit Cards? Yes

18 Years Old OK? Yes

OK?

0

Like 8 people like this.

Search: eg. "hash"

Your GSC Membercard always gets you 10% off everything everytime.....10am - 10pm....7 days a week...

updated 16 hours ago

Buku Og Kush	20 ^g	60 ^{1/16}	120 ^{1/4}	SPICY!
Purple Kush	20 ^g	60 ^{1/16}	120 ^{1/4}	Back
Tangerine Kush	20 ^g	60 ^{1/16}	120 ^{1/4}	NEW
Pluto Og	16 ^g	50 ^{1/16}		SALE!
Afgoo	15 ^g	40 ^{1/16}		SALE!
average prices	20.6 ^g	61.0 ^{1/16}	126.9 ^{1/4}	

SATIVA

Grapefruit Diesel	22 ^g	65 ^{1/16}	130 ^{1/4}	Pom
Blue Dream	22 ^g	65 ^{1/16}	130 ^{1/4}	Back
Chemdog	22 ^g	65 ^{1/16}	130 ^{1/4}	Fire!
Jack Snow	22 ^g	65 ^{1/16}	130 ^{1/4}	DANK!
Mr. Nice	15 ^g	40 ^{1/16}		SALE!
average prices	20.6 ^g	60.0 ^{1/16}	130.0 ^{1/4}	

HYBRID

Puna Buddah	22 ^g	65 ^{1/16}	130 ^{1/4}	Pom
Doo Doo Kush	22 ^g	65 ^{1/16}	130 ^{1/4}	FROSTY
Earth Og	22 ^g	65 ^{1/16}	130 ^{1/4}	Pom
Bubba Jack	22 ^g	65 ^{1/16}	130 ^{1/4}	DANK!
Bubble Haze	22 ^g	65 ^{1/16}	130 ^{1/4}	NEW
Great White Shark	22 ^g	65 ^{1/16}	130 ^{1/4}	NEW
Dulch Master Cheese	20 ^g	60 ^{1/16}	120 ^{1/4}	RARE
Triple Piggy	20 ^g	60 ^{1/16}	120 ^{1/4}	Back
Afghani Bullrider	20 ^g	60 ^{1/16}	120 ^{1/4}	Fire!
Elephant Bud	16 ^g	50 ^{1/16}		SALE!
average prices	20.8 ^g	62.0 ^{1/16}	126.7 ^{1/4}	

EDIBLE

Gsc Cannabutter	40 ^{ea.}			NEW
Auntie Delores Caramel Corn	14 ^{ea.}			Back
Auntie Delores Savory Pretzels	12 ^{ea.}			Back
Auntie Dolores Chile Lime Peanuts	12 ^{ea.}			Back
The Venice Cookie Co. - Peppermint Patty 6 X	12 ^{ea.}			Fire!
The Venice Cookie Co. - 420 Chocolate Bar	12 ^{ea.}			Fire!
The Venice Cookie Co. - 420 D - Chocolates Bar	12 ^{ea.}			Fire!
Auntie Delores Cookie Bites	10 ^{ea.}			Back
Gip Brownies	10 ^{ea.}			Fire!
Bsn Peanut Butter Brownie Cup	9 ^{ea.}			Popular
Bsn Brownies - Plain Or Walnut	9 ^{ea.}			Popular
Bsn Brownies - Sugar-Free	9 ^{ea.}			Popular
Auntie Delores Brownies - Ass't Flavors	9 ^{ea.}			Back
Bsn Peanut Butter Bar	9 ^{ea.}			Popular
Bsn Cookies - Ass't Flavors	9 ^{ea.}			Popular
Gip Rice Krispy Treats	7 ^{ea.}			Fire!
Gsc Canna Cookies - Ass't'd Flavors	5 ^{ea.}			SALE!
Venice Cookie Co. Subtle Teas	4 ^{ea.}			Low
The Kind Cookery Canna Teas	4 ^{ea.}			Low

CONCENTRATE

Master Kush Bubble Hash	25 ^{5g}	45 ^g		Fire!
Sour D Bubble Hash	25 ^{5g}	45 ^g		SPICY!
Romulan Bubble Hash	22 ^{5g}	40 ^g		NEW

71,417 items & 2,004 dispensaries!

PUNA BUDDAH is Still BACK...

What did we tell you!!!

*

*

GSC is the South Bay's Planetary OG Headquarters

Saturn OG

Earth OG

Mars OG

Pluto OG

*

*

Next Big Promotion

*

You don't want to miss it!!!

*

Memorial Day Madness

Monday, May 30, 2010

10:00am - 10:00pm

*

**

Raffles

Giftbags

The Wheel

Mad Surprises

User reviews

[View all user reviews](#)

Average user rating from: 76 user(s)

To write a review please register or login.

Overall rating:	4.3
Bud Quality:	4.5 (76)
Atmosphere:	4.4 (76)
Staff:	4.5 (76)
Accessibility:	4.2 (75)
Price:	4.1 (75)

dont let them fool ya

0 of 0 people found the following review helpful

I've been to quite a few collectives...but GSC is my favorite spot...not to mention the discounts...well i've been a regular for the past 4 months...and i have to admit they have yet to disappoint me...All I have to say IS GREAT WHITE SHARK...Crystaled out the game, nice fresh large fluffy very dankish smelling...So, i gabbed a 1/4 and dashed home...needless to say it was as good as it looked...Thanks GSC home of the TOP SELF means TOP SELF...

Overall rating:	4.6
Bud Quality:	5.0
Atmosphere:	4.0
Staff:	5.0
Accessibility:	5.0
Price:	4.0



Reviewed by blacmaib4
May 21, 2011

Comments (0)
View all my reviews
Report this review

Church!!!!

0 of 0 people found the following review helpful

I have been coming here since day one...this place is prob the best dispense in town...cool people coo herb and great prices...never have I had a prob with gsc

Overall rating: 4.8
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 4.0
Price: 5.0



Reviewed by massive23
May 17, 2011

Comments (0)
View all my reviews
Report this review

i really want to...

0 of 0 people found the following review helpful

give this place a shot...and dont pay any attention to my ratings because im not a member at GSC.

when im in the area its hard to miss that sign out front but i was a little concerned about the prices...

plus, correct me if im wrong, but i also heard something about a membership fee/charge...which is something that i really dont want to do...

mabye a ONE TIME visit is in order, but its hard to justify such a high cap when i know where to find CONSISTENT dank at other shops for a \$55 cap...

feedback is appreciated...peace

Overall rating: 3.4
Bud Quality: 1.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 1.0



Reviewed by GREENSUNDAY
May 17, 2011

Comments (1)
View all my reviews
Report this review

Thanks GSC

0 of 0 people found the following review helpful

Great location! easy to find and park! its really chill atmosphere and there is a fair amount of variety not the best but you can always count on them having edibles!

The prices well if you are on a budget this is not where you will find variety, however its quality and they weigh out nicely :) I got the purple snow a hybrid and my free preroll the preroll though i don't know what it was, was awesome to help me thru my day than later on the purple snow really relaxed me and gave me an awesome high!

i will probably go back since there are some interesting edible products, I'd like to try.

I also got a free green grinder! Thanks!

Overall rating: 4.4
Bud Quality: 4.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 3.0



Reviewed by natty lady5446
May 14, 2011

Comments (0)
View all my reviews
Report this review

Gotta try it

0 of 0 people found the following review helpful

Man I cant get enough of there meds an prices they are sooooooooooo AWESOME yhe staff is awsome as well they make u feel at home very friendly only place I get my meds :)

ps really u cant beat what u get here

Nikki #750

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by pinkstar420
May 14, 2011

Comments (0)
View all my reviews
Report this review

Cool PLace But?

0 of 0 people found the following review helpful

I Dig this place close to home right next to a few restaurant's n fast food places "lol" the staff seems like a bunch of cool people very friendly environment parking is decent for its location bud are great got some good meds for sure but the price can be a bit

Overall rating: 4.2
Bud Quality: 4.0
Atmosphere: 5.0
Staff: 4.0

much to me there buds are great but have a lil more compassion staff knowledge is alright as well they know good amount about a few of the strains that they carry but they also have alot of there strains up on bud genius.

all n all good staff great environment buds are great just needs a lil more compassion and it will be a perfect ten.

Accessibility: 5.0
Price: 3.0



Reviewed by Timeless T
May 07, 2011

Comments (0)
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takes out most of downtown

0 of 0 people found the following review helpful

In my opinion this club deserves a straight up 5! I tried their Lemon skunk and Dutch master, I was impressed by their dutch master's super silver, amazing clean, sweet smelling aroma when broken up, and for the price u cant beat it. hit this place up if your in the South Bay, no need for DT :)

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by valadez215@hotmail.com
May 07, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

Last updated: May 07, 2011

0 of 0 people found the following review helpful

over all I really love this place. the staff are chill the selection ie good and they hook it up.

Overall rating: 4.4
Bud Quality: 5.0
Atmosphere: 4.0
Staff: 5.0
Accessibility: 3.0
Price: 5.0



Reviewed by K3MICAL
May 04, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

great staff

0 of 0 people found the following review helpful

i love going here, the staff are awesome, the bud an edibles are great! if ur looking for a spot, go here and check it out!!! :-)

Overall rating: 4.8
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 4.0



Reviewed by stefanie86
May 03, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

after that dank 8th i got to show sum love...

0 of 0 people found the following review helpful

ROMULAN bud is my strain.. at least until i find something better but GSC put the bar up preety high with those crystals on that whiter than snow ROMULAN and THX 4 DA HOOK UP..

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by looking4datdank
April 24, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

no place like home

0 of 0 people found the following review helpful

this is my home for meds in the south bay always nice easy in n out and you get a ill discount! thanx alot gsc stay irie n one love!!!!420

Overall rating: 5.0
 Bud Quality: 5.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 5.0



Reviewed by jah irie one
 April 19, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

GSC WELLNESS

0 of 0 people found the following review helpful

Well this place is trying to be more professional with members cards and security but do i really need to be check by the guard every time just be be check inside? but whatever, bud quality is great all good there but i just dont dig the atmosphere and getting your stuff from behind a glass i just dont dig it, the staff is chill cool ppl, but the parking is just to small and yes i know about the plaza parking but thats not the point, and for the price well lets say there other places with same quality for a better price and even with ur discount card it comes to \$20 so its not a big gain, at least weight heavy... in the end... this place shows promess but has to work around some stuff yet ils an improvement over their last places and rules.. much love and hopes this helps the place to improve

Overall rating: 3.4
 Bud Quality: 5.0
 Atmosphere: 3.0
 Staff: 4.0
 Accessibility: 2.0
 Price: 3.0



Reviewed by Drago#2
 April 18, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

Nothing justifies the high price

1 of 1 people found the following review helpful

I tried this spot this week and paid top dollar (\$130 per 1/4 oz of Satin). For that much money, they should go to the trouble to pick out some of the wood. The lady who filled my order never even looked at the monster branches she was stuffing in the bottle with those little nuggs. When I shopped on the black market, I might have paid \$180/oz for this and it would have been better manicured. I got a "free" pre-roll for being new. I couldn't smoke it.. Tasted like \$80/oz Mex.

Overall rating: 3.0
 Bud Quality: 3.0
 Atmosphere: 3.0
 Staff: 3.0
 Accessibility: 4.0
 Price: 2.0



Reviewed by Wake N Bake
 April 17, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

gettin disgusted with this shop? i am. (skywalker)

3 of 3 people found the following review helpful

ok so when strains get introduced new into this shop they get marked sum times at 60 but if it sells good then you can count on the prices goin up. im sick of 65 dollar prices that were sold here at a 60 dollar price tag even with the discounts they give its just not worth goin here. i would suggest to all just go with another shop , one who takes time to know who you are and what your needs are. not just money. i go to another shop and they give nothing but love and compassion. at this shop i had this b.t. woman who was smokin outside come runnin in served me my meds. had her smoke fingers all over my meds. then to top it off they were givin the skywalker and a huge cheer. its bomb straight fire it looked decent n smelled good but the high is definitely not there and sure as hell not worth 65 an eighth. i feel as if this shop is taking advantage of its patients and strongly advise to not go there ever. im done with this shop. done 4 ever

jonsey

Overall rating: 1.2
 Bud Quality: 1.0
 Atmosphere: 1.0
 Staff: 1.0
 Accessibility: 2.0
 Price: 1.0



Reviewed by JONSEY
 April 12, 2011
 Top 500 Reviewer

Comments (0)
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HOOKED UPP

1 of 1 people found the following review helpful

This place gots the fire i got the GDP and item9 only because they were out of there planetary stuff but these did just fine. I got a gram of each and they gave me 1.6 gms each ohhhhhhh, lucky mee super thanks staff -Arnold

Overall rating: 4.8
 Bud Quality: 5.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 4.0



Reviewed by arnoldthepup
 April 10, 2011

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TODAY'S PRIZE
Party Hammer

Donated By:
Marijuana County
Collective



MAY 24, 2011
Earth OG

Orange County
ICOC



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NATURES BEST COLLECTIVE SOUTH BAY 1/2 ounces+ delivery



Home >> South Bay SD Marijuana Dispensaries

Natures Best Collective South Bay 1/2 ounces+ delivery

Written by D.L. January 29, 2011 Hits: 3708

5.0 avg of 1 reviewers

DISPENSARIES

Dispensary Name Natures Best Collective South Bay 1/2 ounces+ delivery

City San Diego

State CA

Zip Code 91911

Phone (619)252-4620

Hours of Operation 10-7 M-F 10-2 Saturday

Website URL <http://www.naturesbestcollective.com>

E-Mail naturesbestcollective@gmail.com

Does your listing Deliver? Yes

18 Years Old OK? Yes

0

Like 2 people like this.

Search: eg. "lemonade"

mix and match 1/2oz and you get the ounce price for OG=\$275!!

NUDGE THIS DISPENSARY!

(to ADD their menu @ WeedMaps)

71,417 items & 2,004 dispensaries!

WE DELIVER TOP MEDS DIRECT FROM OUR GROWS TO YOU!! ALL full ounces 260 or less. All 1/2 ounces 140 or less! Any two ounces 500 or less!

Menu for Tuesday 5/24

GRAND DADDY 90/180

GRUMPY OG 110/200

PURPLE G13 120/230

OGIESEL 120/230

GOLD KUSH 130/250

PURKLE URKLE 130/250

SPACE QUEEN 130/250

MANGO 140/260

COTTON CANDY 140/260 BUBBA 140/260



HEADBAND ✓ 140/260
 XXX 140/260
 MR NICE 140/260
 DAY WRECKER 140/260
 COTTON CANDY ✓ BUBBA ✓ 140/260

((Free eighth for all new patients))) OUNCES from \$160!! Capped at \$300!!!****

The Members have spoken! Due to tough times for all we are now Half Oz's and above!! AND BE SURE TO CHECK OUT OUR PHOTOS! UPDATED FREQUENTLY

10am-7pm Monday-Friday 10am-4pm Saturday
 LAST ORDER AT 2PM ON SAT
!!!!!!WE DO NOT ACCEPT TELEPHONE CALLS FROM BLOCKED NUMBERS!!!!!!
 Nature's Best Collective is a California Non-Profit Mutual Benefit Corporation in full compliance with Prop 215 and SB 420. We specialize in safely and discreetly delivering OUNCES of high-grade medication to all of our valued and verified members with NO DELIVERY CHARGE. We present every member with a variety of medicine from which to choose.
 Delivery Time: usually within an hour If you are a new patient please call before 6pm. We are an EXCLUSIVE private organization; as such, we reserve the right to REFUSE or REVOKE memberships without cause.



new memberS PLEASE fill out the online application at

<https://nbc.greenlifecaregiver.com/prequalify>

Free Delivery

Call to get Verified or go to our website and click on the Pre-Qualify link

Rules and Conditions-

By contacting the number OR EMAILING on this ad, I agree to the following terms:

- I am over the age of 18, and acknowledge that I am a California Medical Marijuana Patient with a valid recommendation that matches my legally given name and is governed by the California laws of SB 420 and Prop. 215 and will provide identification to verify this.

- I am not a law enforcement officer, nor a postal inspector, or operating under an assumed name or in cooperation with any criminal investigation; nor am I seeking out evidence which may serve as the basis for any charge of violating federal, state, or local laws.

- I will not use the medical marijuana provided for any non-medicinal purposes, including sale or distribution to anyone else.

This is a legal advertisement for Medicinal Marijuana in compliance with California H&S 11362.5, Prop 215 & CA SB 420. Any donations requested are ONLY compensation for time, nutrients, electricity costs and other factors involved in the process of producing and delivering medical grade marijuana and not toward the sale or purchase of the medicine itself.

NATURES BEST COLLECTIVE'S COMMON QUESTIONS AND ANSWERS:

Question: I have never used a delivery service before. How does it work?

Answer: To become a patient member of Natures Best Collective you simply fill out our online pre-qualification form or just give us a call at (619) 252-4620. We will verify that you are a patient and send one of our drivers to you. Your first visit is just like going to a brick and mortar dispensary in that you need to have your Original Recommendation (the paper not the card) for medicinal cannabis and a valid California ID or Driver License. Our driver will scan those two items for our records. Then you must fill out the Member Agreements and sign the Rules and Regulations.

Question: I am hesitant to place an order without being able to see the medicine because I don't want to get stuck with inferior medicine. Is it possible for me to inspect the medicine prior to making a donation?

Answer: Natures Best Collective never make our patients pre-order their medicinal cannabis sight unseen. We show up to you with various strains of medicinal cannabis and you can make your decision by inspecting them, just like you do in a brick and mortar dispensary. If you don't like any of the medicine we have with us you are under no obligation to make a donation. Think of us as a dispensary that is located in your living room or a parking lot near you.

Question: I am a little uncomfortable about having a delivery because I have snoop neighbors and I also don't like having strangers in my home. Will the driver show up in a red, gold and green car with marijuana flags and Seedless clothing head to toe or will he be more discreet?

Answer: Natures Best Collective prides ourselves on being as discreet as possible. All our drivers are Certified Cannabis Technicians and have undergone a criminal background check. We drive regular unmarked cars and we show up to your door with pizza type delivery bags so your snoop neighbors will just think you are getting a pizza.

Question: I have kids or other family members residing at my home and I do not want them to know about my medical condition and use of medicinal cannabis. Can I meet you somewhere else?

Answer: Yes, we can meet you in a public place somewhere near you. Just be advised that sometimes it is more difficult to inspect the medicine fully in a vehicle compared to your living room. If you are a new patient and want to meet somewhere other than a residence, we will ask you for additional information before we meet to help thwart robberies.

Please email, call or text message us with any other questions you may have.

User reviews

Average user rating from: 1 user(s)

To write a review please register or login.

Overall rating:	5.0
Bud Quality:	5.0 (1)
Atmosphere:	5.0 (1)
Staff:	5.0 (1)
Accessibility:	5.0 (1)
Price:	5.0 (1)

Amazing!

0 of 0 people found the following review helpful

I called and the young lady who got me verified was very nice and informing....The Service was fast and the Delivery guy was nice and chill... He told me he was out of first time patient gifts but that he would note down for the next time.. The buds were tasty and rare to find and also a great price!!!, I would most definitely go through them again =D

Overall rating:	5.0
Bud Quality:	5.0
Atmosphere:	5.0
Staff:	5.0
Accessibility:	5.0
Price:	5.0



Reviewed by strange
April 10, 2011

- [Comments \(0\)](#)
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MAY 24, 2011
Earth OG
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PARADISE HARVEST COLLECTIVE

Search by GO!



- Show only
- SG tickets!
 - delivery
 - medbox
 - credit cards
 - photo n/a
 - 18+

Home >> Central San Diego Marijuana Dispensaries

Paradise Harvest

Written by paradiseharvest April 18, 2011 Hits: 777

5.0 avg. of 3 reviewers

DISPENSARIES

Dispensary Paradise Harvest Collective
 Name
 City chula vista
 State CA
 Zip Code 91914
 Phone 619-420-DANK(3265)
 Number
 Hours of Mon-Sat 10am-8pm
 Operation
 Website URL http://phcollective.com
 E-Mail paradiseharvest@gmail.com



Does your listing Deliver? Yes
18 Years Old OK? Yes

0
Like Be the first of your friends to like this.

Search: eg. "wax"

Buy 1/8th and get a 1/8th free on select strains

updated 20 hours ago



HYBRID

Sour Diesel	55 ^{1/8}	100 ^{1/4}	175 ^{1/2}	325 ^{oz}	SALE!
Orange Krush	50 ^{1/8}	75 ^{1/4}	125 ^{1/2}	200 ^{oz}	SALE!
Tigers Blood	50 ^{1/8}	75 ^{1/4}	125 ^{1/2}	200 ^{oz}	NEW
Headband	55 ^{1/8}	100 ^{1/4}	150 ^{1/2}	300 ^{oz}	SALE!
Calif-O	50 ^{1/8}	75 ^{1/4}	125 ^{1/2}	200 ^{oz}	
average prices	52.0 ^{1/8}	85.0 ^{1/4}	140.0 ^{1/2}	245.0 ^{oz}	

EDIBLE

Lollipops (Lime, Tropical Fusion, Espresso, Peach)	10 ^{pk}
--	------------------

CONCENTRATE

The Wax	20 ^{5g}	40 ^{10g}
---------	------------------	-------------------

71,383 items & 2,004 dispensaries!

Buy a top shelf 1/8th get next 1/8th for \$15
 specials: 2 pre rolls with a \$50 minimum donation

4gram 1/8 th's

Buy one 1/8 th and get one free on select strains for first time patients

Paradise Harvest is committed to providing members of our collective safe and alternative choices in medicinal marijuana products.

Whether you are shopping for pre packaged medicine, edibles or clones Paradise Harvest will provide you with a safe and passionate collective to ensure that you receive the care you seek.

At Paradise Harvest we pride ourselves on taking the time to create long lasting relationships with cultivators to ensure that you the patient receive not only the greatest quality of strains, but also a wide variety of choices so that you never feel like you don't have a choice in medicines.

Paradise Harvest also provides collective members and employees with educational materials on the medicinal products we sell so that they and their loved ones can truly understand the great medical power of Marijuana.

The clientele of Paradise Harvest suffers from a wide range of conditions including Cancer, Anorexia, HIV/AIDS, Glaucoma, Arthritis, Migraines and more disabling conditions.

It's the mission of Paradise Harvest to not only provide these effected individuals with the medicine they seek but also to work with San Diego based charities who work with individuals effected by the same conditions.

We are based in San Diego and therefore will work to uplift the San Diego community through our support of these charities.

Enjoy The Harvest of Paradise that is Medicinal Cannabis at San Diego's own Paradise Harvest.

When you call Paradise Harvest please have your recommendation ready so one of our friendly customer care representatives can verify your recommendation. Also upon delivery you must have a valid California ID or License and the original copy of your recommendation. Our knowledgeable driver will look it over and make a copy. There is a \$50 minimum donation.

User reviews

Average user rating from: 3 user(s)

To write a review please register or login.

Overall rating:	5.0
Bud Quality:	5.0 (3)
Atmosphere:	5.0 (3)
Staff:	5.0 (3)
Accessibility:	5.0 (3)
Price:	5.0 (3)

BlueBerry Hawgs, Sour OG , BlueDream

0 of 0 people found the following review helpful

I am disabled and unable to travel as far as I would like sometimes, there are some Dispensaries that are close enough for me to Bus to or get a ride to, but I thought I would give Paradise a try since they deliver. I am a little scetchy about inviting people to my house for fear of getting taken advantage of, but wow!!! these guys are Super!!!! Very professional!!!! and Very Knowlegable.. Now the good part... the Blue Dream , Blueberry Hawgs and Sour Og .. OMG OMG OMG OMG OMG.. The best Ive tateted since the Dispensaries opened !!!!

Overall rating:	5.0
Bud Quality:	5.0
Atmosphere:	5.0
Staff:	5.0
Accessibility:	5.0
Price:	5.0



Reviewed by Splijoint
 May 04, 2011

- Comments (0)
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Best in SD

0 of 0 people found the following review helpful

These guys are awesome. Bomb flavors and quality prices. The clones are great too, provided by holistic nursery. Members to members!

Overall rating: 5.0
 Bud Quality: 5.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 5.0



Reviewed by Rburdeaux
April 29, 2011

Comments (0)
 View all my reviews
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the best weed in town! quick delivery!

0 of 0 people found the following review helpful

great weed! great service! low prices.so easy to access. definitely making them first choice.

Overall rating: 5.0
 Bud Quality: 5.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 5.0



Reviewed by aneesaaaliyah
April 23, 2011

Comments (0)
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Planet of Kind

Planet Of Kind

619-628-1835

4.8 with 117 reviews

8 indica 4 sativa 3 hybrid 4 edible 3 concentrate

[Coupon!](#)

POK Planet of Kind, San Diego 92154

Search by **Dispensary Zip City** GO!

Show only

- SG tickets!
- delivery
- medbox
- credit cards
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- 18+

Google

Dispensaries Doctors Tijuana

Home >> South Bay SD Marijuana Dispensaries

POK Planet of Kind



Written by Trofi August 01, 2010 Hits: 17507 17

4.8 avg. of 117 reviewers

DISPENSARIES

Dispensary Name Planet Of Kind
 City San Diego
 State CA
 Zip Code 92154
 Phone Number 619-628-1835
 Hours of Operation 9AM-10PM
 Website URL <http://poksmot.com/>
 E-Mail info@poksmot.com

Does your listing Deliver? Yes

0

Like

5 people like this.



Search: eg. "bbq sauce"

PRIVATE MEMBERSHIP!!!! NO LONGER ACCEPTING NEW MEMBERS!!!!

updated 5 days ago

Kings Bread

Imperial Lambs Bread

average prices

RARE

HYBRID

Berry King

Jaguar (Jack Herer X O.G.)

Platinum Master

average prices

RARE

EDIBLE

Trikom Treats

Bhang Bars!

Holistic Healer's Brownies

Irie Edibles Cinnamon Toke Crunch Bars

CONCENTRATE

Herijuana X Jack Herer Wax !!!!!

Og Wax !!!!!

Green Crack Candy Wax

71,415 items & 2,004 dispensaries!

**POK HAS REACHED FULL CAPACITY
AND
IS NO LONGER EXCEPTING NEW MEMBERS !!!
BHANG CANNABIS CHOCOLATE BARS ARE NOW HERE!!!
SOUTH BAYS ONLY SOURCE!!!
NEW DELIVERY MINIMUM FOR SOUTH BAY PATIENTS
92154 ZIP CODE: 20 MINIMUM DONATION
ALL OF SOUTH BAY: 25 MINIMUM DONATION
EXISTING MEMBERS BY APPOINTMENT ONLY!!!
NEW MEMBER VERIFICATION CALL FOR APPOINTMENT!!!
DELIVERY FOR CURRENT MEMBERS
*****NEXT DAY DELIVERY APPOINTMENTS BASED ON AVAILABILITY*****
VERIFIED MEMBERS OF POK ONLY**

Planet Of Kind Collective Inc. is a non profit collective in full compliance with Prop. 215 SB420 and H&S code 11362.5

We only service Patients with a Valid CA doctors recommendation NO EXCEPTIONS

All recommendations are verified prior to any orders being placed

GET VERIFIED today to

become a member of the POK Family and start receiving Absolute Quality Care for your Medical Cannabis Needs. All orders must be placed by 9:00pm!
Advance ordering based on availability! Free delivery!!! Primary Delivery Area \$35 min. Call for Extended Service Area Details. Planet Of Kind Collective Inc. is a true non profit collective in full compliance with prop. 215 sb 420h&s code 11362.5****Rules and Conditions-By contacting the number OR EMAILING on this ad, I agree to the following terms:- I am over the age of 18, and acknowledge that I am a California Medical Marijuana Patient with a valid recommendation that matches my legally given name and is governed by the California laws of SB 420 and Prop. 215 and will provide identification to verify this.- I am not a law enforcement officer, nor a postal inspector, or operating under an assumed name or in cooperation with any criminal investigation; nor am I seeking out evidence which may serve as the basis for any charge of violating federal, state, or local laws.- I will not use the medical marijuana provided for any non-medical purposes, including sale or distribution to anyone else.This is a legal advertisement for Medicinal Marijuana in compliance with California H&S 11362.5, Prop 215 & CA SB 420. Any donations requested are ONLY compensation for time, nutrients, electricity costs and other factors involved in the process of producing and delivering medical grade marijuana and not toward the sale or purchase of the medicine itself.

User reviews

[View all user reviews](#)

Average user rating from: 117 user(s)

To write a review please register or login.

Overall rating:	4.8
Bud Quality:	4.8 (117)
Atmosphere:	4.8 (117)
Staff:	4.9 (117)
Accessibility:	4.5 (117)
Price:	4.9 (117)

Chill SPot

0 of 0 people found the following review helpful

POK is a real chilling spot Trophy and all them guys treat you good and they always got some dank . Sometimes I go on a low budget and they still try to help and i appreciate that since other dispensaries give you a hard time for that thanks pok!

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by Ivan_BLUEDREAMS
May 22, 2011

Comments (0)
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[Report this review](#)

Need No Other Collective

1 of 1 people found the following review helpful

Just want to give props to this collective, because they know how to look out for their patients and its near the 5 fwy cant miss it easy to find and they can work with your budget. even their lower shelf is dank, I should know there were times I had to pick me up some of that. Every time I go back they treat me good.

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by ygsnst19
May 14, 2011

Top 1000 Reviewer

Comments (0)
[View all my reviews](#)
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SOUTH BAY COLLECTIVE for sure

0 of 0 people found the following review helpful

been here a few times and i must say im glad this place is close to home there have been a few collective's that have opened up in the south bay and i havnt been to impressed by to many of them honstly one of the best in the south bay price to bud quality i was blown away i was so suprressed to see the bud i was getting at the prices i was paying accessibility is a 5 for me because its so close but u dont got to worry about parking coming here to often the staff is really great not to many but im not mad its closed membership so i assume they dont have much help all there buds are top notch great buds even better prices like i said earlier blown away i also like the cool chill feeling this place i would say they may need a lil more lighting but thats whatever

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by Timeless T
May 07, 2011

Comments (0)
[View all my reviews](#)
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all n all fantastic place
a collective for the patients
parking is alright
buds fantastic
prices just as great
staff knowledge aint to shabby
a respected south bay collective in my eyes

Not very business like !

0 of 0 people found the following review helpful

I have come to the conclusion that the majority of the people running these collectives have never run a business and have no idea how to run a business , it has happened to me on several occasions were I call in before driving there and wasting gas money and the person on the other end of the phone is rude and has a hard time answering just the simple questions I have , its a no brainer to not visit these collectives POK was one of the worst I have seen in a while .

Overall rating: 1.0
Bud Quality: 1.0
Atmosphere: 1.0
Staff: 1.0
Accessibility: 1.0
Price: 1.0



Reviewed by TBoone619
May 07, 2011

Comments (1)
[View all my reviews](#)
[Report this review](#)

---* Official Collective Response *---

Thanks for your review! We wondered if the 100+ other reviewers thought the same? Well we keep asking and they seem to think the exact opposite.

We understood that the review boards are used for helpful purposes. Not for some infantile temper tantrum that makes zero sense. This is you>>>>"it has happened to me on 1(several occasions) were I call in before driving there and wasting gas money and the person on the other end of the phone is rude and has a hard time answering just the simple questions I have , 2 (its a no brainer) to not visit these 3(collectives) POK was one of the worst I have seen in a while"

- 1. Why several occasions? If we are rude why would it take more than once for you to come to "a conclusion"?*
- 2.Well thats just to easy!*
- 3. What other collectives are you talking about? Do you have an issue with more than just one. When you wrote this review you wrote it with malicious intentions. Why? Did somebody put you up to it? Or are you just disgruntled? Whatever the case we have and will continue to be the same POK that the previous 100+ members love so much!*

Filetmignon619 OLT

The best hookups out there..

0 of 0 people found the following review helpful

This place has never let me down with my medical needs edibles, flowers, or concentrates everything is just TOP SHELF!.. not like those other dispensaries that say there going to hook u up and give you regie.. POK is the best out there..

Overall rating: 5.0
 Bud Quality: 5.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 5.0



Reviewed by looking4datdank
 May 05, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

pok

0 of 0 people found the following review helpful

good meds and concentrates just a little unaccessible at times because ether thers only 2 people in the shop so they cant deliver or there randomly closed once in awhile but other than that is an overall alright dispensary but make sure there open befor stopping by.

Overall rating: 3.6
 Bud Quality: 5.0
 Atmosphere: 5.0
 Staff: 4.0
 Accessibility: 1.0
 Price: 3.0



Reviewed by medikid18
 May 03, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

---* Official Collective Response *---

Thanks for your review.

You might have come by on one of the two days we were closed. We did announce that to all current members. That was about a 12 days ago. Around Easter. We are a small collective and we do have family.

Which brings me to another point we have had a closed membership for over a week now. This has been explained to all members to the best of our abilities. All seem to be pretty stoked about the idea. So to have a faulty review seems appropriate since there are some patients that are not happy with the idea of not being able to join POK.

For this we apologize but we have reached patient capacity.

We would like to say thank you to all of our current members for making POK what it is with all your hard work and help!

We strive to make every aspect of what we do better for you the patient!

Thanks again!

POK

nestor

0 of 0 people found the following review helpful

dank buds

crystals great smell

come check it out

kool staff

good prices always

Overall rating: 5.0
 Bud Quality: 5.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 5.0



Reviewed by ygstoner
 May 01, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

Headband Wax

0 of 0 people found the following review helpful

fucking with some of that Headband Wax feeling good people check it out if you are into the more heavy medication.
 kiva1230 POK STILL THE BEST

Overall rating: 5.0
 Bud Quality: 5.0
 Atmosphere: 5.0
 Staff: 5.0
 Accessibility: 5.0
 Price: 5.0



Reviewed by kiva1230
 April 29, 2011
 Top 500 Reviewer

Comments (0)
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FIRE FIRE FIRE URANUS OG

0 of 0 people found the following review helpful

Overall rating: 5.0

POK IS BACK WITH ONE OF HIS GREAT PLANETARY STRAINS MAN IM SO HAPPY RIGHT NOW JUST THE HIT I WAS LOOKING FOR THANKS DOGGY FEEELING GOOD PEOPLE CHECK THEM OUT YOU WILL BE SUPER HAPPU AND MAKE SHURE YOU TRY THAT URANUS OG
KIVA1230

Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0

 Reviewed by kiva1230
April 19, 2011
Top 500 Reviewer

Comments (0)
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Black Label Og

0 of 0 people found the following review helpful

Black Label Og still one of my favorites and a must try for all you people if you are into the really heave stuff
.kiva1230

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0

 Reviewed by kiva1230
April 16, 2011
Top 500 Reviewer

Comments (0)
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[Report this review](#)

nestor 19st south bay

0 of 0 people found the following review helpful

the best meds in all south bay
kool staff

the location is the best in my hood nestor
cheap prices good cronic

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0

 Reviewed by nestor19st
April 15, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

A compassionate C.O.O.P

0 of 0 people found the following review helpful

Just gotta let these patients know that POK is for the patients and not the DOLLARS, staff is friendly and campassion whith their members which I think is the best thing a collective can do. I like the location been living there for years which is in the NESTOR area, and what I like they can work with your budget. They also carrie a variety of OG's which any strain thats label OG IS FIRE. Anyhow i'm comfortable and satisfied here no need to go any where else.

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0

 Reviewed by ygsnst19
April 11, 2011
Top 1000 Reviewer

Comments (0)
[View all my reviews](#)
[Report this review](#)

Best dank in the 619

0 of 0 people found the following review helpful

The place has some goood dank bud in varieties of kush and indica in the 619.the Staff is always cool and knowledgable about the good strains they have. They also have th he ice creams for the munchies later

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0

 Reviewed by Skater blunts
April 07, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

pok nestor hollister st

0 of 0 people found the following review helpful

best dispensary in all south bay san diego
good meds good prices cool staff
N's up

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by ygstoner
April 05, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

Nixon OG and Bruce ReeEEEE??

0 of 0 people found the following review helpful

Haha the title says it all! The Nixon OG and the Bruce Lee OG just two of the latest OG's that I have decided to choose from P.O.K and they're heavy as usual. Nothing but pure fire on this menu board and thats a guarantee. this is definitely the spot for compassion and those OG's that will make you say " Ohhh Goddd!" Good lookin on keeping those OG's on the menu board P.O.K. Still numero uno in SD for me

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by moneyGRIP
April 05, 2011
Top 1000 Reviewer

Comments (0)
[View all my reviews](#)
[Report this review](#)
Last updated: April 05, 2011

[View all user reviews](#)



TODAY'S PRIZE
Party Hammer
Donated By:
Marijuana County
Collective



MAY 24, 2011
Earth OG
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PROGRESSIVE MEDICAL COLLECTIVE

Dispensary Zip City

GO!



- Show only
- SG tickets!
 - delivery
 - medbox
 - credit cards
 - photo menus
 - 18+

Home >> South Bay SD Marijuana Dispensaries

Progressive Medical Collective, Inc.



Written by Progressive Medical January 03, 2011 Hits: 12853 12

4.7 avg of 41 reviewers

DISPENSARIES

Dispensary Progressive Medical Collective

Name
 Dispensary 6201 Progressive Ave., Suite 300
 Address
 City San Diego
 State CA
 Zip Code 92154
 Phone 619-710-0700
 Number
 Hours of Operation Mon-Sat: 10:00am to 8:00pm. Sun: 12:00pm to 8:00pm.
 E-Mail ProMedsCo@gmail.com

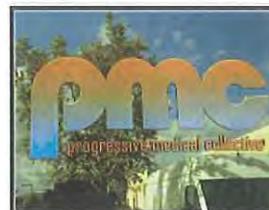
...and is it Brick & Mortar? Yes
18 Years Old OK? Yes

0
Like 10 people like this.

Search: eg. "og kush"

Attention All Members! We Are Now Open!

updated 19 hours ago



Pandoras Box X Jack The Ripper	20g	60 1/8	100 1/4		
Sour Grape	15g	50 1/8	95 1/4	150 1/2	250 0.6
D.J. Short's Blueberry	15g	50 1/8	90 1/4	150 1/2	250 0.2
Purple Cheese	15g	50 1/8	90 1/4		
Trainwreck X Yumbolt	10g	35 1/8	70 1/4		
Casey Jones	10g	35 1/8	70 1/4		
Odyssey Og	10g	35 1/8	70 1/4		
Blunttime Special	8g	20 1/8	40 1/4		
<i>average prices</i>	14.8 ^g	45.9 ^{1/8}	83.6 ^{1/4}	150.0 ^{1/2}	250.0 ^{0.6}

EDIBLE

Carrot Cakes	15 ea.
We Be Three Chocolate Chips	8 ea.
Brownies	8 ea.
The Capsules	5 ea.
Dark Chocolate Smiles	3 ea.
White Chocolate Smiles	3 ea.

CLONE

Natural Disaster	10 ea.
Grape Fruit Haze	10 ea.

TOPICALS

Jb's Pain Relief - Grapeseed Oil	3 ea.
----------------------------------	-------

71,388 items & 2,004 dispensaries!

No longer the newest, but still the best! Come check out the South Bay's finest collective, Progressive Medical. Our friendly and knowledgeable staff is here to provide safe access to top quality medication at a discreet location. There is parking for disabled persons right in front, and our facility is in accordance with all Americans with Disabilities Act regulations. Progressive Medical is a non-profit collective in full compliance with the Compassionate Use Act of 1996 (CA Health & Safety Code 11362.5 - Proposition 215), SB 420 and the California Attorney General's recommended guidelines for medical cannabis.

Coming Soon: P.M.C. will be able to test your medicine for THC, CBD & CBN content, pesticides, mold and bacteria.

We are located near the Otay Mesa DMV office, right off the Route 905 Freeway/Otay Mesa Rd.

New Patient Referral Program: Refer eight and get an eighth.

Have any questions? Don't hesitate to call and ask about our discounts for disabled patients or about our one ounce specials.

Follow us on Twitter! @ProgressiveMeds

User reviews

[View all user reviews](#)

Average user rating from: 41 user(s)

To write a review please register or login.

Overall rating:	4.7
Bud Quality:	4.8 (41)
Atmosphere:	4.6 (41)
Staff:	4.8 (41)
Accessibility:	4.7 (41)
Price:	4.7 (41)

Dank all around

0 of 0 people found the following review helpful

Can't believe some coward broke into PMC.
Review with pics of Master Kush and Yumboldt x Trainwreck @
<http://mencik.wordpress.com/2011/05/20/thieves/>

Overall rating:	5.0
Bud Quality:	5.0
Atmosphere:	5.0
Staff:	5.0
Accessibility:	5.0
Price:	5.0



Reviewed by SanDiego-ite
May 19, 2011
Top 500 Reviewer

Comments (0)
[View all my reviews](#)
[Report this review](#)

BACK ON THE ONE !!!!!!!!

0 of 0 people found the following review helpful

HEY TO ALL MEMBERS PMC IS KICK-IN AGAIN .THEY GOT SOME NEW KUSHES THE PURPLE HINDU IS PURPLE WITH A HINT OF GREEN IT'S THE BOMB ALSO THE MASTER AND PURE HINDU IS BLAZIN AND HARD TO KEEP DOWN.I'D ADVISE ALL TO GO AND CHECK IT OUT.LIKE ALWAYS THEY'VE GOT SOME \$10.00 GRAMS TO LIKE THE YUMBOLT TRAINWRECK ✓ IT'S THE SHIZNIT AND WORTH THE DRIVE BY.RYAN AS ALWAYS SHOWING THE LOVE,ALWAYS A PLEASURE TO STOP BY AND TALK TO HIM AND HE KNOWS HIS STUFF. SO SOUTHBAY AND EAST COUNTY COME ON BY AND CHECK THEM OUT AND FEEL THE LOVE.....

PEACE OUT AND KEEP BLAZIN,

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by high_time
May 16, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

That Exclusive

1 of 1 people found the following review helpful

Check out that Exclusive Stompers Kush and Black Diamond Kush w/ pics and full review @

<http://mencik.wordpress.com/2011/05/06/blackdiamondkush/>

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by SanDiego-ita
May 05, 2011
Top 500 Reviewer

Comments (0)
[View all my reviews](#)
[Report this review](#)

very cool

0 of 0 people found the following review helpful

great dispensary

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by gham819
April 30, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

HAVE IT YOUR WAY

0 of 0 people found the following review helpful

THIS PLACE IS LIKE BURGER KING HAVE IT YOUR WAY.JUST GOT SOME OF THERE BLACK DIAMOND AND STOMPER KUSH I MUST SAY IT'S KICK ASS ALSO GOT SOME OF THERE CASIE OG IT TOO IS THE BOMB AND THE PRICE,THIS IS WHAT SOUTHBAY NEEDS GOOD MEDICINE AND GREAT PRICES BECAUSE ALL OF US AREN'T WORKING OR ARE DISABLED BUT THESE GUYS COME THUR IN A PINCH AND ALWAYS WILLING TO WORK WITH YOU.RYAN ONE OF THE BEST BT I'VE EVER HAD THE PLEASURE OF DOING BUSINESS WITH.ALWAYS UPDATED AND ALWAYS TRYING TO IMPROVE.

GUYS KEEP UP THE GREAT JOB AND KEEP ON TRUCKIN.
PEACE-OUT

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by high_time
April 29, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

GREAT CLONES

0 of 0 people found the following review helpful

I purchased bare root Grapefruit ✓ Hazé clones about 3 weeks ago. They were well rooted and took off in the veg chamber. Very Happy so far.

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by DanOH
April 27, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

Comments (0)
View all my reviews
Report this review

Curious about their BLUNT TIME SPECIAL?

0 of 0 people found the following review helpful

Ever been curious on their Blunt Time Special?
Full review with high res pics of their CURRENT BLUNT TIME SPECIAL strain,

Take a look at:
<http://mencik.wordpress.com/2011/04/27/blunt-time-special/>

Overall rating: 4.8
Bud Quality: 4.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by SanDiego-ite
April 26, 2011
Top 500 Reviewer

Comments (0)
View all my reviews
Report this review

first time

0 of 0 people found the following review helpful

nicest platinum bubba i've seen in a while and it was only 15 a g! no joke lowest price for the nicest budz i've seen south of s.d.

Overall rating: 4.4
Bud Quality: 5.0
Atmosphere: 4.0
Staff: 5.0
Accessibility: 3.0
Price: 5.0



Reviewed by JReese119
April 20, 2011

Comments (0)
View all my reviews
Report this review

love love love

0 of 0 people found the following review helpful

love love love

Overall rating: 4.2
Bud Quality: 5.0
Atmosphere: 4.0
Staff: 5.0
Accessibility: 3.0
Price: 4.0



Reviewed by toothhighlady
April 14, 2011

Comments (0)
View all my reviews
Report this review

Royal Dutch Amnesia Review with High Res Photos

1 of 1 people found the following review helpful

Some goodness. What more to say? Read all the other reviews.
Review with HIGH RES pics @
<http://rmencik.wordpress.com/2011/04/13/pmcamnesia/>

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by SanDiego-ite
April 12, 2011
Top 500 Reviewer

Comments (0)
View all my reviews
Report this review

One Of The Best In San Diego

2 of 2 people found the following review helpful

When i first walked into progressive i was immediately surrounded with some really nice people, who knew their shit about marijuana which i was very impressed to see. The prices is where the got me hooked! They have the best prices from edibles to

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0

top shelf bud. The Master Kush was one of the best ive ever tried and i still say that to this day. If you ever have a chance i would stop by and check it out yourself. 5 STARS!

Accessibility: 5.0
Price: 5.0



Reviewed by Xx Warhead xX
April 03, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

Review with pics: Lavender/Laker Kush

1 of 1 people found the following review helpful

I dont really like spending \$55+ for eighths but definately check these out. Only strains in SB to make me spend the extra dough. Full review with high res photos @ <http://mencik.wordpress.com/2011/04/01/pmc-laker-kushlavender-kush-strain-review/>

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by SanDiego-ite
March 31, 2011
Top 500 Reviewer

Comments (3)
[View all my reviews](#)
[Report this review](#)

All About tht laker kush

1 of 1 people found the following review helpful

Probs the best indica ive had so far.
Very potent two hits and ur dazed already very good for some sleepy time medicine.
their maui wauai was very dank dense cant feel it right away but belive me itll come up when u least expect it.
And the service was spectacular the greatest service ive ever had. they always make sure u leave happy with the dankest meds u could find

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by stillblazin47
March 31, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

light it up

1 of 1 people found the following review helpful

went here for the first time to pick up a g of there pre-98 bubba and wow, not only was it completely covered in crystals, but when you would tear it apart you could actually see the crystals falling of, it was saturated, and it gave me the perfect high balance of mental and physical. he place is kind of on the far side since its in otay, and well i'm never headed that way, but will be now for this place. Would like to see an assorted variety of concentrates soon from you guys

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by strokes80
March 29, 2011

Comments (0)
[View all my reviews](#)
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Must go Too

0 of 0 people found the following review helpful

I really do like this place and of the shops in this side of san diego they got the best deals. They have a awesome blunt time special deal and for a 20 dollar eight it doesn't dissappoint. thier top shelf is very nice and the staff is friendly too.

Overall rating: 4.2
Bud Quality: 5.0
Atmosphere: 3.0
Staff: 5.0
Accessibility: 3.0
Price: 5.0



Reviewed by cecismom619
March 28, 2011

Comments (0)
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[Report this review](#)

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	<p>TODAY'S PRIZE Party Hammer Donated By: Marijuana County Collective</p>		<p>MAY 24, 2011 Earth OG Orange County ICOC</p>	
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TAILORED HEALTH CARE COLLECTIVE

Dispensary Zip City

GO!



- Show only
- \$5 tickets!
 - delivery
 - medbox
 - credit cards
 - photo menus
 - 18+

Home >> South Bay SD Marijuana Dispensaries

Tailored Health Care South Bay Cannabis Collective



Written by mikeTHC132 June 14, 2010 Hits: 30271 47

4.6 avg of 128 reviewers

DISPENSARIES

Dispensary Name Tailored Health Care Collective

Dispensary Address 1555 Palm Ave, Suite K

City San Diego

State CA

Zip Code 92154-1012

Phone Number 619-240-7246

Hours of Operation Monday - Saturday 10-9 Sunday 11-5

Website URL <http://www.SouthBayTHC.com>

E-Mail mike@southbayTHC.com

...and is it Brick & Mortar? Yes

Accepts Credit Cards? Yes

18 Years Old OK? Yes



0 Like 20 people like this.

Search: eg. "og kush"

NO GIMMICKS JUST LOVE FOR ALL OUR PATIENTS

updated 4 hours ago

Candy Kush ✓!!!	20g	60	1/6	
(White) Mr Nice Guy!!!!!!Fire	20g	60	1/5	FROSTY
Gorilla Grape!!!	20g	60	1/6	Purple
Bubba ✓ Confidential Og!!!!Super Fire	20g	60	1/8	Fire!
Mars Og ✓!!!!!! Fire	20g	60	1/6	Fire!
Purple Bubba ✓ Kush!!!!!! Flame	20g	60	1/8	NEW
Real Romulan ✓!!!!Super Flame	20g	60	1/8	NEW
X X X Og Fire!!!!!!	20g	60	1/8	NEW
Platinum Kush!!!	20g	60	1/8	Fire!
G D P X Purple Kush ✓	18g	55	1/6	Fire!
Hawaiian Blueberry Kush ✓!!!!	18g	55	1/8	RARE
Big Sur	15g	45	1/4	Popular
Pre Rolls	5g			
average prices	18.9g	58.8	1/8	

SATIVA

THC True Headband ✓!!!!!!	20g	60	1/8	Fire!
5 Star Hydro Blue Dream	20g	60	1/8	RARE
Blue Dragon ✓	20g	60	1/8	RARE
Casey Jones ✓!!!!!!	20g	50	1/8	Fire!
Hawaiian Blue Dream ✓	20g	60	1/8	RARE
Trainwreck ✓	20g	60	1/8	Popular
G.A.S !!!!!	20g	60	1/8	Fire!
Afgoo ✓!!!!!!	20g	60	1/8	DANK!
Flame Sour Diesel ✓!!!!!!	20g	60	1/8	Popular
Amazing J-1 ✓	20g	60	1/8	NEW
Blue Dream ✓!!!!!!	18g	55	1/8	NEW
Snow Cap ✓	18g	55	1/8	Fire!
Cannabee Products	5g			Healthy
average prices	18.5g	58.3	1/8	

HYBRID

'Pineapple ✓ O G I Sweet!!	20g	50	1/8	DANK!
Afgani X J1	15g	45	1/6	Pom
Thc 1/8 Special		45	1/8	Popular
average prices	17.5g	46.7	1/8	

EDIBLE

Chocolate Pyramid				SPICY!
Subtle Sencha Green Tea Bags				Healthy
Too Many To List				
Macaroon Chocolate Bar				Popular
Rice Krispie Treats				Popular
Ice Cream				Healthy
Peanut Butter Cookie				DANK!
Chocolate Chip Cookie				DANK!
Oatmeal Raisin Cookie				DANK!
Little Tootsies				DANK!
Bagel Bites				RARE
Mega Brownie Bites				RARE
Virgin Olive Oil Several Sizes Available				Healthy
Now We Have Yak!!!!				RARE
Honey Sticks				Fire!
Green Valley Granola				Healthy
420 Chocolate Bar				DANK!

Fruit Roll Ups	DANK!
Chopper Brownie	Fire!
KronDike Ice Cream Bars 6 Flavors	NEW
Lollipops	Popular
Hard Candy Packs	Popular

CONCENTRATE

Algan Kush Hash	20 ^{5g}	40 ^{5g}	Fire!
O G X Purple Hash	20 ^{5g}	40 ^{5g}	Fire!
Bubba Kush [✓] Hash	20 ^{5g}	40 ^{5g}	Fire!
Blackberry Kush [✓] Hash	20 ^{5g}	40 ^{5g}	Fire!
Master Kush [✓] Hash	20 ^{5g}	40 ^{5g}	Fire!
Flame Sour Diesel [✓] Hash	20 ^{5g}	40 ^{5g}	Popular
Sage & Sour Hash	20 ^{5g}	40 ^{5g}	Fire!
Pure Og [✓] Hash	20 ^{5g}	40 ^{5g}	Fire!
The Purps [✓] Hash	20 ^{5g}	40 ^{5g}	DANK!
Green Crack [✓] Kief	15 ^{5g}	30 ^{5g}	Fire!
Bubblegum Kief	15 ^{5g}	30 ^{5g}	Fire!
T H C Hash	15 ^{5g}	30 ^{5g}	Low
Tinctures - Various Flavors			Popular

DRINK

Meta Milk	10 ^{oz}	Healthy
-----------	------------------	----------------

CLONE

Clones Types Vary Almost Daily	10 ^{oz}
--------------------------------	------------------

71,379 items at 2,004 dispensaries!

Something for everyone -- Superior variety

--- We stock YAK, Venice Company, SAC Ice Cream, Cannabee Homeopathic Products and more---
 --- THC always pays the 8.75% sales tax on your donation ---

Tailored Health Care Collective, a compassionate and patient-oriented collective
 fully compliant with all CA regs and completely ADA accessible.
 THC provides support and alternative health resources to people facing health challenges.

Conveniently located in the Bay City Plaza, on Palm Ave just north of the Imperial Beach border,
 between Totally Tan and the Laundromat.

Lots of parking. Knowledgeable Friendly staff.

New (First Time) Patients receive a gift with donation

All patients receive a FREE gram of your choice
 after purchasing 10 eighths.

Stock Changes Frequently Come in and tell us what you need.

User reviews

[View all user reviews](#)

Average user rating from: 128 user(s)

To write a review please register or login.

Overall rating:	4.6
Bud Quality:	4.6 (128)
Atmosphere:	4.8 (128)
Staff:	4.7 (128)
Accessibility:	4.8 (128)
Price:	4.3 (128)

I 4GOT..

1 of 1 people found the following review helpful

I 4GOT 2 GIVE THANKS TO DA PEEPS AT THC FOR DAT GDP[✓]/PURPLE KUSH[✓] & THOSE TWO SPLIFFS DA OTHER

Overall rating:	5.0
Bud Quality:	5.0
Atmosphere:	5.0

DAY.. THANKS & GOD BLESS TO THC I REALLY APPRECIATE DAT.. ARE THOSE SPLIFFS HAND ROLLED? IF IT IS.. DATS SUM PRETTY NICE ROLLING SKILLS.. UNLESS ITZ NOT? AT LEAST THOSE PRE-ROLLED JOINTS U GUYS GOT ARE FATTER THEN THOSE AT DEM OTHER DISPENSARIES.. OH YEA DAT L.A. CONFIDENTIAL IS HELLA FIRE.. IT STIL HAS DAT SAME TASTE & SMELL.. DA MEDITATION.. HEAVY HIGH.. JUS DA WAY IT WUZ 4YRS AGO WHEN I FIRST TRIED OUT DAT STRAIN.. I WONDER WHY DA STRAIN IS CALLED L.A. CONFIDENTIAL.. WUTS SO CONFIDENTIAL ABOUT IT.. I WONDER WUT DEY PUT IN IT.. SIKES!! LOL... J/P... ENOUGH OF MY YAPPING.. WELL ARYT DEN THC.. SEE U FELLAZ SOON.. TAKE IT EAZY MY FRIENDS.. STAY UP.. PEACE FRM DI MON IRIE MEZZ..

Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by ITAL-MARV
May 17, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

Last updated: May 17, 2011

---* Official Collective Response *---

Thanks for the review (ITAL-MARV) STAY UP, SEE YOU SOON, MUCH LOVE FROM ALL AT T H C .

ChemDawg OG aint bad at all...

1 of 1 people found the following review helpful

picked up a 30 of the Chem-Dawg OG and was pretty satisfied...

a little moist at first, but i let it dry in a container for about a day...

good taste, good bite to it...

i love Chemdawg...

love the compassion at this place..

should be back to get another bundle..

Overall rating: 4.4
Bud Quality: 4.0
Atmosphere: 4.0
Staff: 5.0
Accessibility: 4.0
Price: 5.0



Reviewed by GREENSUNDAY
May 17, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

---* Official Collective Response *---

Thanks for the review (GREENSUNDAY) Hope to see you soon, MUCH LOVE FROM ALL AT T H C .

THC BEST IN ALL SD!

1 of 1 people found the following review helpful

Yesterday I picked up on a g. of Jolly Rancher DAMN!!!!!! Honestly i havent been that high since i tried their Flame Green Crack and the Kryptonite .. Dank Ass Buds THC never lets me down i stopped going for a while since i started working but ive been going lately and Mike and Luke Never dissapoint me man always hooking it up ! Keep up the good work . If you want the best meds and the best customer service Mike and Luke got you man this is the place to go! Lates! Recommend to everyone!!!

Ivan B.

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by Ivan_BLUEDREAMS
May 11, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

---* Official Collective Response *---

Great review (Ivan_BLUEDREAMS) THANKS, AND MUCH LOVE FROM ALL AT T H C .

THANKS THC!!

1 of 1 people found the following review helpful

DAT MK IS DANK.. LOOKS CAN BE DECEIVING BUT I 4GOT ITS KUSH... KUSH IS ALWAYS BOMB LIKE DA OG STRAIN.. IRIE IRIE.. THANKS AGAIN THC.. GOD BLESS!! LATRZ..

---* Official Collective Response *---

Thanks for the review (ITAL-MARV) you keep coming and will keep it up, MUCH LOVE FROM ALL AT T H C .

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by ITAL-MARV
May 03, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

Very nice collective

1 of 1 people found the following review helpful

This was my first visit to Tailored and I am very pleased. I picked out the L.A. confidential and some casey jones . Both buds were excellent quality. Tailored is a very chill place with a huge selection of flowers to choose from. They also have a nice selection of edibles that I cant wait to try out. I will come by every time i am in the area. Very nice collective!

---* Official Collective Response *---

Hey thanks for checking us out (snoopdawgOG) Hope to see you back soon, MUCH LOVE FROM ALL AT T H C .

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by snoopdawgOG
April 30, 2011

Comments (0)

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THANKS AGAIN THC!!

1 of 1 people found the following review helpful

THANKS 2 THC.. DAT SATURN OG IZ HELLA DANK.. OG ALWAYS A ONE OF A KIND TYPE OF MEDITATION.. ONE PERSONAL SPLIFF GOT ME INA STRAIGHT RELAXATION 4 ABOUT AN HR AN A HALF OR SO.. I THINK?? LOL.. OH YEA & DAT OG HEROJUANA CLONE I GOT FRM U FELLAZ ABOUT A WEEK AGO IZ GROWING JUST DA WAY ITS SUPPOSE 2.. NICE CLONING.. DAT OIL TINCTURE ACTUALLY WORKS!. I WUZ KINDA DOUBTING THOSE THINGS.. I WONDER HOW U MAKE THOSE?? DATS TIGHT YO.. ALRYT DEN THC.. STAY UP & KEEP IT IRIE.. PEACE AGAIN FRM DA MON ITAL MESSY MARV.. GOD BLESS!

---* Official Collective Response *---

Thank for the great review (ITAL-MARV) see you soon, MUCH LOVE FROM ALL AT T H C .

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by ITAL-MARV
 April 29, 2011

[Comments \(0\)](#)
[View all my reviews](#)
[Report this review](#)

Last updated: April 29, 2011

buda luvas...

0 of 0 people found the following review helpful

They always got different strains i cant keep up with it becuz im not a usual patient there, but every time i go in there they have dank with long wierd names but it does the trick..

---* Official Collective Response *---

Thanks for the dng (looking4datdank) Looks like a dng from your two fav spots SAD, BUT WHEN YOUR THE BEST EVERYONE WANTS TO BRING YOU DOWN, SORRY WONT HAPPEN, TELL BLOWFIE AND FATBOY HI. T H C .LOL

Overall rating: 3.4
Bud Quality: 4.0
Atmosphere: 4.0
Staff: 3.0
Accessibility: 3.0
Price: 3.0



Reviewed by looking4datdank
 April 24, 2011

[Comments \(0\)](#)
[View all my reviews](#)
[Report this review](#)

why go any other place but HOME

2 of 2 people found the following review helpful

OK SO BESIDES HITIN UP OTHER SHOPS REVIEWIN MEOCRE MEDS IVE DECIDED WHY GO TO ANY OTHER SHOPS WHEN THC HAS NOT DISAPPOINTED ME EVER. THE STAFF TREATS U LIKE FAMILY ACCESSIBILITY IS NICE N EASY PLENTY OF PARKING AND THE MEDS, WOW, THC HAS GOT SOMETHING FOR YOU IN EVERY PRICE RANGE. HERE U DONT NEED ANY COUPONS OR ANY OTHER GIMMICS, JUST BEING TREATED LIKE FAMILY IS ENOUGH. THE MEDS ARE KILLER AND THE INDICA STRAINS ARE RIGHT ON LIKE HOW THEY SHOULD BE. EVERY MED AFTER MEDICATING ON IT FOR MYSELF HAS BEEN RIGHT ON SO HERE THERES NONE OF THIS MISNAMING STRAINS LIKE OTHER SHOPS. THC IS SIMPLY A GREAT SHOP AND IS CONSTANTLY DOING GREAT WORK. KEEP UP THE AWESOME JOB AND I WILL BE SEEING YOU ALL SOON, THANKS AGAIN TO ALL AT THC FOR TREATING ME SO GREAT, NOT LIKE A NUMBER BUT LIKE FAMILY.

JONSEY

P.S THE KRONDIKE IS KILLER NICE N POTENT AND AT A GREAT PRICE. IMMA DEF COME BACK FOR THESE ICE CREAMS

---* Official Collective Response *---

Thanks (JONSEY) GREAT REVEIW!!! MUCH LOVE FROM ALL AT T H C .

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by JONSEY
 April 21, 2011
 Top 500 Reviewer

[Comments \(0\)](#)
[View all my reviews](#)
[Report this review](#)

Killer Cali Bud

1 of 1 people found the following review helpful

The boys at THC are chill as hell. I started out going to other dispensaries that were around the downtown area until I found these guys. You couldn't ask for better bud. Their Afghani Bullrider is killer. Hella crystallly and it gives you you bomb ass high. I buy it almost every time I go in there. I went in recently with a friend and he got the Ed Rosenthal, which smells amazing and tastes even better. He also got the Purple Cotton Candy *. I loved the color. So rich in purple and thankfully got rid of my migraine(which no pill ever works). Its the only place I go now, And thanks guys for everything. See you soon,

---* Official Collective Response *---

Thanks for that great review (JACKIthebongRIPPER) Glad we could help with the migranes, MUCH LOVE FROM ALL AT T H C .

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by JACKIthebongRIPPER
 April 18, 2011

[Comments \(0\)](#)
[View all my reviews](#)
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THC great meds

1 of 1 people found the following review helpful

Hey whats up people

As u know this guys are great and if u never been at THC then this is for you the buds quality is great big fluffy to little compact heavy nugs but all frosty and have a good kick this week i bought some nightmare og and it was great, very purple and frosty good to chill casey jones was good too been very flufy and super frosty both strains had great high, smell and taste and if u want something better try the bubba v hash great taste and high. Atmosphere and staff are great no complaints accessibility is damn good with lots of parking.. and munch around hahahaha

what can i say, another great month for lhis guys

---* Official Collective Response *---

Super review (Drago#2) you know your meds, MUCH LOVE FROM ALL AT T H C.

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by Drago#2
April 18, 2011

Comments (0)
View all my reviews
Report this review

RESPECT TO THC STAFF..

1 of 1 people found the following review helpful

THANKS 4 PROVIDING ME A TYPE OF STRAIN DAT GIVES U A NICE MEDITATION.. EXCLUSIVE IRIE.. THE FEELING OF BEING COOL, CALM & ONE WITH URSELF ROOTSMON STYLE.. JAH!! RASTAFARI!! LATRZ (THE (H)IGHER (C)LASS!.. U KNO!! TAKE IT EAZY MEE BREDRENS.. ROOTS.. PEACE & JAH BLESS!.. FRM DEE MON ITAL MESSY MARV..

---* Official Collective Response *---

Your to much man. THANKS FOR THE GREAT REVIEW (ITAL-MARV) MUCH LOVE FROM ALL AT T H C.

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by ITAL-MARV
April 17, 2011

Comments (0)
View all my reviews
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Best meds!

1 of 1 people found the following review helpful

The meds are the best in SD and the quality is unbeatable! The prices are great and they never let me down. Its a real treatto have such a professional and friendly place to get medst! Also, the melanik is a must try! Thanks guys!

Melissa 2633

---* Official Collective Response *---

Thanks for the GREAT!! review (Melissa13) see you soon, MUCH LOVE FROM ALL AT T H C.

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by Melissa13
April 16, 2011

Comments (0)
View all my reviews
Report this review

Best in SD!!!!!!

1 of 1 people found the following review helpful

I've been to many dispensaries around San Diego but THC has been the best by far. The quality of the meds are all very potent. there is no need to go any where else but THCI They have a good selection and trust me when I say this but you can't go wrong with any of them! All the budtenders are all nice and they know what they are talking about. If you have tried THC yet go and try it. you'll leave happy like I always do. Vane

---* Official Collective Response *---

Hey thanks for the great review (Vane83) MUCH LOVE FROM ALL AT T H C.

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by Vane83
April 14, 2011

Comments (0)
View all my reviews
Report this review

THANKS AGAIN THC..

1 of 1 people found the following review helpful

GOODLOOKIN!!! MISS CLEO DATS DA DEALEO.. SMELLS LIKE DEM OLD SCHOOL TYPE OF HERBICATION.. & DA BUBBA KUSH v BEAUTIFUL STRAIN LOOKS BOMB & SMELLS LIKE BUBBLE GUM v BUT I HOPE IT DOES DA JOB FOR MY BACK PAIN.. GETTING INJURED IS NOT A GOOD THING WHILE UR STIL YOUNG.. DAMN.. BUT ITS A GOOD THING MEDICAL

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0

MARIJUANA DISPENSARIES ARE UP.. CUZ BUYING SUM MAN MADE DRUGS LIKE TYLENOL & ASPERIN.. PSSSH HELL NAWW! NOT ME.. UNLESS?? DEY TAKE AWAY MARYJANE.. DAT WUD B WHACK IF DEY DO THO.. WELL ALRYT DEN.. STAY UP ROOTS PEOPLE.. HAVE A NICE DAY THC.. BOUT TO PUFF DIS SPLIFF TO KEEP DA EVIL AWAY.. GOD BLESS COLLECTIVE.. PEACE..

---* Official Collective Response *---

Thanks for the review (iTAL-MARV) MUCH LOVE FROM ALL AT T H C.



Reviewed by iTAL-MARV
April 08, 2011

Comments (0)
View all my reviews
Report this review
Last updated: April 08, 2011

Sd IOvE

1 of 1 people found the following review helpful

The strains are decent i has some Bubba Kush hash that was super fire on top of a strain ive never heard of Criema Blue, gave me a complete calm bedlock feeling put me right to bed. They have a variety of stains i will go back to try there Romulan which looked beautiful and there Master Kush. The staffs really nice cute sweet guys and what i liked was they didnt bash the other local collectives near by its all love. Its easy to find easy parking, you get in get out and they have a large selection of edibles. Thank you THC.

---* Official Collective Response *---

Thanks for the GREAT Review (Cheefah) MUCH LOVE FROM ALL AT T H C.

Overall rating: 4.2
Bud Quality: 4.0
Atmosphere: 4.0
Staff: 4.0
Accessibility: 5.0
Price: 4.0



Reviewed by Cheefah
April 07, 2011

Comments (0)
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Collective



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Tree House Club



Written by treehousesandiego November 10, 2010 Hits: 7827

4.2 avg of 41 reviewers

DISPENSARIES

Dispensary Name: Tree House Club
Address: 4370 Palm Avenue, Suite T
City: San Diego, State: CA, Zip Code: 92154
Phone Number: 619-428-1549
Hours of Operation: Monday-Saturday 10am-8pm, Sundays 10am-6pm
Website URL: <http://www.thcsandiego.com>
E-Mail: info@thcsandiego.com



0
Like 2 people like this.

Search: eg. "muffin"

NUDGE THIS DISPENSARY!

(to ADD their menu @ WeedMaps)

71,381 items & 2,004 dispensaries!

see the strains page on our website www.thcsandiego.com for current menu

- We are a non-profit association of patients and caregivers providing a safe and secure environment to resources in compliance with the Compassionate Use Act (CA Health and Safety Code 11362.5).
- We help patients and caregivers to safely promote and facilitate accessing their medical needs by: providing medicines, resources and support.
- We will operate in compliance of California's medical cannabis laws.
- We are a non - profit association of legally qualified patients and their primary caregivers who engage in the medical cultivation and use of cannabis as authorized under CA h&s 1136.5 & 11362.7, and proposition 215.
- We offer compassionate specials for patients who are seniors, disabled and veterans.

Tree House Club is here to promote and facilitate the nonprofit, collaborative association of legally qualified patients and their primary caregivers who are engaged in the medical cultivation and use of cannabis as authorized under California Health and Safety Code 11362.5 and 11362.7.

Tree House Club's principal function in this regard is to receive excess medication grown by legally qualified patient-members or their caregivers and make it available to other legally qualified patient-members or their caregivers. Tree House Club does not make cannabis available to the general public, or to anyone else who is not a registered member of our collective and entitled to possess it pursuant to California law.

We are located at the 805 and Palm Avenue.

Take 805 to Palm Avenue exit #2, head west, enter into the first driveway at Palm Ridge Shopping Center.

We are behind the KFC, between the liquor store and the fruiteria.

free gift to all new members with first donation!!!

early bird special:
free pre-roll with any donation 10-11am
Tuesdays:
2g for 30 (some premium strains excluded)

Wednesdays: 4g on
*d eighths (some premium strains excluded)

wheel of fortune wednesdays at 7pm
Thursdays:
Free preroll with any eighth donation
Fridays:
Enter to win a tree house club tshirt

MEMBER BONUS PROGRAM: earn 1 point for every dollar donated every 500 pts get a \$50 credit to be used towards meds, edibles, or topicals of your choice!

Sign up for our grow class on May 7th at 6:30pm!

User reviews

[View all user reviews](#)

Average user rating from: 41 user(s)

To write a review please register or login.

Overall rating:	4.2
Bud Quality:	4.4 (41)
Atmosphere:	4.3 (41)
Staff:	4.3 (41)
Accessibility:	4.2 (41)
Price:	4.0 (41)

Makin me look foolish

0 of 0 people found the following review helpful

blehhh
read about my awesome experience @
<http://mencik.wordpress.com/2011/05/10/shakeitup/>

high res pics and full review

Overall rating:	2.8
Bud Quality:	4.0
Atmosphere:	2.0
Staff:	2.0
Accessibility:	3.0
Price:	3.0

 Reviewed by SanDiego-ite
May 10, 2011
Top 500 Reviewer

[Comments \(0\)](#)
[View all my reviews](#)
[Report this review](#)

LACK LUSTER

1 of 1 people found the following review helpful

i WAS ALWAYS TOLD IF YOU CAN'T SAY ANYTHING NICE DON'T SAY ANYTHING,BUT I'M GOING TO MAKE AN EXCEPTION HERE
1. THE BUD QUALITY WAS OK BUT NOT THAT GOOD YOU COULDN'T POST IT AS IF YOU HAD SOME SECRET UNDERGROUND KILLER STUFF.
2.ATMOSPHERE MADE YO FEEL LIKE YOU WERE WAITING FOR THE POLICE TO RAID THE PLACE,PLACE HAD THE DOOR CLOSED,RIGHT NEXT TO THE TACO SHOP.GUY THAT.CAME TO THE DOOR WAS ACTING LIKE HE THOUGHT I WAS S'O.
3.STAFF WAS OK STILL THEY CAN USE SOME CUSTOMER SERVICE SKILLS IT'S ALL ABOUT INTERACTING WITH THE PATIENTS NOT LIKE WERE DOING THEM A FAVOR.
4.PARKING SUCKED MORE PEOPLE AT THE TACO SHOP HARD TO GET IN AND HAVE TO GO AROUND THE LINE OF PEOPLE THAT ARE WAITING TO GO IN THE TACO SHOP.
5.PRICE NO BIG DEAL THINK THEY WOULD LOOK FOR MEDICINE TO FIT THE BUDGET GUYS 10% ISN'T ALL THAT GREAT AND IF YOU GO WITH THE LOWER PRICE YOU LOSE IN QUALITY.

OVERALL:THIS IS THE REALLY FIRST PLACE OF ALL THE PLACES I'VE BEEN TO INCLUDING LOS ANGELES, THE INLAND EMPIRE,AND ORANGE COUNTY, THAT'S PROBABLY WHY WE NEED SO MANY DISPENSARIES JUST IN CASE ONE FALLS THRU THE GAP.

PEACE OUT

number 1 spot

0 of 0 people found the following review helpful

I love going here the owners are great they have great selections great price is this is best place to go to in southbay!!

Overall rating: 1.4
Bud Quality: 3.0
Atmosphere: 1.0
Staff: 1.0
Accessibility: 1.0
Price: 1.0



Reviewed by high_time
April 29, 2011
Top 1000 Reviewer

Comments (0)
View all my reviews
Report this review

better late than never

0 of 0 people found the following review helpful

A little old, but better than never. Purple Yeager and Banana Kush full review w/ high res pics @
http://mencik.wordpress.com/2011/04/17/treehouseclub/

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by stefanie86
April 29, 2011

Comments (0)
View all my reviews
Report this review

It's good, but the parking kinda sucks.

0 of 0 people found the following review helpful

peanut butter cups are the best! half of one made watching sesame street soooo much better.. :) parking not the best....

Overall rating: 1.8
Bud Quality: 2.0
Atmosphere: 3.0
Staff: 2.0
Accessibility: 1.0
Price: 1.0



Reviewed by srh420247
April 08, 2011

Comments (0)
View all my reviews
Report this review

the cookie to die for

0 of 0 people found the following review helpful

this is a great place. i followed them to south bay. thats how good they are. the super lemon haze is the only saliva that i will buy

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0

and its the best from them. they also have this(treehouse club) hybrid that is KILLER. the chocolate cookie with 8 dozes knocked my pain right out. YOU WILL HAVE TO TRY THIS PLACE

Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by sdrose555
April 01, 2011
Top 1000 Reviewer

Comments (0)
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[Report this review](#)

Awesome

0 of 0 people found the following review helpful

Geart service Close to all south bay and very discreet
Great buds very potent
Thnks tree house for hookin it up with a fat pre roll

Overall rating: 4.6
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 4.0
Accessibility: 4.0
Price: 5.0



Reviewed by stillblazin47
March 31, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

Always Unique

0 of 0 people found the following review helpful

Always count on thes guys to have unique strains, and sometimes some pretty hard to find ones also. The staff is always super cool, and the birds are a trip. The edible prices are super sick, and two thumbs up on the strenght of even the cheap ones. Keep it up guys, and i'll keep comin back.

Overall rating: 4.6
Bud Quality: 5.0
Atmosphere: 4.0
Staff: 5.0
Accessibility: 5.0
Price: 4.0



Reviewed by m_bush2011
March 30, 2011

Comments (0)
[View all my reviews](#)
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Dont smoke crack. Smoke THC like ME!

1 of 1 people found the following review helpful

Its been a while since I have been to THC to actually pickup some medication. I usually stop by to purchase some of their awesome ash smashers (a gift from god...not gods gift lol). Ever since I first started going here I have been trying to get some of their Super Lemon Haze #, but theyre always out. I finally got to try some when my friend picked up from THC, but when i stopped by two days later they were all out again. (FML) Super lemon scent and overpowering taste, one of the most euphoric and clean headed sativas ive tried, Im upset I didnt get any.

Anyways, I still deided to go for their 2/30 deal and the BT hooked it up with one of their \$15/g strains for a previous review (awesome)

(Strain 1 of 3) Sour Double [Sour Diesel # x Sour Diesel #] to see if It could substitute for my Super Lemon Haze # craving. Kinda upset that it was super leafy with little smell. Very trichy and once you made your way through the leafy jungle there is a pretty sticky bud center. I loved the Sour D # taste and the slight rise in alertness and creativity. Good day time smoke, but wouldnt reccomend for a wake and bake testing different doses throughout different periods of the day all resulted in either an immediate crash or a very heavy indica feel).

(Strain 2 of 3) ICE [Hybrid] A lot of other ICE strains Ive tried have been advertised as Sativas. This one was said to be a Hybrid with indica dominant effects. Forest of light and dark green nugs covered in trichomes with tiny dark red hairs. Not much of a smell until you break it up. Upon breaking it you see all the shiny triches and light easter green insides. This beautiful sight is accompanied by a piney smell and exhale. Super relaxing and usually a bowl will be LIGHTS OUT.

(Strain 3 of 3) Elvis: I chose this for my free gram. Dark sticky dense nugs with traces of orange hairs. Not much of a smell until you break open the nugs and there is a faint sweet smell. A good relaxing indica with slight couch lock.

Overall, I am somewhat satisfied (especially with that free G), but still upset about the Super Lemon Haze #. I usually dont even visit dispensaries that charge more than \$50 1/8ths, but they have some good 2/30 deals.

Cant wait till they get the purple yeager again. that one I will definetely stop by for.

Overall rating: 4.6
Bud Quality: 4.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 4.0



Reviewed by SanDiego-ite
March 26, 2011
Top 500 Reviewer

Comments (0)
[View all my reviews](#)
[Report this review](#)
Last updated: March 26, 2011

LOVE THIS PLACE!!!

0 of 0 people found the following review helpful

THIS IS MY NUMBER 1 SPOT I GO TO, I LOVE THE STAFF THE BUDS, AND JUST THE PLACE IN GENERAL!!! SO IF U ARE LOOKING FOR A PLACE WHERE THEY WILL REMEMBER UR NAME, AND REMEMBER WHO U ARE, NOT JUST BY A # (LOL) GREAT, NICE STAFF ALWAYS SMILES, THEN U NEED TO HEAD OVER TO THE TREE HOUSE AND GIVE THEM A TRY! I BET YOU'LL LOVE IT THER, IF U DONT THEN UR CRAZY(LOL) WILL SAY THIS, NOT THE BIGGEST SELECTION, BUT EVERYTHING THEY HAVE IS TOP SHELF STUFF ALMOST, I HAVE NOT FOUND 1 STRAIN I HAVE NOT LIKED FROM HERE!!! HOPE YOU'LL LIKE IT!!! :-)
S'C

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by stefanie86
March 15, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

WHERE'S THE TOP SHELF?

0 of 0 people found the following review helpful

Place is close to my pad so I dropped by on Sat afternoon. Atmosphere is like a living room in someone's house. Complete with a couch, x box and birds chilling in the corner. Not what I'm looking for in a professional facility, but some people might like it. On to the important stuff, the meds. The display case is tiny with tiny sample jars, that are hard to get the buds out of. Buds were wack and expensive did not see anything worthy of the 55\$ price they were charging, a couple of them smelled like straight hay. Only had about 10 to choose from. Will not be back to this place unless they lower their prices or increase their bud quality. Sorry guys just to many better options in SB right now.

Overall rating: 2.0
Bud Quality: 2.0
Atmosphere: 2.0
Staff: 2.0
Accessibility: 3.0
Price: 1.0



Reviewed by Rambeau1ststud
March 07, 2011

Comments (0)
[View all my reviews](#)
[Report this review](#)

Rejected

0 of 0 people found the following review helpful

Figured i would go check it out since its another one popping up in the southbay. I dont know about everyone else but my doctors rec is very important to me so i have in laminated. i walk into this shop and i let the gentleman know im a first time patient at his collective i hand him my id and doc rec and he instantly says i cant accept you as a patient because this is laminated. i said whys that? he implied he couldnt feel the seal of approval. on my rec my seal is very very easy to feel as it is the real deal. i didnt want to cause a seen so i told him thanks have a good day.

I was just disappointed because he didnt even want to work with me i felt very little compassion. maybe its a good thing that i didnt go donate in the back if those were going to be the same vibes.

Overall rating: 1.0
Bud Quality: 1.0
Atmosphere: 1.0
Staff: 1.0
Accessibility: 1.0
Price: 1.0



Reviewed by Sydro819
March 02, 2011

Comments (0)
[View all my reviews](#)
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lucky to be in the neighborhood

0 of 0 people found the following review helpful

Love the treehouse, got hooked up with my favorite strains that are always in stock. I have checked out other clubs and by far this one has the BEST meds in town. i looked up their strains and they seemed to carry more cannabis cup winners than any other club in san diego...not to mention south bay. Now if you want to bitch about the price, then go somewhere else. but you get what you pay for. I want the best and therefore i go where the best is prescribed.

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by sdrose555
February 24, 2011
Top 1000 Reviewer

Comments (0)
[View all my reviews](#)
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Can't get better than this!!!!

0 of 0 people found the following review helpful

TREE HOUSE CLUB MENU IS FILLED WITH NOTHING BUT THE BEST STRAINS AROUND. TAKE A PICK FROM THERE INDICA OR SATIVA, HYBRIDS STRAINS AND MORE. THERE STRAINS ARE PACKING A HARD POUCH TO THE DOME AND BODY FOR A FULL EFFECT LASTING FOR HOURS. THE BEST PART OF THE TREE HOUSE CLUB MEDS IS THAT NO MATTER WHICH STRAIN YOU PICK THE TASTE IS AMAZING!!! SO I HIGHLY EXPRESS TO ANY ONE THAT IS LOOKING FOR THE BEST SPOT TO SHOP TREE HOUSE "GREAT QUALITY". LOVE U GUYS GREAT STAFF :) THIS PLACE IS BOMB.....COME CHECK THEM OUT U WONT BE DISAPPOINTED

Overall rating: 5.0
Bud Quality: 5.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by Ultrano
February 24, 2011

[Comments \(0\)](#)
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[Report this review](#)
 Last updated: February 24, 2011

Waterhouse

0 of 0 people found the following review helpful

Dont recommend the excludse firehouse strain. Should be called "watermelon" because all the seeds it has. Not worth the 60 an 8th. Go with the Kush, much more potent and stickier. This place is still tight and I will continue going back as they hook up all my sacks a little heavy.

Overall rating: 4.4
Bud Quality: 2.0
Atmosphere: 5.0
Staff: 5.0
Accessibility: 5.0
Price: 5.0



Reviewed by [_Bubba420_](#)
 February 23, 2011

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 Last updated: February 23, 2011

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WHITE PAPER ON MARIJUANA DISPENSARIES

by

**CALIFORNIA POLICE CHIEFS ASSOCIATION'S
TASK FORCE ON MARIJUANA DISPENSARIES**

ACKNOWLEDGMENTS

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WHITE PAPER ON MARIJUANA DISPENSARIES

by

CALIFORNIA POLICE CHIEFS ASSOCIATION'S TASK FORCE ON MARIJUANA DISPENSARIES

EXECUTIVE SUMMARY

INTRODUCTION

Proposition 215, an initiative authorizing the limited possession, cultivation, and use of marijuana by patients and their care providers for certain medicinal purposes recommended by a physician without subjecting such persons to criminal punishment, was passed by California voters in 1996. This was supplemented by the California State Legislature's enactment in 2003 of the Medical Marijuana Program Act (SB 420) that became effective in 2004. The language of Proposition 215 was codified in California as the Compassionate Use Act, which added section 11362.5 to the California Health & Safety Code. Much later, the language of Senate Bill 420 became the Medical Marijuana Program Act (MMPA), and was added to the California Health & Safety Code as section 11362.7 *et seq.* Among other requirements, it purports to direct all California counties to set up and administer a voluntary identification card system for medical marijuana users and their caregivers. Some counties have already complied with the mandatory provisions of the MMPA, and others have challenged provisions of the Act or are awaiting outcomes of other counties' legal challenges to it before taking affirmative steps to follow all of its dictates. And, with respect to marijuana dispensaries, the reaction of counties and municipalities to these nascent businesses has been decidedly mixed. Some have issued permits for such enterprises. Others have refused to do so within their jurisdictions. Still others have conditioned permitting such operations on the condition that they not violate any state or federal law, or have reversed course after initially allowing such activities within their geographical borders by either limiting or refusing to allow any further dispensaries to open in their community. This White Paper explores these matters, the apparent conflicts between federal and California law, and the scope of both direct and indirect adverse impacts of marijuana dispensaries in local communities. It also recounts several examples that could be emulated of what some governmental officials and law enforcement agencies have already instituted in their jurisdictions to limit the proliferation of marijuana dispensaries and to mitigate their negative consequences.

FEDERAL LAW

Except for very limited and authorized research purposes, federal law through the Controlled Substances Act absolutely prohibits the use of marijuana for any legal purpose, and classifies it as a banned Schedule I drug. It cannot be legally prescribed as medicine by a physician. And, the federal regulation supersedes any state regulation, so that under federal law California medical marijuana statutes do not provide a legal defense for cultivating or possessing marijuana—even with a physician's recommendation for medical use.

CALIFORNIA LAW

Although California law generally prohibits the cultivation, possession, transportation, sale, or other transfer of marijuana from one person to another, since late 1996 after passage of an initiative (Proposition 215) later codified as the Compassionate Use Act, it has provided a limited affirmative defense to criminal prosecution for those who cultivate, possess, or use limited amounts of marijuana for medicinal purposes as qualified patients with a physician's recommendation or their designated primary caregiver or cooperative. Notwithstanding these limited exceptions to criminal culpability, California law is notably silent on any such available defense for a storefront marijuana dispensary, and California Attorney General Edmund G. Brown, Jr. has recently issued guidelines that generally find marijuana dispensaries to be unprotected and illegal drug-trafficking enterprises except in the rare instance that one can qualify as a true cooperative under California law. A primary caregiver must consistently and regularly assume responsibility for the housing, health, or safety of an authorized medical marijuana user, and nowhere does California law authorize cultivating or providing marijuana—medical or non-medical—for profit.

California's Medical Marijuana Program Act (Senate Bill 420) provides further guidelines for mandated county programs for the issuance of identification cards to authorized medical marijuana users on a voluntary basis, for the chief purpose of giving them a means of certification to show law enforcement officers if such persons are investigated for an offense involving marijuana. This system is currently under challenge by the Counties of San Bernardino and San Diego and Sheriff Gary Penrod, pending a decision on review by the U.S. Supreme Court, as is California's right to permit any legal use of marijuana in light of federal law that totally prohibits any personal cultivation, possession, sale, transportation, or use of this substance whatsoever, whether for medical or non-medical purposes.

PROBLEMS POSED BY MARIJUANA DISPENSARIES

Marijuana dispensaries are commonly large money-making enterprises that will sell marijuana to most anyone who produces a physician's written recommendation for its medical use. These recommendations can be had by paying unscrupulous physicians a fee and claiming to have most any malady, even headaches. While the dispensaries will claim to receive only donations, no marijuana will change hands without an exchange of money. These operations have been tied to organized criminal gangs, foster large grow operations, and are often multi-million-dollar profit centers.

Because they are repositories of valuable marijuana crops and large amounts of cash, several operators of dispensaries have been attacked and murdered by armed robbers both at their storefronts and homes, and such places have been regularly burglarized. Drug dealing, sales to minors, loitering, heavy vehicle and foot traffic in retail areas, increased noise, and robberies of customers just outside dispensaries are also common ancillary byproducts of their operations. To repel store invasions, firearms are often kept on hand inside dispensaries, and firearms are used to hold up their proprietors. These dispensaries are either linked to large marijuana grow operations or encourage home grows by buying marijuana to dispense. And, just as destructive fires and unhealthy mold in residential neighborhoods are often the result of large indoor home grows designed to supply dispensaries, money laundering also naturally results from dispensaries' likely unlawful operations.

LOCAL GOVERNMENTAL RESPONSES

Local governmental bodies can impose a moratorium on the licensing of marijuana dispensaries while investigating this issue; can ban this type of activity because it violates federal law; can use zoning to control the dispersion of dispensaries and the attendant problems that accompany them in unwanted areas; and can condition their operation on not violating any federal or state law, which is akin to banning them, since their primary activities will always violate federal law as it now exists—and almost surely California law as well.

LIABILITY

While highly unlikely, local public officials, including county supervisors and city council members, could potentially be charged and prosecuted for aiding and abetting criminal acts by authorizing and licensing marijuana dispensaries if they do not qualify as “cooperatives” under California law, which would be a rare occurrence. Civil liability could also result.

ENFORCEMENT OF MARIJUANA LAWS

While the Drug Enforcement Administration has been very active in raiding large-scale marijuana dispensaries in California in the recent past, and arresting and prosecuting their principals under federal law in selective cases, the new U.S. Attorney General, Eric Holder, Jr., has very recently announced a major change of federal position in the enforcement of federal drug laws with respect to marijuana dispensaries. It is to target for prosecution only marijuana dispensaries that are exposed as fronts for drug trafficking. It remains to be seen what standards and definitions will be used to determine what indicia will constitute a drug trafficking operation suitable to trigger investigation and enforcement under the new federal administration.

Some counties, like law enforcement agencies in the County of San Diego and County of Riverside, have been aggressive in confronting and prosecuting the operators of marijuana dispensaries under state law. Likewise, certain cities and counties have resisted granting marijuana dispensaries business licenses, have denied applications, or have imposed moratoria on such enterprises. Here, too, the future is uncertain, and permissible legal action with respect to marijuana dispensaries may depend on future court decisions not yet handed down.

Largely because the majority of their citizens have been sympathetic and projected a favorable attitude toward medical marijuana patients, and have been tolerant of the cultivation and use of marijuana, other local public officials in California cities and counties, especially in Northern California, have taken a “hands off” attitude with respect to prosecuting marijuana dispensary operators or attempting to close down such operations. But, because of the life safety hazards caused by ensuing fires that have often erupted in resultant home grow operations, and the violent acts that have often shadowed dispensaries, some attitudes have changed and a few political entities have reversed course after having previously licensed dispensaries and authorized liberal permissible amounts of marijuana for possession by medical marijuana patients in their jurisdictions. These “patients” have most often turned out to be young adults who are not sick at all, but have secured a physician’s written recommendation for marijuana use by simply paying the required fee demanded for this document without even first undergoing a physical examination. Too often “medical marijuana” has been used as a smokescreen for those who want to legalize it and profit off it, and storefront dispensaries established as cover for selling an illegal substance for a lucrative return.

WHITE PAPER ON MARIJUANA DISPENSARIES

by

CALIFORNIA POLICE CHIEFS ASSOCIATION

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INTRODUCTION

In November of 1996, California voters passed Proposition 215. The initiative set out to make marijuana available to people with certain illnesses. The initiative was later supplemented by the Medical Marijuana Program Act. Across the state, counties and municipalities have varied in their responses to medical marijuana. Some have allowed businesses to open and provide medical marijuana. Others have disallowed all such establishments within their borders. Several 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, and more specifically, the problems associated with medical marijuana and marijuana dispensaries, under whatever name they operate.

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 has ruled that this federal regulation supersedes any state's regulation of marijuana – even California's. (*Gonzales v. Raich* (2005) 125 S.Ct. 2195, 2215.) “The Supremacy Clause unambiguously provides that if there is any conflict between federal law and state law, federal law shall prevail.” (*Gonzales v. Raich, supra.*) Even more recently, the 9th Circuit Court of Appeals found that there is no fundamental right under the United States Constitution to even use medical marijuana. (*Raich v. Gonzales* (9th Cir. 2007) 500 F.3d 850, 866.)

In *Gonzales v. Raich*, the High Court 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 under federal law. As such, there are no exceptions to its illegality. (21 USC secs. 812(c), 841(a)(1).) Over the past thirty years, there have been several attempts to have marijuana reclassified to a different schedule which would permit medical use of the drug. All of these attempts have failed. (*See Gonzales v. Raich* (2005) 125 S.Ct. 2195, fn 23.) 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.¹ 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.”²

Gonzales v. Raich addressed the concerns of two California individuals growing and using marijuana under California’s medical marijuana statute. The Court explained that under the Controlled Substances Act marijuana is a Schedule I drug and is strictly regulated.³ “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.”⁴ (21 USC sec. 812(b)(1).) 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.⁵ 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. This notwithstanding, on March 19, 2009, U.S. Attorney General Eric Holder, Jr. announced that under the new Obama Administration the U.S. Department of Justice plans to target for prosecution only those marijuana dispensaries that use medical marijuana dispensing as a front for dealers of illegal drugs.⁶

CALIFORNIA LAW

Generally, the possession, cultivation, possession for sale, transportation, distribution, furnishing, and giving away of marijuana is unlawful under California state statutory law. (See Cal. Health & Safety Code secs. 11357-11360.) But, on November 5, 1996, California voters adopted Proposition 215, an initiative statute authorizing the medical use of marijuana.⁷ The initiative added California 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”⁸ The codified section is known as the Compassionate Use Act of 1996.⁹ Additionally, the State Legislature passed Senate Bill 420 in 2003. It became the Medical Marijuana Program Act and took effect on January 1, 2004.¹⁰ This act expanded the definitions of “patient” and “primary caregiver”¹¹ and created guidelines for identification cards.¹² It defined the amount of marijuana that “patients,” and “primary caregivers” can possess.¹³ It also created a limited affirmative defense to criminal prosecution for qualifying individuals that collectively gather to cultivate medical marijuana,¹⁴ as well as to the crimes of marijuana possession, possession for sale, transportation, sale, furnishing, cultivation, and maintenance of places for storage, use, or distribution of marijuana for a person who qualifies as a “patient,” a “primary caregiver,” or as a member of a legally recognized “cooperative,” as those terms are defined within the statutory scheme. Nevertheless, there is no provision in any of these laws that authorizes or protects the establishment of a “dispensary” or other storefront marijuana distribution operation.

Despite their illegality in the federal context, 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.

Former California Attorney General Bill Lockyer has also spoken about medical marijuana, and strictly construed California law relating to it. 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. Attorney General Lockyer made the recommendation that law enforcement neither arrest nor prosecute “individuals within the legal scope of California’s Compassionate Use Act.” Now the current California Attorney General, Edmund G. Brown, Jr., has issued guidelines concerning the handling of issues relating to California’s medical marijuana laws and marijuana dispensaries. The guidelines are much tougher on storefront dispensaries—generally finding them to be unprotected, illegal drug-trafficking enterprises if they do not fall within the narrow legal definition of a “cooperative”—than on the possession and use of marijuana upon the recommendation of a physician.

When California’s medical marijuana laws are strictly construed, it appears that the decision in *Gonzales v. Raich* does affect California law. However, provided that federal law does not preempt California law in this area, it does appear 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, they may have some state legal protection for specified marijuana activity. Conversely, all marijuana establishments that fall outside the letter and spirit of the statutes, including dispensaries and storefront facilities, are not legal. These establishments have no legal protection. Neither the former California Attorney General’s opinion nor the current California Attorney General’s guidelines present a contrary view. Nevertheless, without specifically addressing marijuana dispensaries, Attorney General Brown has sent his deputies attorney general to defend the codified Medical Marijuana Program Act against court challenges, and to advance the position that the state’s regulations promulgated to enforce the provisions of the codified Compassionate Use Act (Proposition 215), including a statewide database and county identification card systems for marijuana patients authorized by their physicians to use marijuana, are all valid.

1. Conduct

California 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,” he or she has an affirmative defense to possessing a defined amount of marijuana. Under the statutes no more than eight ounces of dried marijuana can be possessed. Additionally, either six mature or twelve immature plants may be possessed.¹⁵ If a person claims patient or primary caregiver status, and possesses more than this amount of marijuana, he or she can be prosecuted for drug possession. The qualifying individuals may also cultivate, plant, harvest, dry, and/or process marijuana, but only 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.¹⁶

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. Patients and Cardholders

A dispensary obviously is not a patient or cardholder. A “qualified patient” is an individual with a physician’s recommendation that indicates marijuana will benefit the treatment of a qualifying illness. (Cal. H&S Code secs. 11362.5(b)(1)(A) and 11362.7(f).) Qualified illnesses include cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or *any other illness for which marijuana provides relief*.¹⁷ 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.

A “person with an identification card” means an individual who is a qualified patient who has applied for and received a valid identification card issued by the State Department of Health Services. (Cal. H&S Code secs. 11362.7(c) and 11362.7(g).)

3. Primary Caregivers

The only person or entity authorized to receive compensation for services provided to patients and cardholders is a primary caregiver. (Cal. H&S Code sec. 11362.77(c).) However, nothing in the law authorizes any individual or group to cultivate or distribute marijuana for profit. (Cal. H&S Code sec. 11362.765(a).) It is important to note that it is almost impossible for a storefront marijuana business to gain true primary caregiver status. Businesses that call themselves “cooperatives,” but function like storefront 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.¹⁸ 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.¹⁹ (Emphasis added.)

The key to being a primary caregiver is not simply that marijuana is provided for a patient’s health; the responsibility for the health must be consistent; it must be independent of merely providing marijuana for a qualified person; and such a primary caregiver-patient relationship must begin before or contemporaneously with the time of assumption of responsibility for assisting the individual with marijuana. (*People v. Mentch* (2008) 45 Cal.4th 274, 283.) Any relationship a storefront marijuana business has with a patient is much more likely to be transitory than consistent, and to be wholly lacking in providing for a patient’s health needs beyond just supplying him or her with marijuana.

A “primary caregiver” is an individual or facility that has “consistently assumed responsibility for the housing, health, or safety of a patient” over time. (Cal. H&S Code sec. 11362.5(e).)

“Consistency” is the key to meeting this definition. A patient can elect to patronize any dispensary that he or she chooses. The patient can visit different dispensaries on a single day or any subsequent day. The statutory definition includes some clinics, health care facilities, residential care facilities, and hospices. But, in light of the holding in *People v. Mentch, supra*, to qualify as a primary caregiver, more aid to a person’s health must occur beyond merely dispensing marijuana to a given customer.

Additionally, if more than one patient designates the same person as the primary caregiver, all individuals must reside in the same city or county. And, in most circumstances the primary caregiver must be at least 18 years of age.

The courts have found that the act of signing a piece of paper declaring that someone is a primary caregiver does not necessarily make that person one. (*See People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1390: “One maintaining a source of marijuana supply, from which all members of the public qualified as permitted medicinal users may or may not discretionarily elect to make purchases, does not thereby become the party ‘who has consistently assumed responsibility for the housing, health, or safety’ of that purchaser as section 11362.5(e) requires.”)

The California Legislature had the opportunity to legalize the existence of dispensaries when setting forth what types of facilities could qualify as “primary caregivers.” Those included in the list clearly show the Legislature’s intent to restrict the definition to one involving a significant and long-term commitment to the patient’s health, safety, and welfare. The only facilities which the Legislature authorized to serve as “primary caregivers” are clinics, health care facilities, residential care facilities, home health agencies, and hospices which actually provide medical care or supportive services to qualified patients. (Cal. H&S Code sec. 11362.7(d)(1).) Any business that cannot prove that 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. Cooperatives and Collectives

According to the California Attorney General’s recently issued *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use*, unless they meet stringent requirements, dispensaries also cannot reasonably claim to be cooperatives or collectives. In passing the Medical Marijuana Program Act, the Legislature sought, in part, to enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation programs. (*People v. Urziceanu* (2005) 132 Cal.App.4th 747, 881.) The Act added section 11362.775, which provides that “Patients and caregivers who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions” for the crimes of marijuana possession, possession for sale, transportation, sale, furnishing, cultivation, and maintenance of places for storage, use, or distribution of marijuana. However, there is no authorization for any individual or group to cultivate or distribute marijuana for profit. (Cal. H&S Code sec. 11362.77(a).) If a dispensary is only a storefront distribution operation open to the general public, and there is no indication that it has been involved with growing or cultivating marijuana for the benefit of members as a non-profit enterprise, it will not qualify as a cooperative to exempt it from criminal penalties under California’s marijuana laws.

Further, 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.”²⁰ Marijuana businesses, of any kind, do not normally meet this legal definition.

Based on the foregoing, it is clear that virtually all marijuana dispensaries are not legal enterprises under either federal **or** state law.

LAWS IN OTHER STATES

Besides California, at the time of publication of this White Paper, thirteen other states have enacted medical marijuana laws on their books, whereby to some degree marijuana recommended or prescribed by a physician to a specified patient may be legally possessed. These states are Alaska, Colorado, Hawaii, Maine, Maryland, Michigan, Montana, Nevada, New Mexico, Oregon, Rhode Island, Vermont, and Washington. And, possession of marijuana under one ounce has now been decriminalized in Massachusetts.²¹

STOREFRONT MARIJUANA DISPENSARIES AND COOPERATIVES

Since the passage of the Compassionate Use Act of 1996, many storefront marijuana businesses have opened in California.²² Some are referred to as dispensaries, and 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.²³ 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.²⁴ These facilities are able to operate because they apply for and receive business licenses from cities and counties.

Federally, all existing storefront marijuana businesses are subject to search and closure since they violate federal law.²⁵ Their mere existence violates federal law. Consequently, they have no right to exist or operate, and arguably cities and counties in California have no authority to sanction them.

Similarly, in California there is no apparent authority for the existence of these storefront marijuana businesses. The Medical Marijuana Program Act of 2004 allows *patients* and *primary caregivers* to grow and cultivate marijuana, and no one else.²⁶ Although California 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 storefront 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.”²⁷ 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.²⁸ Clearly, it is doubtful that any of the storefront 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.

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 marijuana dispensary works.²⁹

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. Although employees are neither pharmacists nor doctors, sales clerks will probably make recommendations about what type of marijuana will best relieve a given medical symptom. 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 desired and is told what the “contribution” will be for the product. The California Health & Safety 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 available evidence, 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 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 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.”³⁰ 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 storefront 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**.”³¹ The key to being a primary caregiver is not simply that 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 storefront marijuana business’s relationship with a patient is most likely transitory. In order to provide a qualified patient with marijuana, a storefront 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 that person 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.

ADVERSE SECONDARY EFFECTS OF MARIJUANA DISPENSARIES AND SIMILIARLY OPERATING COOPERATIVES

Of great concern are the adverse secondary effects of these dispensaries and storefront cooperatives. They are many. Besides flouting federal law by selling a prohibited Schedule I drug under the Controlled Substances Act, marijuana dispensaries attract or cause numerous ancillary social problems as byproducts of their operation. The most glaring of these are other criminal acts.

ANCILLARY CRIMES

A. ARMED ROBBERIES AND MURDERS

Throughout California, many violent crimes have been committed that can be traced to the proliferation of marijuana dispensaries. These include armed robberies and murders. For example, as far back as 2002, two home occupants were shot in Willits, California in the course of a home-invasion robbery targeting medical marijuana.³² And, a series of four armed robberies of a marijuana dispensary in Santa Barbara, California occurred through August 10, 2006, in which thirty dollars and fifteen baggies filled with marijuana on display were taken by force and removed from the premises in the latest holdup. The owner said he failed to report the first three robberies because “medical marijuana is such a controversial issue.”³³

On February 25, 2004, in Mendocino County two masked thugs 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 state prison.³⁴ And, on August 19, 2005, 18-year-old Demarco Lowrey was “shot in the stomach” and “bled to death” during a gunfight with the business owner when he and his friends attempted a takeover robbery of a storefront marijuana business in the City of San Leandro, California. The owner fought back with the hooded home invaders, and a gun battle ensued. Demarco Lowrey was hit by gunfire and “dumped outside the emergency entrance of Children’s Hospital Oakland” after the shootout.³⁵ He did not survive.³⁶

Near Hayward, California, on September 2, 2005, upon leaving a marijuana dispensary, a patron of the CCA Cannabis Club had a gun put to his head as he was relieved of over \$250 worth of pot. Three weeks later, another break-in occurred at the Garden of Eden Cannabis Club in September of 2005.³⁷

Another known marijuana-dispensary-related murder occurred on November 19, 2005. Approximately six gun- and bat-wielding burglars broke into Les Crane’s home in Laytonville, California while yelling, “This is a raid.” Les Crane, who owned two storefront marijuana businesses, was at home and shot to death. He received gunshot wounds to his head, arm, and abdomen.³⁸ Another man present at the time was beaten with a baseball bat. The murderers left the home after taking an unknown sum of U.S. currency and a stash of processed marijuana.³⁹

Then, on January 9, 2007, marijuana plant cultivator Rex Farrance was shot once in the chest and killed in his own home after four masked intruders broke in and demanded money. When the homeowner ran to fetch a firearm, he was shot dead. The robbers escaped with a small amount of

cash and handguns. Investigating officers counted 109 marijuana plants in various phases of cultivation inside the house, along with two digital scales and just under 4 pounds of cultivated marijuana.⁴⁰

More recently in Colorado, Ken Gorman, a former gubernatorial candidate and dispenser of marijuana who had been previously robbed over twelve times at his home in Denver, was found murdered by gunshot inside his home. He was a prominent proponent of medical marijuana and the legalization of marijuana.⁴¹

B. BURGLARIES

In June of 2007, after two burglarizing youths in Bellflower, California were caught by the homeowner trying to steal the fruits of his indoor marijuana grow, he shot one who was running away, and killed him.⁴² And, again in January of 2007, Claremont Councilman Corey Calaycay went on record calling marijuana dispensaries “crime magnets” after a burglary occurred in one in Claremont, California.⁴³

On July 17, 2006, the El Cerrito City Council voted to ban all such marijuana facilities. It did so after reviewing a nineteen-page report that detailed a rise in crime near these storefront dispensaries in other cities. The crimes included robberies, assaults, burglaries, murders, and attempted murders.⁴⁴ Even though marijuana storefront businesses do not currently exist in the City of Monterey Park, California, it issued a moratorium on them after studying the issue in August of 2006.⁴⁵ After allowing these establishments to operate within its borders, the City of West Hollywood, California 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”⁴⁶

C. TRAFFIC, NOISE, AND DRUG DEALING

Increased noise and pedestrian traffic, including nonresidents in pursuit of marijuana, and out of area criminals in search of prey, are commonly encountered just outside marijuana dispensaries,⁴⁷ as well as drug-related offenses in the vicinity—like resales of products just obtained inside—since these marijuana centers regularly attract marijuana growers, drug users, and drug traffickers.⁴⁸ Sharing just purchased marijuana outside dispensaries also regularly takes place.⁴⁹

Rather than the “seriously ill,” for whom medical marijuana was expressly intended,⁵⁰ “‘perfectly healthy’ young people frequenting dispensaries” are a much more common sight.⁵¹ Patient records seized by law enforcement officers from dispensaries during raids in San Diego County, California in December of 2005 “showed that 72 percent of patients were between 17 and 40 years old”⁵² Said one admitted marijuana trafficker, “The people I deal with are the same faces I was dealing with 12 years ago but now, because of Senate Bill 420, they are supposedly legit. I can totally see why cops are bummed.”⁵³

Reportedly, a security guard sold half a pound of marijuana to an undercover officer just outside a dispensary in Morro Bay, California.⁵⁴ And, the mere presence of marijuana dispensaries encourages illegal growers to plant, cultivate, and transport ever more marijuana, in order to supply and sell their crops to these storefront operators in the thriving medical marijuana dispensary market, so that the national domestic marijuana yield has been estimated to be 35.8 billion dollars, of which a 13.8 billion dollar share is California grown.⁵⁵ It is a big business. And, although the operators of some dispensaries will claim that they only accept monetary contributions for the products they

dispense, and do not sell marijuana, a patron will not receive any marijuana until an amount of money acceptable to the dispensary has changed hands.

D. ORGANIZED CRIME, MONEY LAUNDERING, AND FIREARMS VIOLATIONS

Increasingly, reports have been surfacing about organized crime involvement in the ownership and operation of marijuana dispensaries, including Asian and other criminal street gangs and at least one member of the Armenian Mafia.⁵⁶ The dispensaries or “pot clubs” are often used as a front by organized crime gangs to traffic in drugs and launder money. One such gang whose territory included San Francisco and Oakland, California reportedly ran a multi-million dollar business operating ten warehouses in which vast amounts of marijuana plants were grown.⁵⁷ Besides seizing over 9,000 marijuana plants during surprise raids on this criminal enterprise’s storage facilities, federal officers also confiscated three firearms,⁵⁸ which seem to go hand in hand with medical marijuana cultivation and dispensaries.⁵⁹

Marijuana storefront businesses have allowed criminals to flourish in California. In the summer of 2007, the City of San Diego cooperated with federal authorities and served search warrants on several marijuana dispensary locations. In addition to marijuana, many weapons were recovered, including a stolen handgun and an M-16 assault rifle.⁶⁰ 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.⁶¹ Active Asian gangs have included members of Vietnamese organized crime syndicates who have migrated from Canada to buy homes throughout the United States to use as grow houses.⁶²

Some or all of the processed harvest of marijuana plants nurtured in these homes then wind up at storefront marijuana dispensaries owned and operated by these gangs. Storefront marijuana businesses are very dangerous enterprises that thrive on ancillary grow operations.

Besides fueling marijuana dispensaries, some monetary proceeds from the sale of harvested marijuana derived from plants grown inside houses are being used by organized crime syndicates to fund other legitimate businesses for profit and the laundering of money, and to conduct illegal business operations like prostitution, extortion, and drug trafficking.⁶³ Money from residential grow operations is also sometimes traded by criminal gang members for firearms, and used to buy drugs, personal vehicles, and additional houses for more grow operations,⁶⁴ and along with the illegal income derived from large-scale organized crime-related marijuana production operations comes widespread income tax evasion.⁶⁵

E. POISONINGS

Another social problem somewhat unique to marijuana dispensaries is poisonings, both intentional and unintentional. On August 16, 2006, the Los Angeles Police Department received two such reports. One involved a security guard who ate a piece of cake extended to him from an operator of a marijuana clinic as a “gift,” and soon afterward felt dizzy and disoriented.⁶⁶ The second incident concerned a UPS driver who experienced similar symptoms after accepting and eating a cookie given to him by an operator of a different marijuana clinic.⁶⁷

OTHER ADVERSE SECONDARY IMPACTS IN THE IMMEDIATE VICINITY OF DISPENSARIES

Other adverse secondary impacts from the operation of marijuana dispensaries include street dealers lurking about dispensaries to offer a lower price for marijuana to arriving patrons; marijuana smoking in public and in front of children in the vicinity of dispensaries; loitering and nuisances; acquiring marijuana and/or money by means of robbery of patrons going to or leaving dispensaries; an increase in burglaries at or near dispensaries; a loss of trade for other commercial businesses located near dispensaries; the sale at dispensaries of other illegal drugs besides marijuana; an increase in traffic accidents and driving under the influence arrests in which marijuana is implicated; and the failure of marijuana dispensary operators to report robberies to police.⁶⁸

SECONDARY ADVERSE IMPACTS IN THE COMMUNITY AT LARGE

A. UNJUSTIFIED AND FICTITIOUS PHYSICIAN RECOMMENDATIONS

California's legal requirement under California Health and Safety Code section 11362.5 that a physician's recommendation is required for a patient or caregiver to possess medical marijuana has resulted in other undesirable outcomes: wholesale issuance of recommendations by unscrupulous physicians seeking a quick buck, and the proliferation of forged or fictitious physician recommendations. Some doctors link up with a marijuana dispensary and take up temporary residence in a local hotel room where they advertise their appearance in advance, and pass out medical marijuana use recommendations to a line of "patients" at "about \$150 a pop."⁶⁹ Other individuals just make up their own phony doctor recommendations,⁷⁰ which are seldom, if ever, scrutinized by dispensary employees for authenticity. Undercover DEA agents sporting fake medical marijuana recommendations were readily able to purchase marijuana from a clinic.⁷¹ Far too often, California's medical marijuana law is used as a smokescreen for healthy pot users to get their desired drug, and for proprietors of marijuana dispensaries to make money off them, without suffering any legal repercussions.⁷²

On March 11, 2009, the Osteopathic Medical Board of California adopted the proposed decision revoking Dr. Alfonso Jimenez's Osteopathic Physician's and Surgeon's Certificate and ordering him to pay \$74,323.39 in cost recovery. Dr. Jimenez operated multiple marijuana clinics and advertised his services extensively on the Internet. Based on information obtained from raids on marijuana dispensaries in San Diego, in May of 2006, the San Diego Police Department ran two undercover operations on Dr. Jimenez's clinic in San Diego. In January of 2007, a second undercover operation was conducted by the Laguna Beach Police Department at Dr. Jimenez's clinic in Orange County. Based on the results of the undercover operations, the Osteopathic Medical Board charged Dr. Jimenez with gross negligence and repeated negligent acts in the treatment of undercover operatives posing as patients. After a six-day hearing, the Administrative Law Judge (ALJ) issued her decision finding that Dr. Jimenez violated the standard of care by committing gross negligence and repeated negligence in care, treatment, and management of patients when he, among other things, issued medical marijuana recommendations to the undercover agents without conducting adequate medical examinations, failed to gain proper informed consent, and failed to consult with any primary care and/or treating physicians or obtain and review prior medical records before issuing medical marijuana recommendations. The ALJ also found Dr. Jimenez engaged in dishonest behavior by preparing false and/or misleading medical records and disseminating false and misleading advertising to the public, including representing himself as a "Cannabis Specialist" and "Qualified Medical Marijuana Examiner" when no such formal specialty or qualification existed. Absent any

requested administrative agency reconsideration or petition for court review, the decision was to become effective April 24, 2009.

B. PROLIFERATION OF GROW HOUSES IN RESIDENTIAL AREAS

In recent years the proliferation of grow houses in residential neighborhoods has exploded. This phenomenon is country wide, and ranges from the purchase for purpose of marijuana grow operations of small dwellings to “high priced McMansions”⁷³ Mushrooming residential marijuana grow operations have been detected in California, Connecticut, Florida, Georgia, New Hampshire, North Carolina, Ohio, South Carolina, and Texas.⁷⁴ In 2007 alone, such illegal operations were detected and shut down by federal and state law enforcement officials in 41 houses in California, 50 homes in Florida, and 11 homes in New Hampshire.⁷⁵ Since then, the number of residences discovered to be so impacted has increased exponentially. Part of this recent influx of illicit residential grow operations is because the “THC-rich ‘B.C. bud’ strain” of marijuana originally produced in British Columbia “can be grown only in controlled indoor environments,” and the Canadian market is now reportedly saturated with the product of “competing Canadian gangs,” often Asian in composition or outlaw motorcycle gangs like the Hells Angels.⁷⁶ Typically, a gutted house can hold about 1,000 plants that will each yield almost half a pound of smokable marijuana; this collectively nets about 500 pounds of usable marijuana per harvest, with an average of three to four harvests per year.⁷⁷ With a street value of \$3,000 to \$5,000 per pound” for high-potency marijuana, and such multiple harvests, “a successful grow house can bring in between \$4.5 million and \$10 million a year”⁷⁸ The high potency of hydroponically grown marijuana can command a price as much as six times higher than commercial grade marijuana.⁷⁹

C. LIFE SAFETY HAZARDS CREATED BY GROW HOUSES

In Humboldt County, California, structure fires caused by unsafe indoor marijuana grow operations have become commonplace. The city of Arcata, which sports four marijuana dispensaries, was the site of a house fire in which a fan had fallen over and ignited a fire; it had been turned into a grow house by its tenant. Per Arcata Police Chief Randy Mendosa, altered and makeshift “no code” electrical service connections and overloaded wires used to operate high-powered grow lights and fans are common causes of the fires. Large indoor marijuana growing operations can create such excessive draws of electricity that PG&E power pole transformers are commonly blown. An average 1,500-square-foot tract house used for growing marijuana can generate monthly electrical bills from \$1,000 to \$3,000 per month. From an environmental standpoint, the carbon footprint from greenhouse gas emissions created by large indoor marijuana grow operations should be a major concern for every community in terms of complying with Air Board AB-32 regulations, as well as other greenhouse gas reduction policies. Typically, air vents are cut into roofs, water seeps into carpeting, windows are blacked out, holes are cut in floors, wiring is jury-rigged, and electrical circuits are overloaded to operate grow lights and other apparatus. When fires start, they spread quickly.

The May 31, 2008 edition of the *Los Angeles Times* reported, “Law enforcement officials estimate that as many as 1,000 of the 7,500 homes in this Humboldt County community are being used to cultivate marijuana, slashing into the housing stock, spreading building-safety problems and sowing neighborhood discord.” Not surprisingly, in this bastion of liberal pot possession rules that authorized the cultivation of up to 99 plants for medicinal purpose, most structural fires in the community of Arcata have been of late associated with marijuana cultivation.⁸⁰ Chief of Police Mendosa clarified that the actual number of marijuana grow houses in Arcata has been an ongoing subject of public debate. Mendosa added, “We know there are numerous grow houses in almost every neighborhood in and around the city, which has been the source of constant citizen complaints.” House fires caused by

grower-installed makeshift electrical wiring or tipped electrical fans are now endemic to Humboldt County.⁸¹

Chief Mendosa also observed that since marijuana has an illicit street value of up to \$3,000 per pound, marijuana grow houses have been susceptible to violent armed home invasion robberies. Large-scale marijuana grow houses have removed significant numbers of affordable houses from the residential rental market. When property owners discover their rentals are being used as grow houses, the residences are often left with major structural damage, which includes air vents cut into roofs and floors, water damage to floors and walls, and mold. The June 9, 2008 edition of the *New York Times* shows an unidentified Arcata man tending his indoor grow; the man claimed he can make \$25,000 every three months by selling marijuana grown in the bedroom of his rented house.⁸² Claims of ostensible medical marijuana growing pursuant to California's medical marijuana laws are being advanced as a mostly false shield in an attempt to justify such illicit operations.

Neither is fire an uncommon occurrence at grow houses elsewhere across the nation. Another occurred not long ago in Holiday, Florida.⁸³ To compound matters further, escape routes for firefighters are often obstructed by blocked windows in grow houses, electric wiring is tampered with to steal electricity, and some residences are even booby-trapped to discourage and repel unwanted intruders.⁸⁴

D. INCREASED ORGANIZED GANG ACTIVITIES

Along with marijuana dispensaries and the grow operations to support them come members of organized criminal gangs to operate and profit from them. Members of an ethnic Chinese drug gang were discovered to have operated 50 indoor grow operations in the San Francisco Bay area, while Cuban-American crime organizations have been found to be operating grow houses in Florida and elsewhere in the South. A Vietnamese drug ring was caught operating 19 grow houses in Seattle and Puget Sound, Washington.⁸⁵ In July of 2008, over 55 Asian gang members were indicted for narcotics trafficking in marijuana and ecstasy, including members of the Hop Sing Gang that had been actively operating marijuana grow operations in Elk Grove and elsewhere in the vicinity of Sacramento, California.⁸⁶

E. EXPOSURE OF MINORS TO MARIJUANA

Minors who are exposed to marijuana at dispensaries or residences where marijuana plants are grown may be subtly influenced to regard it as a generally legal drug, and inclined to sample it. In grow houses, children are exposed to dangerous fire and health conditions that are inherent in indoor grow operations.⁸⁷ Dispensaries also sell marijuana to minors.⁸⁸

F. IMPAIRED PUBLIC HEALTH

Indoor marijuana grow operations emit a skunk-like odor,⁸⁹ and foster generally unhealthy conditions like allowing chemicals and fertilizers to be placed in the open, an increased carbon dioxide level within the grow house, and the accumulation of mold,⁹⁰ all of which are dangerous to any children or adults who may be living in the residence,⁹¹ although many grow houses are uninhabited.

G. LOSS OF BUSINESS TAX REVENUE

When business suffers as a result of shoppers staying away on account of traffic, blight, crime, and the undesirability of a particular business district known to be frequented by drug users and traffickers, and organized criminal gang members, a city's tax revenues necessarily drop as a direct consequence.

H. DECREASED QUALITY OF LIFE IN DETERIORATING NEIGHBORHOODS, BOTH BUSINESS AND RESIDENTIAL

Marijuana dispensaries bring in the criminal element and loiterers, which in turn scare off potential business patrons of nearby legitimate businesses, causing loss of revenues and deterioration of the affected business district. Likewise, empty homes used as grow houses emit noxious odors in residential neighborhoods, project irritating sounds of whirring fans,⁹² and promote the din of vehicles coming and going at all hours of the day and night. Near harvest time, rival growers and other uninvited enterprising criminals sometimes invade grow houses to beat "clip crews" to the site and rip off mature plants ready for harvesting. As a result, violence often erupts from confrontations in the affected residential neighborhood.⁹³

ULTIMATE CONCLUSIONS REGARDING ADVERSE SECONDARY EFFECTS

On balance, any utility to medical marijuana patients in care giving and convenience that marijuana dispensaries may appear to have on the surface is enormously outweighed by a much darker reality that is punctuated by the many adverse secondary effects created by their presence in communities, recounted here. These drug distribution centers have even proven to be unsafe for their own proprietors.

POSSIBLE LOCAL GOVERNMENTAL RESPONSES TO MARIJUANA DISPENSARIES

A. IMPOSED MORATORIA BY ELECTED LOCAL GOVERNMENTAL OFFICIALS

While in the process of investigating and researching the issue of licensing marijuana dispensaries, as an interim measure city councils may enact date-specific moratoria that expressly prohibit the presence of marijuana dispensaries, whether for medical use or otherwise, and prohibiting the sale of marijuana in any form on such premises, anywhere within the incorporated boundaries of the city until a specified date. Before such a moratorium's date of expiration, the moratorium may then either be extended or a city ordinance enacted completely prohibiting or otherwise restricting the establishment and operation of marijuana dispensaries, and the sale of all marijuana products on such premises.

County supervisors can do the same with respect to marijuana dispensaries sought to be established within the unincorporated areas of a county. Approximately 80 California cities, including the cities of Antioch, Brentwood, Oakley, Pinole, and Pleasant Hill, and 6 counties, including Contra Costa County, have enacted moratoria banning the existence of marijuana dispensaries. In a novel approach, the City of Arcata issued a moratorium on any new dispensaries in the downtown area, based on no agricultural activities being permitted to occur there.⁹⁴

B. IMPOSED BANS BY ELECTED LOCAL GOVERNMENTAL OFFICIALS

While the Compassionate Use Act of 1996 permits seriously ill persons to legally obtain and use marijuana for medical purposes upon a physician's recommendation, it is silent on marijuana dispensaries and does not expressly authorize the sale of marijuana to patients or primary caregivers.

Neither Proposition 215 nor Senate Bill 420 specifically authorizes the dispensing of marijuana in any form from a storefront business. And, no state statute presently exists that expressly permits the licensing or operation of marijuana dispensaries.⁹⁵ Consequently, approximately 39 California cities, including the Cities of Concord and San Pablo, and 2 counties have prohibited marijuana dispensaries within their respective geographical boundaries, while approximately 24 cities, including the City of Martinez, and 7 counties have allowed such dispensaries to do business within their jurisdictions. Even the complete prohibition of marijuana dispensaries within a given locale cannot be found to run afoul of current California law with respect to permitted use of marijuana for medicinal purposes, so long as the growing or use of medical marijuana by a city or county resident in conformance with state law is not proscribed.⁹⁶

In November of 2004, the City of Brampton in Ontario, Canada passed The Grow House Abatement By-law, which authorized the city council to appoint inspectors and local police officers to inspect suspected grow houses and render safe hydro meters, unsafe wiring, booby traps, and any violation of the Fire Code or Building Code, and remove discovered controlled substances and ancillary equipment designed to grow and manufacture such substances, at the involved homeowner's cost.⁹⁷ And, after state legislators became appalled at the proliferation of for-profit residential grow operations, the State of Florida passed the Marijuana Grow House Eradication act (House Bill 173) in June of 2008. The governor signed this bill into law, making owning a house for the purpose of cultivating, packaging, and distributing marijuana a third-degree felony; growing 25 or more marijuana plants a second-degree felony; and growing "25 or more marijuana plants in a home with children present" a first-degree felony.⁹⁸ It has been estimated that approximately 17,500 marijuana grow operations were active in late 2007.⁹⁹ To avoid becoming a dumping ground for organized crime syndicates who decide to move their illegal grow operations to a more receptive legislative environment, California and other states might be wise to quickly follow suit with similar bills, for it may already be happening.¹⁰⁰

C. IMPOSED RESTRICTED ZONING AND OTHER REGULATION BY ELECTED LOCAL GOVERNMENTAL OFFICIALS

If so inclined, rather than completely prohibit marijuana dispensaries, through their zoning power city and county officials have the authority to restrict owner operators to locate and operate so-called "medical marijuana dispensaries" in prescribed geographical areas of a city or designated unincorporated areas of a county, and require them to meet prescribed licensing requirements before being allowed to do so. This is a risky course of action though for would-be dispensary operators, and perhaps lawmakers too, since federal authorities do not recognize any lawful right for the sale, purchase, or use of marijuana for medical use or otherwise anywhere in the United States, including California. Other cities and counties have included as a condition of licensure for dispensaries that the operator shall "violate no federal or state law," which puts any applicant in a "Catch-22" situation since to federal authorities any possession or sale of marijuana is automatically a violation of federal law.

Still other municipalities have recently enacted or revised comprehensive ordinances that address a variety of medical marijuana issues. For example, according to the City of Arcata Community

Development Department in Arcata, California, in response to constant citizen complaints from what had become an extremely serious community problem, the Arcata City Council revised its Land Use Standards for Medical Marijuana Cultivation and Dispensing. In December of 2008, City of Arcata Ordinance #1382 was enacted. It includes the following provisions:

“Categories:

1. Personal Use
2. Cooperatives or Collectives

Medical Marijuana for Personal Use: An individual qualified patient shall be allowed to cultivate medical marijuana within his/her private residence in conformance with the following standards:

1. Cultivation area shall not exceed 50 square feet and not exceed ten feet (10') in height.
 - a. Cultivation lighting shall not exceed 1200 watts;
 - b. Gas products (CO₂, butane, etc.) for medical marijuana cultivation or processing is prohibited.
 - c. Cultivation and sale is prohibited as a Home Occupation (sale or dispensing is prohibited).
 - d. Qualified patient shall reside in the residence where the medical marijuana cultivation occurs;
 - e. Qualified patient shall not participate in medical marijuana cultivation in any other residence.
 - f. Residence kitchen, bathrooms, and primary bedrooms shall not be used primarily for medical marijuana cultivation;
 - g. Cultivation area shall comply with the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation.
 - h. The medical marijuana cultivation area shall not adversely affect the health or safety of the nearby residents.
2. City Zoning Administrator may approve up to 100 square foot:
 - a. Documentation showing why the 50 square foot cultivation area standard is not feasible.
 - b. Include written permission from the property owner.
 - c. City Building Official must inspect for California Building Code and Fire Code.
 - d. At a minimum, the medical marijuana cultivation area shall be constructed with a 1-hour firewall assembly of green board.
 - e. Cultivation of medical marijuana for personal use is limited to detached single family residential properties, or the medical marijuana cultivation area shall be limited to a garage or self-contained outside accessory building that is secured, locked, and fully enclosed.

Medical Marijuana Cooperatives or Collectives.

1. Allowed with a Conditional Use Permit.
2. In Commercial, Industrial, and Public Facility Zoning Districts.
3. Business form must be a cooperative or collective.
4. Existing cooperative or collective shall be in full compliance within one year.
5. Total number of medical marijuana cooperatives or collectives is limited to four and ultimately two.
6. Special consideration if located within
 - a. A 300 foot radius from any existing residential zoning district,
 - b. Within 500 feet of any other medical marijuana cooperative or collective.

- c. Within 500 feet from any existing public park, playground, day care, or school.
7. Source of medical marijuana.
- a. Permitted Cooperative or Collective. On-site medical marijuana cultivation shall not exceed twenty-five (25) percent of the total floor area, but in no case greater than 1,500 square feet and not exceed ten feet (10') in height.
 - b. Off-site Permitted Cultivation. Use Permit application and be updated annually.
 - c. Qualified Patients. Medical marijuana acquired from an individual qualified patient shall received no monetary remittance, and the qualified patient is a member of the medical marijuana cooperative or collective. Collective or cooperative may credit its members for medical marijuana provided to the collective or cooperative, which they may allocate to other members.
8. Operations Manual at a minimum include the following information:
- a. Staff screening process including appropriate background checks.
 - b. Operating hours.
 - c. Site, floor plan of the facility.
 - d. Security measures located on the premises, including but not limited to, lighting, alarms, and automatic law enforcement notification.
 - e. Screening, registration and validation process for qualified patients.
 - f. Qualified patient records acquisition and retention procedures.
 - g. Process for tracking medical marijuana quantities and inventory controls including on-site cultivation, processing, and/or medical marijuana products received from outside sources.
 - h. Measures taken to minimize or offset energy use from the cultivation or processing of medical marijuana.
 - i. Chemicals stored, used and any effluent discharged into the City's wastewater and/or storm water system.
9. Operating Standards.
- a. No dispensing medical marijuana more than twice a day.
 - b. Dispense to an individual qualified patient who has a valid, verified physician's recommendation. The medical marijuana cooperative or collective shall verify that the physician's recommendation is current and valid.
 - c. Display the client rules and/or regulations at each building entrance.
 - d. Smoking, ingesting or consuming medical marijuana on the premises or in the vicinity is prohibited.
 - e. Persons under the age of eighteen (18) are precluded from entering the premises.
 - f. No on-site display of marijuana plants.
 - g. No distribution of live plants, starts and clones on through Use Permit.
 - h. Permit the on-site display or sale of marijuana paraphernalia only through the Use Permit.
 - i. Maintain all necessary permits, and pay all appropriate taxes. Medical marijuana cooperatives or collectives shall also provide invoices to vendors to ensure vendor's tax liability responsibility;
 - j. Submit an "Annual Performance Review Report" which is intended to identify effectiveness of the approved Use Permit, Operations Manual, and Conditions of Approval, as well as the identification and implementation of additional procedures as deemed necessary.
 - k. Monitoring review fees shall accompany the "Annual Performance Review Report" for costs associated with the review and approval of the report.
10. Permit Revocation or Modification. A use permit may be revoked or modified for non-compliance with one or more of the items described above."

LIABILITY ISSUES

With respect to issuing business licenses to marijuana storefront 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 could be applied to counties and cities allowing 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 marijuana business are subject to federal prosecution. When an individual in California cultivates, possesses, transports, or uses marijuana, he or she is committing a federal crime.

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

This very problem is why some counties are re-thinking the presence of 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 storefront marijuana businesses to operate within their borders, San Diego and San Bernardino Counties filed consolidated lawsuits against the state seeking to prevent the State of California from enforcing its medical marijuana statutes which potentially subject them to criminal liability, and squarely asserting that California medical marijuana laws are preempted by federal law in this area. After California's medical marijuana laws were all upheld at the trial level, California's Fourth District Court of Appeal found that the State of California could mandate counties to adopt and enforce a voluntary medical marijuana identification card system, and the appellate court bypassed the preemption issue by finding that San Diego and San Bernardino Counties lacked standing to raise this challenge to California's medical marijuana laws. Following this state appellate court decision, independent petitions for review filed by the two counties were both denied by the California Supreme Court.

Largely because of the quandary that county and city peace officers in California face in the field when confronted with alleged medical marijuana with respect to enforcement of the total federal criminal prohibition of all marijuana, and state exemption from criminal penalties for medical marijuana users and caregivers, petitions for a writ of certiorari were then separately filed by the two counties seeking review of this decision by the United States Supreme Court in the consolidated cases of *County of San Diego, County of San Bernardino, and Gary Penrod, as Sheriff of the County of San Bernardino v. San Diego Norml, State of California, and Sandra Shewry, Director of the California Department of Health Services in her official capacity*, Ct.App. Case No. D-5-333.) The High Court has requested the State of California and other interested parties to file responsive briefs to the two counties' and Sheriff Penrod's writ petitions before it decides whether to grant or deny review of these consolidated cases. The petitioners would then be entitled to file a reply to any filed response. It is anticipated that the U.S. Supreme Court will formally grant or deny review of these consolidated cases in late April or early May of 2009.

In another case, *City of Garden Grove v. Superior Court* (2007) 157 Cal.App.4th 355, although the federal preemption issue was not squarely raised or addressed in its decision, California's Fourth District Court of Appeal found that public policy considerations allowed a city standing to challenge a state trial court's order directing the return by a city police department of seized medical marijuana to a person determined to be a patient. After the court-ordered return of this federally banned substance was upheld at the intermediate appellate level, and not accepted for review by the California Supreme Court, a petition for a writ of certiorari was filed by the City of Garden Grove to the U.S. Supreme Court to consider and reverse the state appellate court decision. But, that petition was also denied. However, the case of *People v. Kelly* (2008) 163 Cal.App.4th 124—in which a successful challenge was made to California's Medical Marijuana Program's maximum amounts of marijuana and marijuana plants permitted to be possessed by medical marijuana patients (Cal. H&S Code sec. 11362.77 *et seq.*), which limits were found at the court of appeal level to be without legal authority for the state to impose—has been accepted for review by the California Supreme Court on the issue of whether this law was an improper amendment to Proposition 215's Compassionate Use Act of 1996.

A SAMPLING OF EXPERIENCES WITH MARIJUANA DISPENSARIES

1. MARIJUANA DISPENSARIES-THE SAN DIEGO STORY

After the passage of Proposition 215 in 1996, law enforcement agency representatives in San Diego, California met many times to formulate a comprehensive strategy of how to deal with cases that may arise out of the new law. In the end it was decided to handle the matters on a case-by-case basis. In addition, questionnaires were developed for patient, caregiver, and physician interviews. At times patients without sales indicia but large grows were interviewed and their medical records reviewed in making issuing decisions. In other cases where sales indicia and amounts supported a finding of sales the cases were pursued. At most, two cases a month were brought for felony prosecution.

In 2003, San Diego County's newly elected District Attorney publicly supported Prop. 215 and wanted her newly created Narcotics Division to design procedures to ensure patients were not caught up in case prosecutions. As many already know, law enforcement officers rarely arrest or seek prosecution of a patient who merely possesses personal use amounts. Rather, it is those who have sales amounts in product or cultivation who are prosecuted. For the next two years the District Attorney's Office proceeded as it had before. But, on the cases where the patient had too many plants or product but not much else to show sales—the DDAs assigned to review the case would interview and listen to input to respect the patient's and the DA's position. Some cases were rejected and others issued but the case disposition was often generous and reflected a “sin no more” view.

All of this changed after the passage of SB 420. The activists and pro-marijuana folks started to push the envelope. Dispensaries began to open for business and physicians started to advertise their availability to issue recommendations for the purchase of medical marijuana. By spring of 2005 the first couple of dispensaries opened up—but they were discrete. This would soon change. By that summer, 7 to 10 dispensaries were open for business, and they were selling marijuana openly. In fact, the local police department was doing a small buy/walk project and one of its target dealers said he was out of pot but would go get some from the dispensary to sell to the undercover officer (UC); he did. It was the proliferation of dispensaries and ancillary crimes that prompted the San Diego Police Chief (the Chief was a Prop. 215 supporter who sparred with the Fresno DEA in his prior job over this issue) to authorize his officers to assist DEA.

The Investigation

San Diego DEA and its local task force (NTF) sought assistance from the DA's Office as well as the U.S. Attorney's Office. Though empathetic about being willing to assist, the DA's Office was not sure how prosecutions would fare under the provisions of SB 420. The U.S. Attorney had the easier road but was noncommittal. After several meetings it was decided that law enforcement would work on using undercover operatives (UCs) to buy, so law enforcement could see exactly what was happening in the dispensaries.

The investigation was initiated in December of 2005, after NTF received numerous citizen complaints regarding the crime and traffic associated with "medical marijuana dispensaries." The City of San Diego also saw an increase in crime related to the marijuana dispensaries. By then approximately 20 marijuana dispensaries had opened and were operating in San Diego County, and investigations on 15 of these dispensaries were initiated.

During the investigation, NTF learned that all of the business owners were involved in the transportation and distribution of large quantities of marijuana, marijuana derivatives, and marijuana food products. In addition, several owners were involved in the cultivation of high grade marijuana. The business owners were making significant profits from the sale of these products and not properly reporting this income.

Undercover Task Force Officers (TFO's) and SDPD Detectives were utilized to purchase marijuana and marijuana food products from these businesses. In December of 2005, thirteen state search warrants were executed at businesses and residences of several owners. Two additional follow-up search warrants and a consent search were executed the same day. Approximately 977 marijuana plants from seven indoor marijuana grows, 564.88 kilograms of marijuana and marijuana food products, one gun, and over \$58,000 U.S. currency were seized. There were six arrests made during the execution of these search warrants for various violations, including outstanding warrants, possession of marijuana for sale, possession of psilocybin mushrooms, obstructing a police officer, and weapons violations. However, the owners and clerks were not arrested or prosecuted at this time—just those who showed up with weapons or product to sell.

Given the fact most owners could claim mistake of law as to selling (though not a legitimate defense, it could be a jury nullification defense) the DA's Office decided not to file cases at that time. It was hoped that the dispensaries would feel San Diego was hostile ground and they would do business elsewhere. Unfortunately this was not the case. Over the next few months seven of the previously targeted dispensaries opened, as well as a slew of others. Clearly prosecutions would be necessary.

To gear up for the re-opened and new dispensaries prosecutors reviewed the evidence and sought a second round of UC buys wherein the UC would be buying for themselves and they would have a second UC present at the time acting as UC1's caregiver who also would buy. This was designed to show the dispensary was not the caregiver. There is no authority in the law for organizations to act as primary caregivers. Caregivers must be individuals who care for a marijuana patient. A primary caregiver is defined by Proposition 215, as codified in H&S Code section 11362.5(e), as, "For the purposes of this section, 'primary caregiver' means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person." The goal was to show that the stores were only selling marijuana, and not providing care for the hundreds who bought from them.

In addition to the caregiver-controlled buys, another aim was to put the whole matter in perspective for the media and the public by going over the data that was found in the raided dispensary records, as well as the crime statistics. An analysis of the December 2005 dispensary records showed a breakdown of the purported illness and youthful nature of the patients. The charts and other PR aspects played out after the second take down in July of 2006.

The final attack was to reveal the doctors (the gatekeepers for medical marijuana) for the fraud they were committing. UCs from the local PD went in and taped the encounters to show that the pot docs did not examine the patients and did not render care at all; rather they merely sold a medical MJ recommendation whose duration depended upon the amount of money paid.

In April of 2006, two state and two federal search warrants were executed at a residence and storage warehouse utilized to cultivate marijuana. Approximately 347 marijuana plants, over 21 kilograms of marijuana, and \$2,855 U.S. currency were seized.

Due to the pressure from the public, the United States Attorney's Office agreed to prosecute the owners of the businesses with large indoor marijuana grows and believed to be involved in money laundering activities. The District Attorney's Office agreed to prosecute the owners in the other investigations.

In June of 2006, a Federal Grand Jury indicted six owners for violations of Title 21 USC, sections 846 and 841(a)(1), Conspiracy to Distribute Marijuana; sections 846 and 841(a), Conspiracy to Manufacture Marijuana; and Title 18 USC, Section 2, Aiding and Abetting.

In July of 2006, 11 state and 11 federal search warrants were executed at businesses and residences associated with members of these businesses. The execution of these search warrants resulted in the arrest of 19 people, seizure of over \$190,000 in U.S. currency and other assets, four handguns, one rifle, 405 marijuana plants from seven grows, and over 329 kilograms of marijuana and marijuana food products.

Following the search warrants, two businesses reopened. An additional search warrant and consent search were executed at these respective locations. Approximately 20 kilograms of marijuana and 32 marijuana plants were seized.

As a result, all but two of the individuals arrested on state charges have pled guilty. Several have already been sentenced and a few are still awaiting sentencing. All of the individuals indicted federally have also pled guilty and are awaiting sentencing.

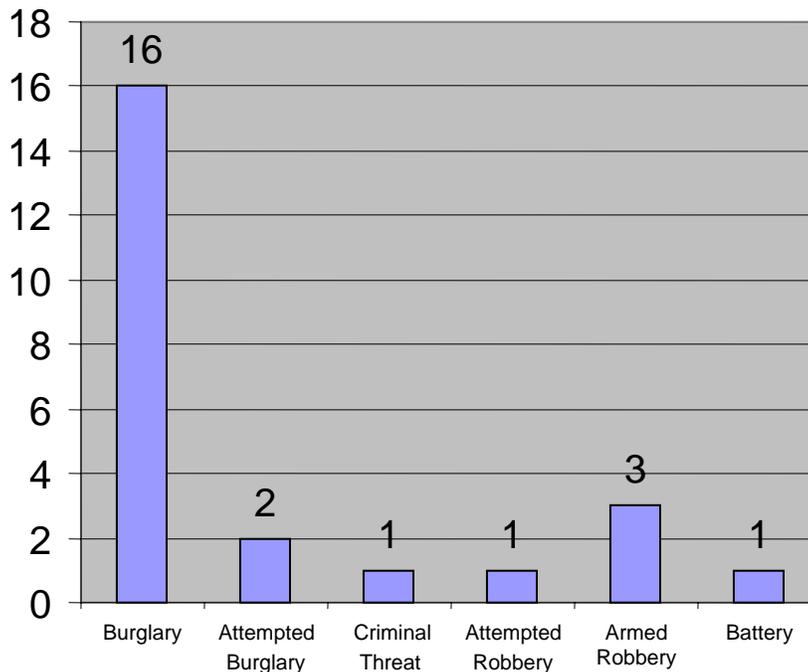
After the July 2006 search warrants a joint press conference was held with the U.S. Attorney and District Attorney, during which copies of a complaint to the medical board, photos of the food products which were marketed to children, and the charts shown below were provided to the media.

Directly after these several combined actions, there were no marijuana distribution businesses operating in San Diego County. Law enforcement agencies in the San Diego region have been able to successfully dismantle these businesses and prosecute the owners. As a result, medical marijuana advocates have staged a number of protests demanding DEA allow the distribution of marijuana. The closure of these businesses has reduced crime in the surrounding areas.

The execution of search warrants at these businesses sent a powerful message to other individuals operating marijuana distribution businesses that they are in violation of both federal law **and** California law.

Press Materials:

**Reported Crime at Marijuana Dispensaries
From January 1, 2005 through June 23, 2006**



Information showing the dispensaries attracted crime:

The marijuana dispensaries were targets of violent crimes because of the amount of marijuana, currency, and other contraband stored inside the businesses. From January 1, 2005 through June 23, 2006, 24 violent crimes were reported at marijuana dispensaries. An analysis of financial records seized from the marijuana dispensaries showed several dispensaries were grossing over \$300,000 per month from selling marijuana and marijuana food products. The majority of customers purchased marijuana with cash.

Crime statistics inadequately reflect the actual number of crimes committed at the marijuana dispensaries. These businesses were often victims of robberies and burglaries, but did not report the crimes to law enforcement on account of fear of being arrested for possession of marijuana in excess of Prop. 215 guidelines. NTF and the San Diego Police Department (SDPD) received numerous citizen complaints regarding every dispensary operating in San Diego County.

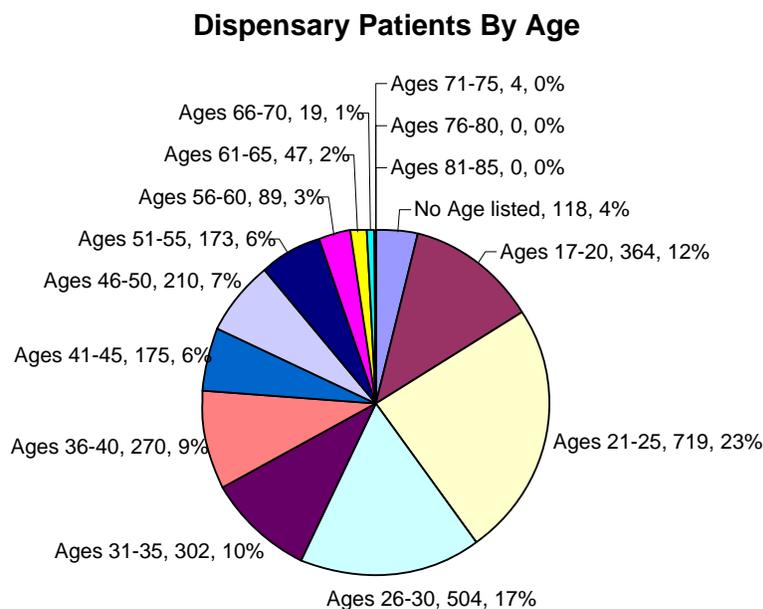
Because the complaints were received by various individuals, the exact number of complaints was not recorded. The following were typical complaints received:

- high levels of traffic going to and from the dispensaries
- people loitering in the parking lot of the dispensaries
- people smoking marijuana in the parking lot of the dispensaries

- vandalism near dispensaries
- threats made by dispensary employees to employees of other businesses
- citizens worried they may become a victim of crime because of their proximity to dispensaries

In addition, the following observations (from citizen activists assisting in data gathering) were made about the marijuana dispensaries:

- Identification was not requested for individuals who looked under age 18
- Entrance to business was not refused because of lack of identification
- Individuals were observed loitering in the parking lots
- Child-oriented businesses and recreational areas were situated nearby
- Some businesses made no attempt to verify a submitted physician's recommendation



An analysis of patient records seized during search warrants at several dispensaries show that 52% of the customers purchasing marijuana were between the ages of 17 to 30. 63% of primary caregivers purchasing marijuana were between the ages of 18 through 30. Only 2.05% of customers submitted a physician's recommendation for AIDS, glaucoma, or cancer.

Why these businesses were deemed to be criminal--not compassionate:

The medical marijuana businesses were deemed to be criminal enterprises for the following reasons:

- Many of the business owners had histories of drug and violence-related arrests.
- The business owners were street-level marijuana dealers who took advantage of Prop. 215 in an attempt to legitimize marijuana sales for profit.
- Records, or lack of records, seized during the search warrants showed that all the owners were not properly reporting income generated from the sales of marijuana. Many owners were involved in money laundering and tax evasion.
- The businesses were selling to individuals without serious medical conditions.
- There are no guidelines on the amount of marijuana which can be sold to an individual. For

example, an individual with a physician's recommendation can go to as many marijuana distribution businesses and purchase as much marijuana as he/she wants.

- California law allows an individual to possess 6 mature or 12 immature plants per qualified person. However, the San Diego Municipal Code states a "caregiver" can only provide care to 4 people, including themselves; this translates to 24 mature or 48 immature plants total. Many of these dispensaries are operating large marijuana grows with far more plants than allowed under law. Several of the dispensaries had indoor marijuana grows inside the businesses, with mature and/or immature marijuana plants over the limits.
- State law allows a qualified patient or primary caregiver to possess no more than eight ounces of dried marijuana per qualified patient. However, the San Diego Municipal Code allows primary caregivers to possess no more than two pounds of processed marijuana. Under either law, almost every marijuana dispensary had over two pounds of processed marijuana during the execution of the search warrants.
- Some marijuana dispensaries force customers to sign forms designating the business as their primary caregiver, in an attempt to circumvent the law.

2. EXPERIENCES WITH MARIJUANA DISPENSARIES IN RIVERSIDE COUNTY

There were some marijuana dispensaries operating in the County of Riverside until the District Attorney's Office took a very aggressive stance in closing them. In Riverside, anyone that is not a "qualified patient" or "primary caregiver" under the Medical Marijuana Program Act who possesses, sells, or transports marijuana is being prosecuted.

Several dispensary closures illustrate the impact this position has had on marijuana dispensaries. For instance, the Palm Springs Caregivers dispensary (also known as Palm Springs Safe Access Collective) was searched after a warrant was issued. All materials inside were seized, and it was closed down and remains closed. The California Caregivers Association was located in downtown Riverside. Very shortly after it opened, it was also searched pursuant to a warrant and shut down. The CannaHelp dispensary was located in Palm Desert. It was searched and closed down early in 2007. The owner and two managers were then prosecuted for marijuana sales and possession of marijuana for the purpose of sale. However, a judge granted their motion to quash the search warrant and dismissed the charges. The District Attorney's Office then appealed to the Fourth District Court of Appeal. Presently, the Office is waiting for oral arguments to be scheduled.

Dispensaries in the county have also been closed by court order. The Healing Nations Collective was located in Corona. The owner lied about the nature of the business in his application for a license. The city pursued and obtained an injunction that required the business to close. The owner appealed to the Fourth District Court of Appeal, which ruled against him. (*City of Corona v. Ronald Naulls et al.*, Case No. E042772.)

3. MEDICAL MARIJUANA DISPENSARY ISSUES IN CONTRA COSTA COUNTY CITIES AND IN OTHER BAY AREA COUNTIES

Several cities in Contra Costa County, California have addressed this issue by either banning dispensaries, enacting moratoria against them, regulating them, or taking a position that they are simply not a permitted land use because they violate federal law. Richmond, El Cerrito, San Pablo, Hercules, and Concord have adopted permanent ordinances banning the establishment of marijuana dispensaries. Antioch, Brentwood, Oakley, Pinole, and Pleasant Hill have imposed moratoria against dispensaries. Clayton, San Ramon, and Walnut Creek have not taken any formal action regarding the establishment of marijuana dispensaries but have indicated that marijuana dispensaries

are not a permitted use in any of their zoning districts as a violation of federal law. Martinez has adopted a permanent ordinance regulating the establishment of marijuana dispensaries.

The Counties of Alameda, Santa Clara, and San Francisco have enacted permanent ordinances regulating the establishment of marijuana dispensaries. The Counties of Solano, Napa, and Marin have enacted neither regulations nor bans. A brief overview of the regulations enacted in neighboring counties follows.

A. Alameda County

Alameda County has a nineteen-page regulatory scheme which allows the operation of three permitted dispensaries in unincorporated portions of the county. Dispensaries can only be located in commercial or industrial zones, or their equivalent, and may not be located within 1,000 feet of other dispensaries, schools, parks, playgrounds, drug recovery facilities, or recreation centers. Permit issuance is controlled by the Sheriff, who is required to work with the Community Development Agency and the Health Care Services agency to establish operating conditions for each applicant prior to final selection. Adverse decisions can be appealed to the Sheriff and are ruled upon by the same panel responsible for setting operating conditions. That panel's decision may be appealed to the Board of Supervisors, whose decision is final (subject to writ review in the Superior Court per CCP sec. 1094.5). Persons violating provisions of the ordinance are guilty of a misdemeanor.

B. Santa Clara County

In November of 1998, Santa Clara County passed an ordinance permitting dispensaries to exist in unincorporated portions of the county with permits first sought and obtained from the Department of Public Health. In spite of this regulation, neither the County Counsel nor the District Attorney's Drug Unit Supervisor believes that Santa Clara County has had *any* marijuana dispensaries in operation at least through 2006.

The only permitted activities are the on-site cultivation of medical marijuana and the distribution of medical marijuana/medical marijuana food stuffs. No retail sales of any products are permitted at the dispensary. Smoking, ingestion or consumption is also prohibited on site. All doctor recommendations for medical marijuana must be verified by the County's Public Health Department.

C. San Francisco County

In December of 2001, the Board of Supervisors passed Resolution No. 012006, declaring San Francisco to be a "Sanctuary for Medical Cannabis." City voters passed Proposition S in 2002, directing the city to explore the possibility of establishing a medical marijuana cultivation and distribution program run by the city itself.

San Francisco dispensaries must apply for and receive a permit from the Department of Public Health. They may only operate as a collective or cooperative, as defined by California Health and Safety Code section 11362.7 (see discussion in section 4, under "California Law" above), and may only sell or distribute marijuana to members. Cultivation, smoking, and making and selling food products may be allowed. Permit applications are referred to the Departments of Planning, Building Inspection, and Police. Criminal background checks are required but exemptions could still allow the operation of dispensaries by individuals with prior convictions for violent felonies or who have had prior permits suspended or revoked. Adverse decisions can be appealed to the Director of

Public Health and the Board of Appeals. It is unclear how many dispensaries are operating in the city at this time.

D. Crime Rates in the Vicinity of MariCare

Sheriff's data have been compiled for "Calls for Service" within a half-mile radius of 127 Aspen Drive, Pacheco. However, in research conducted by the El Cerrito Police Department and relied upon by Riverside County in recently enacting its ban on dispensaries, it was recognized that 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. Therefore, these statistics cannot paint a complete picture of the impact a marijuana dispensary has had on crime rates.

The statistics show that the overall number of calls decreased (3,746 in 2005 versus 3,260 in 2006). However, there have been **increases** in the numbers of crimes which appear to be related to a business which is an attraction to a criminal element. Reports of commercial burglaries increased (14 in 2005, 24 in 2006), as did reports of residential burglaries (13 in 2005, 16 in 2006) and miscellaneous burglaries (5 in 2005, 21 in 2006).

Tender Holistic Care (THC marijuana dispensary formerly located on N. Buchanan Circle in Pacheco) was forcibly burglarized on June 11, 2006. \$4,800 in cash was stolen, along with marijuana, hash, marijuana food products, marijuana pills, marijuana paraphernalia, and marijuana plants. The total loss was estimated to be \$16,265.

MariCare was also burglarized within two weeks of opening in Pacheco. On April 4, 2006, a window was smashed after 11:00 p.m. while an employee was inside the business, working late to get things organized. The female employee called "911" and locked herself in an office while the intruder ransacked the downstairs dispensary and stole more than \$200 worth of marijuana. Demetrio Ramirez indicated that since they were just moving in, there wasn't much inventory.

Reports of vehicle thefts increased (4 in 2005, 6 in 2006). Disturbance reports increased in nearly all categories (Fights: 5 in 2005, 7 in 2006; Harassment: 4 in 2005, 5 in 2006; Juveniles: 4 in 2005, 21 in 2006; Loitering: 11 in 2005, 19 in 2006; Verbal: 7 in 2005, 17 in 2006). Littering reports increased from 1 in 2005 to 5 in 2006. Public nuisance reports increased from 23 in 2005 to 26 in 2006.

These statistics reflect the complaints and concerns raised by nearby residents. Residents have reported to the District Attorney's Office, as well as to Supervisor Piepho's office, that when calls are made to the Sheriff's Department, the offender has oftentimes left the area before law enforcement can arrive. This has led to less reporting, as it appears to local residents to be a futile act and residents have been advised that law enforcement is understaffed and cannot always timely respond to all calls for service. As a result, Pacheco developed a very active, visible Neighborhood Watch program. The program became much more active in 2006, according to Doug Stewart. Volunteers obtained radios and began frequently receiving calls directly from local businesses and residents who contacted them **instead** of law enforcement. It is therefore significant that there has still been an increase in many types of calls for law enforcement service, although the overall number of calls has decreased.

Other complaints from residents included noise, odors, smoking/consuming marijuana in the area, littering and trash from the dispensary, loitering near a school bus stop and in the nearby church parking lot, observations that the primary patrons of MariCare appear to be individuals under age 25,

and increased traffic. Residents observed that the busiest time for MariCare appeared to be from 4:00 p.m. to 6:00 p.m. On a typical Friday, 66 cars were observed entering MariCare's facility; 49 of these were observed to contain additional passengers. The slowest time appeared to be from 1:00 p.m. to 3:00 p.m. On a typical Saturday, 44 cars were counted during this time, and 29 of these were observed to have additional passengers. MariCare has claimed to serve 4,000 "patients."

E. Impact of Proposed Ordinance on MedDelivery Dispensary, El Sobrante

It is the position of Contra Costa County District Attorney Robert J. Kochly that a proposed ordinance should terminate operation of the dispensary in El Sobrante because the land use of that business would be inconsistent with both state and federal law. However, the Community Development Department apparently believes that MedDelivery can remain as a "legal, non-conforming use."

F. Banning Versus Regulating Marijuana Dispensaries in Unincorporated Contra Costa County

It is simply bad public policy to allow the proliferation of any type of business which is illegal and subject to being raided by federal and/or state authorities. In fact, eight locations associated with the New Remedies dispensary in San Francisco and Alameda Counties were raided in October of 2006, and eleven Southern California marijuana clinics were raided by federal agents on January 18, 2007. The Los Angeles head of the federal Drug Enforcement Administration told CBS News after the January raids that "Today's enforcement operations show that these establishments are nothing more than drug-trafficking organizations bringing criminal activities to our neighborhoods and drugs near our children and schools." A Lafayette, California resident who owned a business that produced marijuana-laced foods and drinks for marijuana clubs was sentenced in federal court to five years and 10 months behind bars as well as a \$250,000 fine. Several of his employees were also convicted in that case.

As discussed above, there is absolutely no exception to the federal prohibition against marijuana cultivation, possession, transportation, use, and distribution. Neither California's voters nor its Legislature authorized the existence or operation of marijuana dispensing businesses when given the opportunity to do so. These enterprises cannot fit themselves into the few, narrow exceptions that were created by the Compassionate Use Act and Medical Marijuana Program Act.

Further, the presence of marijuana dispensing businesses contributes substantially to the existence of a secondary market for illegal, street-level distribution of marijuana. This fact was even recognized by the United States Supreme Court: "The exemption for cultivation by patients and caregivers can only increase the supply of marijuana in the California market. The likelihood that all such production will promptly terminate when patients recover or will precisely match the patients' medical needs during their convalescence seems remote; whereas the danger that excesses will satisfy some of the admittedly enormous demand for recreational use seems obvious." (*Gonzales v. Raich, supra*, 125 S.Ct. at p. 2214.)

As outlined below, clear evidence has emerged of such a secondary market in Contra Costa County.

- In September of 2004, police responded to reports of two men pointing a gun at cars in the parking lot at Monte Vista High School during an evening football game/dance. Two 19-year-old Danville residents were located in the parking lot (which was full of vehicles and pedestrians) and in possession of a silver Airsoft pellet pistol designed to replicate a

real Walther semi-automatic handgun. Marijuana, hash, and hash oil with typical dispensary packaging and labeling were also located in the car, along with a gallon bottle of tequila (1/4 full), a bong with burned residue, and rolling papers. The young men admitted to having consumed an unknown amount of tequila at the park next to the school and that they both pointed the gun at passing cars “as a joke.” They fired several BBs at a wooden fence in the park when there were people in the area. The owner of the vehicle admitted that the marijuana was his and that he was **not** a medicinal marijuana user. He was able to buy marijuana from his friend “Brandon,” who used a Proposition 215 card to purchase from a cannabis club in Hayward.

- In February of 2006, Concord police officers responded to a report of a possible drug sale in progress. They arrested a high school senior for two outstanding warrants as he came to buy marijuana from the cannabis club located on Contra Costa Boulevard. The young man explained that he had a cannabis club card that allowed him to purchase marijuana, and admitted that he planned to re-sell some of the marijuana to friends. He also admitted to possession of nearly 7 grams of cocaine which was recovered. A 21-year-old man was also arrested on an outstanding warrant. In his car was a marijuana grinder, a baggie of marijuana, rolling papers, cigars, and a “blunt” (hollowed out cigar filled with marijuana for smoking) with one end burned. The 21-year-old admitted that he did **not** have a physician’s recommendation for marijuana.
- Also in February of 2006, a 17-year-old Monte Vista High School senior was charged with felony furnishing of marijuana to a child, after giving a 4-year-old boy a marijuana-laced cookie. The furnishing occurred on campus, during a child development class.
- In March of 2006, police and fire responded to an explosion at a San Ramon townhouse and found three young men engaged in cultivating and manufacturing “honey oil” for local pot clubs. Marijuana was also being sold from the residence. Honey oil is a concentrated form of cannabis chemically extracted from ground up marijuana with extremely volatile **butane** and a special “honey oil” extractor tube. The butane extraction operation **exploded** with such force that it blew the garage door partially off its hinges. Sprinklers in the residence kept the fire from spreading to the other homes in the densely packed residential neighborhood. At least one of the men was employed by Ken Estes, owner of the Dragonfly Holistic Solutions pot clubs in Richmond, San Francisco, and Lake County. They were making the “honey oil” with marijuana and butane that they brought up from one of Estes’ San Diego pot clubs after it was shut down by federal agents.
- Also in March of 2006, a 16-year-old El Cerrito High School student was arrested after selling pot cookies to fellow students on campus, many of whom became ill. At least four required hospitalization. The investigation revealed that the cookies were made with a butter obtained outside a marijuana dispensary (a secondary sale). Between March of 2004 and May of 2006, the El Cerrito Police Department conducted seven investigations at the 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.
- In June of 2006, Moraga police officers made a traffic stop for suspected driving under the influence of alcohol. The car was seen drifting over the double yellow line separating north and southbound traffic lanes and driving in the bike lane. The 20-year-old driver denied having consumed any alcohol, as he was the “designated driver.” When asked about his bloodshot, watery, and droopy eyes, the college junior explained that he had

smoked marijuana earlier (confirmed by blood tests). The young man had difficulty performing field sobriety tests, slurred his speech, and was ultimately arrested for driving under the influence. He was in possession of a falsified California Driver's License, marijuana, hash, a marijuana pipe, a scale, and \$12,288. The marijuana was in packaging from the Compassionate Collective of Alameda County, a Hayward dispensary. He explained that he buys the marijuana at "Pot Clubs," sells some, and keeps the rest. He only sells to close friends. About \$3,000 to \$4,000 of the cash was from playing high-stakes poker, but the rest was earned selling marijuana while a freshman at Arizona State University. The 18-year-old passenger had half an ounce of marijuana in her purse and produced a doctor's recommendation to a marijuana club in Oakland, the authenticity of which could not be confirmed.

Another significant concern is the proliferation of marijuana usage at community schools. In February of 2007, the Healthy Kids Survey for Alameda and Contra Costa Counties found that youthful substance abuse is more common in the East Bay's more affluent areas. These areas had higher rates of high school juniors who admitted having been high from drugs. The regional manager of the study found that the affluent areas had higher alcohol and marijuana use rates. *USA Today* recently reported that the percentage of 12th Grade students who said they had used marijuana has increased since 2002 (from 33.6% to 36.2% in 2005), and that marijuana was the most-used illicit drug among that age group in 2006. KSDK News Channel 5 reported that high school students are finding easy access to medical marijuana cards and presenting them to school authorities as a legitimate excuse for getting high. School Resource Officers for Monte Vista and San Ramon Valley High Schools in Danville have reported finding marijuana in prescription bottles and other packaging from Alameda County dispensaries. Marijuana has also been linked to psychotic illnesses.¹⁰¹ A risk factor was found to be starting marijuana use in adolescence.

For all of the above reasons, it is advocated by District Attorney Kochly that a ban on land uses which violate state or federal law is the most appropriate solution for the County of Contra Costa.

4. SANTA BARBARA COUNTY

According to Santa Barbara County Deputy District Attorney Brian Cota, ten marijuana dispensaries are currently operating within Santa Barbara County. The mayor of the City of Santa Barbara, who is an outspoken medical marijuana supporter, has stated that the police must place marijuana **behind** every other police priority. This has made it difficult for the local District Attorney's Office. Not many marijuana cases come to it for filing. The District Attorney's Office would like more regulations placed on the dispensaries. However, the majority of Santa Barbara County political leaders and residents are very liberal and do not want anyone to be denied access to medical marijuana if they say they need it. Partly as a result, no dispensaries have been prosecuted to date.

5. SONOMA COUNTY

Stephan R. Passalocqua, District Attorney for the County of Sonoma, has recently reported the following information related to distribution of medical marijuana in Sonoma County. In 1997, the Sonoma County Law Enforcement Chiefs Association enacted the following medical marijuana guidelines: a qualified patient is permitted to possess three pounds of marijuana and grow 99 plants in a 100-square-foot canopy. A qualified caregiver could possess or grow the above-mentioned amounts for each qualified patient. These guidelines were enacted after Proposition 215 was overwhelmingly passed by the voters of California, and after two separate unsuccessful prosecutions in Sonoma County. Two Sonoma County juries returned "not guilty" verdicts for three defendants

who possessed substantially large quantities of marijuana (60 plants in one case and over 900 plants in the other) where they asserted a medical marijuana defense. These verdicts, and the attendant publicity, demonstrated that the community standards are vastly different in Sonoma County compared to other jurisdictions.

On November 6, 2006, and authorized by Senate Bill 420, the Sonoma County Board of Supervisors specifically enacted regulations that allow a qualified person holding a valid identification card to possess up to three pounds of dried cannabis a year and cultivate 30 plants per qualified patient. No individual from any law enforcement agency in Sonoma County appeared at the hearing, nor did any representative publicly oppose this resolution.

With respect to the *People v. Sashon Jenkins* case, the defendant provided verified medical recommendations for five qualified patients prior to trial. At the time of arrest, Jenkins said that he had a medical marijuana card and was a care provider for multiple people, but was unable to provide specific documentation. Mr. Jenkins had approximately 10 pounds of dried marijuana and was growing 14 plants, which number of plants is consistent with the 2006 Sonoma County Board of Supervisors' resolution.

At a preliminary hearing held In January of 2007, the defense called five witnesses who were proffered as Jenkins' "patients" and who came to court with medical recommendations. Jenkins also testified that he was their caregiver. After the preliminary hearing, the assigned prosecutor conducted a thorough review of the facts and the law, and concluded that a Sonoma County jury would not return a "guilty" verdict in this case. Hence, no felony information was filed. With respect to the return of property issue, the prosecuting deputy district attorney never agreed to release the marijuana despite dismissing the case.

Other trial dates are pending in cases where medical marijuana defenses are being alleged. District Attorney Passalacqua has noted that, given the overwhelming passage of proposition 215, coupled with at least one United States Supreme Court decision that has not struck it down to date, these factors present current challenges for law enforcement, but that he and other prosecutors will continue to vigorously prosecute drug dealers within the boundaries of the law.

6. ORANGE COUNTY

There are 15 marijuana dispensaries in Orange County, and several delivery services. Many of the delivery services operate out of the City of Long Beach in Los Angeles County. Orange County served a search warrant on one dispensary, and closed it down. A decision is being made whether or not to file criminal charges in that case. It is possible that the United States Attorney will file on that dispensary since it is a branch of a dispensary that the federal authorities raided in San Diego County.

The Orange County Board of Supervisors has ordered a study by the county's Health Care Department on how to comply with the Medical Marijuana Program Act. The District Attorney's Office's position is that any activity under the Medical Marijuana Program Act beyond the mere issuance of identification cards violates federal law. The District Attorney's Office has made it clear to County Counsel that if any medical marijuana provider does not meet a strict definition of "primary caregiver" that person will be prosecuted.

PENDING LEGAL QUESTIONS

Law enforcement agencies throughout the state, as well as their legislative bodies, have been struggling with how to reconcile the Compassionate Use Act ("CUA"), Cal. Health & Safety Code secs. 11362.5, et seq., with the federal Controlled Substances Act ("CSA"), 21 U.S.C. sec. 801, et seq., for some time. Pertinent questions follow.

QUESTION

- 1. Is it possible for a storefront marijuana dispensary to be legally operated under the Compassionate Use Act of 1996 (Health & Saf. Code sec. 11362.5) and the Medical Marijuana Program Act (Health & Saf. Code secs. 11362.7-11362.83)?**

ANSWER

- 1. Storefront marijuana dispensaries may be legally operated under the CUA and the Medical Marijuana Program Act ("MMPA"), Cal. Health & Safety Code secs. 11362.7-11362.83, as long as they are "cooperatives" under the MMPA.**

ANALYSIS

The question posed does not specify what services or products are available at a "storefront" marijuana dispensary. The question also does not specify the business structure of a "dispensary." A "dispensary" is often commonly used nowadays as a generic term for a facility that distributes medical marijuana.

The term "dispensary" is also used specifically to refer to marijuana facilities that are operated more like a retail establishment, that are open to the public and often "sell" medical marijuana to qualified patients or caregivers. By use of the term "store front dispensary," the question may be presuming that this type of facility is being operated. For purposes of this analysis, we will assume that a "dispensary" is a generic term that does not contemplate any particular business structure.¹ Based on that assumption, a "dispensary" might provide "assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in administering medical marijuana to the qualified patient or person or acquiring the skills necessary to cultivate or administer marijuana for medical purposes to the qualified patient or person" and be within the permissible limits of the CUA and the MMPA. (Cal. Health & Safety Code sec. 11362.765 (b)(3).)

¹ As the term "dispensary" is commonly used and understood, marijuana dispensaries would *not* be permitted under the CUA or the MMPA, since they "sell" medical marijuana and are not operated as true "cooperatives."

The CUA permits a "patient" or a "patient's primary caregiver" to possess or cultivate marijuana for personal medical purposes with the recommendation of a physician. (Cal. Health & Safety Code sec. 11362.5 (d).) Similarly, the MMPA provides that "patients" or designated "primary caregivers" who have voluntarily obtained a valid medical marijuana identification card shall not be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana in specified quantities. (Cal. Health & Safety Code sec. 11362.71 (d) & (e).) A "storefront dispensary" would not fit within either of these categories.

However, the MMPA also provides that "[q]ualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who *associate* within the State of California in order collectively or *cooperatively* to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under section 11357 [possession], 11358 [planting, harvesting or processing], 11359 [possession for sale], 11360 [unlawful transportation, importation, sale or gift], 11366 [opening or maintaining place for trafficking in controlled substances], 11366.5 [providing place for manufacture or distribution of controlled substance; Fortifying building to suppress law enforcement entry], or 11570 [Buildings or places deemed nuisances subject to abatement]." (Cal. Health & Safety Code sec. 11362.775.) (Emphasis added.)

Since medical marijuana cooperatives are permitted pursuant to the MMPA, a "storefront dispensary" that would qualify as a cooperative *would* be permissible under the MMPA. (Cal. Health & Safety Code sec. 11362.775. See also *People v. Urziceanu* (2005) 132 Cal. App. 4th 747 (finding criminal defendant was entitled to present defense relating to operation of medical marijuana cooperative).) In granting a re-trial, the appellate court in *Urziceanu* found that the defendant could present evidence which might entitle him to a defense under the MMPA as to the operation of a medical marijuana cooperative, including the fact that the "cooperative" verified physician recommendations and identities of individuals seeking medical marijuana and individuals obtaining medical marijuana paid membership fees, reimbursed defendant for his costs in cultivating the medical marijuana by way of donations, and volunteered at the "cooperative." (*Id.* at p. 785.)

Whether or not "sales" are permitted under *Urziceanu* and the MMPA is unclear. The *Urziceanu* Court did note that the incorporation of section 11359, relating to marijuana "sales," in section 11362.775, allowing the operation of cooperatives, "contemplates the formation and operation of medicinal marijuana cooperatives that would receive reimbursement for marijuana and the services provided in conjunction with the provision of that marijuana." Whether "reimbursement" may be in the form only of donations, as were the facts presented in *Urziceanu*, or whether "purchases" could be made for medical marijuana, it does seem clear that a medical marijuana "cooperative" may not make a "profit," but may be restricted to being reimbursed for actual costs in providing the marijuana to its members and, if there are any "profits," these may have to be reinvested in the "cooperative" or shared by its members in order for a dispensary to

be truly considered to be operating as a "cooperative."² If these requirements are satisfied as to a "storefront" dispensary, then it will be permissible under the MMPA. Otherwise, it will be a violation of both the CUA and the MMPA.

QUESTION

2. If the governing body of a city, county, or city and county approves an ordinance authorizing and regulating marijuana dispensaries to implement the Compassionate Use Act of 1996 and the Medical Marijuana Program Act, can an individual board or council member be found to be acting illegally and be subject to federal criminal charges, including aiding and abetting, or state criminal charges?

ANSWER

2. If a city, county, or city and county authorizes and regulates marijuana dispensaries, individual members of the legislative bodies may be held criminally liable under state or federal law.³

ANALYSIS

A. *Federal Law*

Generally, legislators of federal, state, and local legislative bodies are absolutely immune from liability for legislative acts. (U.S. Const., art. I, sec. 6 (Speech and Debate Clause, applicable to members of Congress); Fed. Rules Evid., Rule 501 (evidentiary privilege against admission of legislative acts); *Tenney v. Brandhove* (1951) 341 U.S. 367 (legislative immunity applicable to state legislators); *Bogan v. Scott-Harris* (1998) 523 U.S. 44 (legislative immunity applicable to local legislators).) However, while federal legislators are absolutely immune from *both* criminal *and* civil liability for purely legislative acts, local legislators are *only* immune from *civil* liability under federal law. (*United States v. Gillock* (1980) 445 U.S. 360.)

Where the United States Supreme Court has held that federal regulation of marijuana by way of the CSA, including any "medical" use of marijuana, is within Congress' Commerce Clause power, federal law stands as a bar to local action in direct violation of the CSA. (*Gonzales v. Raich* (2005) 545 U.S. 1.) In fact, the CSA itself provides that federal regulations do not

² A "cooperative" is defined as follows: An enterprise or organization that is owned or managed jointly by those who use its facilities or services. THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE, by Houghton Mifflin Company (4th Ed. 2000).

³ Indeed, the same conclusion would seem to result from the adoption by state legislators of the MMPA itself, in authorizing the issuance of medical marijuana identification cards. (Cal. Health & Safety Code secs. 11362.71, et seq.)

exclusively occupy the field of drug regulation "unless there is a positive conflict between that provision of this title [the CSA] and that state law so that the two cannot consistently stand together." (21 U.S.C. sec. 903.)

Based on the above provisions, then, legislative action by local legislators *could* subject the individual legislators to federal criminal liability. Most likely, the only violation of the CSA that could occur as a result of an ordinance approved by local legislators authorizing and regulating medical marijuana would be aiding and abetting a violation of the CSA.

The elements of the offense of aiding and abetting a criminal offense are: (1) specific intent to facilitate commission of a crime by another; (2) guilty knowledge on the part of the accused; (3) that an offense was being committed by someone; and (4) that the accused assisted or participated in the commission of an offense. (*United States v. Raper* (1982) 676 F.2d 841; *United States v. Staten* (1978) 581 F.2d 878.)

Criminal aiding and abetting liability, under 18 U.S.C. section 2, requires proof that the defendants in some way associated themselves with the illegal venture; that they participated in the venture as something that they wished to bring about; and that they sought by their actions to make the venture succeed. (*Central Bank, N.A. v. First Interstate Bank, N.A.* (1994) 511 U.S. 164.) Mere furnishing of company to a person engaged in a crime does not render a companion an aider or abettor. (*United States v. Garguilo* (2d Cir. 1962) 310 F.2d 249.) In order for a defendant to be an aider and abettor he must know that the activity condemned by law is actually occurring and must intend to help the perpetrator. (*United States v. McDaniel* (9th Cir. 1976) 545 F.2d 642.) To be guilty of aiding and abetting, the defendant must willfully seek, by some action of his own, to make a criminal venture succeed. (*United States v. Ehrenberg* (E.D. Pa. 1973) 354 F. Supp. 460 *cert. denied* (1974) 94 S. Ct. 1612.)

The question, as posed, may presume that the local legislative body has acted in a manner that affirmatively supports marijuana dispensaries. As phrased by Senator Kuehl, the question to be answered by the Attorney General's Office assumes that a local legislative body has adopted an ordinance that "authorizes" medical marijuana facilities. What if a local public entity adopts an ordinance that explicitly indicates that it does *not* authorize, legalize, or permit any dispensary that is in violation of federal law regarding controlled substances? If the local public entity grants a permit, regulates, or imposes locational requirements on marijuana dispensaries with the announced understanding that it does not thereby allow any *illegal* activity and that dispensaries are required to comply with all applicable laws, including federal laws, then the public entity should be entitled to expect that all laws will be obeyed.

It would seem that a public entity is not intentionally acting to encourage or aid acts in violation of the CSA merely because it has adopted an ordinance which regulates dispensaries; even the issuance of a "permit," if it is expressly *not* allowing violations of federal law, cannot necessarily support a charge or conviction of aiding and abetting violation of the CSA. A public entity should be entitled to presume that dispensaries will obey all applicable laws and that lawful business will be conducted at dispensaries. For instance, dispensaries could very well *not* engage in actual medical marijuana distribution, but instead engage in education and awareness activities as to the medical effects of marijuana; the sale of other, legal products that aid in the suffering of

ailing patients; or even activities directed at effecting a change in the federal laws relating to regulation of marijuana as a Schedule I substance under the CSA.

These are examples of legitimate business activities, and First Amendment protected activities at that, in which dispensaries could engage relating to medical marijuana, but *not* apparently in violation of the CSA. Public entities should be entitled to presume that legitimate activities can and will be engaged in by dispensaries that are permitted and/or regulated by local regulations. In fact, it seems counterintuitive that local public entities within the state should be expected to be the watchdogs of federal law; in the area of controlled substances, at least, local public entities do not have an affirmative obligation to discern whether businesses are violating federal law.

The California Attorney General's Office will note that the State Board of Equalization ("BOE") has already done precisely what has been suggested in the preceding paragraph. In a special notice issued by the BOE this year, it has indicated that sellers of medical marijuana must obtain a seller's permit. (See <http://www.boe.ca.gov/news/pdf/medseller2007.pdf> (Special Notice: Important Information for Sellers of Medical Marijuana).) As the Special Notice explicitly indicates to medical marijuana facilities, "[h]aving a seller's permit does not mean you have authority to make unlawful sales. The permit only provides a way to remit any sales and use taxes due. The permit states, 'NOTICE TO PERMITTEE: You are required to obey all federal and state laws that regulate or control your business. This permit does not allow you to do otherwise.'"

The above being said, however, there is no guarantee that criminal charges would not actually be brought by the federal government or that persons so charged could not be successfully prosecuted. It does seem that arguments contrary to the above conclusions could be persuasive in convicting local legislators. By permitting and/or regulating marijuana dispensaries by local ordinance, some legitimacy and credibility may be granted by governmental issuance of permits or authorizing and allowing dispensaries to exist or locate within a jurisdiction.⁴

All of this discussion, then, simply demonstrates that individual board or council members can, indeed, be found criminally liable under federal law for the adoption of an ordinance authorizing and regulating marijuana dispensaries that promote the use of marijuana as medicine. The actual likelihood of prosecution, and its potential success, may depend on the particular facts of the regulation that is adopted.

⁴ Of course, the question arises as to how far any such liability be taken. Where can the line be drawn between any permit or regulation adopted specifically with respect to marijuana dispensaries and other permits or approvals routinely, and often *ministerially*, granted by local public entities, such as building permits or business licenses, which are discussed *infra*? If local public entities are held responsible for adopting an ordinance authorizing and/or regulating marijuana dispensaries, cannot local public entities also be subject to liability for providing general public services for the illegal distribution of "medical" marijuana? Could a local public entity that knew a dispensary was distributing "medical" marijuana in compliance with state law be criminally liable if it provided electricity, water, and trash services to that dispensary? How can such actions really be distinguished from the adoption of an ordinance that authorizes and/or regulates marijuana dispensaries?

B. State Law

Similarly, under California law, aside from the person who directly commits a criminal offense, no other person is guilty as a principal unless he aids and abets. (*People v. Dole* (1898) 122 Cal. 486; *People v. Stein* (1942) 55 Cal. App. 2d 417.) A person who innocently aids in the commission of the crime cannot be found guilty. (*People v. Fredoni* (1910) 12 Cal. App. 685.)

To authorize a conviction as an aider and abettor of crime, it must be shown not only that the person so charged aided and assisted in the commission of the offense, but also that he abetted the act— that is, that he criminally or with guilty knowledge and intent aided the actual perpetrator in the commission of the act. (*People v. Terman* (1935) 4 Cal. App. 2d 345.) To "abet" another in commission of a crime implies a consciousness of guilt in instigating, encouraging, promoting, or aiding the commission of the offense. (*People v. Best* (1941) 43 Cal. App. 2d 100.) "Abet" implies knowledge of the wrongful purpose of the perpetrator of the crime. (*People v. Stein, supra.*)

To be guilty of an offense committed by another person, the accused must not only aid such perpetrator by assisting or supplementing his efforts, but must, with knowledge of the wrongful purpose of the perpetrator, abet by inciting or encouraging him. (*People v. Le Grant* (1946) 76 Cal. App. 2d 148, 172; *People v. Carlson* (1960) 177 Cal. App. 2d 201.)

The conclusion under state law aiding and abetting would be similar to the analysis above under federal law. Similar to federal law immunities available to local legislators, discussed above, state law immunities provide some protection for local legislators. Local legislators are certainly immune from civil liability relating to legislative acts; it is unclear, however, whether they would also be immune from criminal liability. (*Steiner v. Superior Court*, 50 Cal.App.4th 1771 (assuming, but finding no California authority relating to a "criminal" exception to absolute immunity for legislators under state law).)⁵ Given the apparent state of the law, local legislators could only be certain that they would be immune from civil liability and could not be certain that

⁵ Although the *Steiner* Court notes that "well-established federal law supports the exception," when federal case authority is applied in a state law context, there may be a different outcome. Federal authorities note that one purpose supporting criminal immunity as to federal legislators from federal prosecution is the separation of powers doctrine, which does not apply in the context of *federal* criminal prosecution of *local* legislators. However, if a state or county prosecutor brought criminal charges against a local legislator, the separation of powers doctrine may bar such prosecution. (Cal. Const., art. III, sec. 3.) As federal authorities note, bribery, or other criminal charges that do not depend upon evidence of, and cannot be said to further, any legislative acts, can still be prosecuted against legislators. (See *Bruce v. Riddle* (4th Cir. 1980) 631 F.2d 272, 279 ["Illegal acts such as bribery are obviously not in aid of legislative activity and legislators can claim no immunity for illegal acts."]; *United States v. Brewster*, 408 U.S. 501 [indictment for bribery not dependent upon how legislator debated, voted, or did anything in chamber or committee; prosecution need only show acceptance of money for promise to vote, not carrying through of vote by legislator]; *United States v. Swindall* (11th Cir. 1992) 971 F.2d

they would be at all immune from criminal liability under state law. However, there would not be any criminal violation if an ordinance adopted by a local public entity were in compliance with the CUA and the MMPA. An ordinance authorizing and regulating medical marijuana would not, by virtue solely of its subject matter, be a violation of state law; only if the ordinance itself permitted some activity inconsistent with state law relating to medical marijuana would there be a violation of state law that could subject local legislators to criminal liability under state law.

QUESTION

3. If the governing body of a city, city and county, or county approves an ordinance authorizing and regulating marijuana dispensaries to implement the Compassionate Use Act of 1996 and the Medical Marijuana Program Act, and subsequently a particular dispensary is found to be violating state law regarding sales and trafficking of marijuana, could an elected official on the governing body be guilty of state criminal charges?

ANSWER

3. After adoption of an ordinance authorizing or regulating marijuana dispensaries, elected officials could not be found criminally liable under state law for the subsequent violation of state law by a particular dispensary.

ANALYSIS

Based on the state law provisions referenced above relating to aiding and abetting, it does not seem that a local public entity would be liable for any actions of a marijuana dispensary in violation of state law. Since an ordinance authorizing and/or regulating marijuana dispensaries would necessarily only be authorizing and/or regulating to the extent already *permitted* by state law, local elected officials could not be found to be aiding and abetting a *violation* of state law. In fact, the MMPA clearly contemplates local regulation of dispensaries. (Cal. Health & Safety Code sec. 11362.83 ("Nothing in this article shall prevent a city or other local governing body from adopting and enforcing laws consistent with this article.")) Moreover, as discussed above, there may be legislative immunity applicable to the legislative acts of individual elected officials in adopting an ordinance, especially where it is consistent with state law regarding marijuana dispensaries that dispense crude marijuana as medicine.

1531, 1549 [evidence of legislative acts was essential element of proof and thus immunity applies].) Therefore, a criminal prosecution that relates *solely* to legislative acts cannot be maintained under the separation of powers rationale for legislative immunity.

QUESTION

4. Does approval of such an ordinance open the jurisdictions themselves to civil or criminal liability?

ANSWER

4. Approving an ordinance authorizing or regulating marijuana dispensaries may subject the jurisdictions to civil or criminal liability.

ANALYSIS

Under federal law, criminal liability is created solely by statute. (*Dowling v. United States* (1985) 473 U.S. 207, 213.) Although becoming more rare, municipalities have been, and still may be, criminally prosecuted for violations of federal law, where the federal law provides not just a penalty for imprisonment, but a penalty for monetary sanctions. (See Green, Stuart P., *The Criminal Prosecution of Local Governments*, 72 N.C. L. Rev. 1197 (1994) (discussion of history of municipal criminal prosecution).)

The CSA prohibits persons from engaging in certain acts, including the distribution and possession of Schedule I substances, of which marijuana is one. (21 U.S.C. sec. 841.) A person, for purposes of the CSA, includes "any individual, corporation, government or governmental subdivision or agency, business trust, partnership, association, or other legal entity." (21 C.F.R. sec. 1300.01 (34). See also 21 C.F.R. sec. 1301.02 ("Any term used in this part shall have the definition set forth in section 102 of the Act (21 U.S.C. 802) or part 1300 of this chapter.") By its very terms, then, the CSA may be violated by a local public entity. If the actions of a local public entity otherwise satisfy the requirements of aiding and abetting a violation of the CSA, as discussed above, then local public entities may, indeed, be subject to criminal prosecution for a violation of federal law.

Under either federal or state law, local public entities would not be subject to civil liability for the mere adoption of an ordinance, a legislative act. As discussed above, local legislators are absolutely immune from civil liability for legislative acts under both federal and state law. In addition, there is specific immunity under state law relating to any issuance or denial of permits.

QUESTION

5. Does the issuance of a business license to a marijuana dispensary involve any additional civil or criminal liability for a city or county and its elected governing body?

ANSWER

5. Local public entities will likely *not* be liable for the issuance of business licenses to marijuana dispensaries that plan to dispense crude marijuana as medicine.

ANALYSIS

Business licenses are imposed by cities within the State of California oftentimes solely for revenue purposes, but are permitted by state law to be imposed for revenue, regulatory, or for both revenue and regulatory purposes. (Cal. Gov. Code sec. 37101.) Assuming a business license ordinance is for revenue purposes only, it seems that a local public entity would not have any liability for the mere collection of a tax, whether on legal or illegal activities. However, any liability that would attach would be analyzed the same as discussed above. In the end, a local public entity could hardly be said to have aided and abetted the distribution or possession of marijuana in violation of the CSA by its mere collection of a generally applicable tax on all business conducted within the entity's jurisdiction.

OVERALL FINDINGS

All of the above further exemplifies the catch-22 in which local public entities are caught, in trying to reconcile the CUA and MMPA, on the one hand, and the CSA on the other. In light of the existence of the CUA and the MMPA, and the resulting fact that medical marijuana *is* being used by individuals in California, local public entities have a need and desire to regulate the location and operation of medical marijuana facilities within their jurisdiction.^{6 102}

However, because of the divergent views of the CSA and California law regarding whether there is any accepted "medical" use of marijuana, state and local legislators, as well as local public entities themselves, could be subject to criminal liability for the adoption of statutes or ordinances furthering the possession, cultivation, distribution, transportation (and other act prohibited under the CSA) as to marijuana. Whether federal prosecutors would pursue federal criminal charges against state and/or local legislators or local public entities remains to be seen. But, based on past practices of locally based U.S. Attorneys who have required seizures of large amounts of marijuana before federal filings have been initiated, this can probably be considered unlikely.

⁶ Several compilations of research regarding the impacts of marijuana dispensaries have been prepared by the California Police Chiefs Association and highlight some of the practical issues facing local public entities in regulating these facilities. Links provided are as follows: "Riverside County Office of the District Attorney," [White Paper, Medical Marijuana: History and Current Complications, September 2006]; "Recent Information Regarding Marijuana and Dispensaries [El Cerrito Police Department Memorandum, dated January 12, 2007, from Commander M. Regan, to Scott C. Kirkland, Chief of Police]; "Marijuana Memorandum" [El Cerrito Police Department Memorandum, dated April 18, 2007, from Commander M. Regan, to Scott C. Kirkland, Chief of Police]; "Law Enforcement Concerns to Medical Marijuana Dispensaries" [Impacts of Medical Marijuana Dispensaries on communities between 75,000 and 100,000 population: Survey and council agenda report, City of Livermore].

CONCLUSIONS

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 suspect. 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. The authors of this White Paper conclude that medical marijuana is not legal under federal law, despite the current California scheme, and wait for the United States Supreme Court to ultimately rule on this issue.

Furthermore, storefront marijuana businesses are prey for criminals and create easily identifiable victims. The people growing marijuana are employing illegal means to protect their valuable cash crops. Many distributing marijuana are hardened criminals.¹⁰³ Several are members of stepped criminal street gangs and recognized organized crime syndicates, while 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 so-called "medical marijuana dispensaries" have the potential for creating liability issues for counties and cities. All marijuana dispensaries should generally be considered illegal and should not be permitted to exist and engage in business within a county's or city's borders. Their presence poses a clear violation of federal and state law; they invite more crime; and they compromise the health and welfare of law-abiding citizens.

ENDNOTES

- ¹ U.S. Const., art. VI, cl. 2.
- ² U.S. Const., art. I, sec. 8, cl. 3.
- ³ *Gonzales v. Raich* (2005) 125 S.Ct. 2195 at p. 2204.
- ⁴ *Gonzales v. Raich*. See also *United States v. Oakland Cannabis Buyers' Cooperative* (2001) 121 S.Ct. 1711, 1718.
- ⁵ *Gonzales v. Raich* (2005) 125 S.Ct. 2195; see also *United States v. Oakland Cannabis Buyers' Cooperative* 121 S.Ct. 1711.
- ⁶ Josh Meyer & Scott Glover, "U.S. won't prosecute medical pot sales," *Los Angeles Times*, 19 March 2009, available at <http://www.latimes.com/news/local/la-me-medpot19-2009mar19.0.4987571.story>
- ⁷ See *People v. Mower* (2002) 28 Cal.4th 457, 463.
- ⁸ Health and Safety Code section 11362.5(b) (1) (A). All references hereafter to the Health and Safety Code are by section number only.
- ⁹ H&S Code sec. 11362.5(a).
- ¹⁰ H&S Code sec. 11362.7 *et. seq.*
- ¹¹ H&S Code sec. 11362.7.
- ¹² H&S Code secs. 11362.71–11362.76.
- ¹³ H&S Code sec. 11362.77.
- ¹⁴ H&S Code secs. 11362.765 and 11362.775; *People v. Urziceanu* (2005) 132 Cal.App.4th 747 at p. 786.
- ¹⁵ H&S Code sec. 11362.77; whether or not this section violates the California Constitution is currently under review by the California Supreme Court. See *People v. Kelly* (2008) 82 Cal.Rptr.3d 167 and *People v. Phomphakdy* (2008) 85 Cal.Rptr. 3d 693.
- ¹⁶ H&S Code secs. 11357, 11358, 11359, 11360, 11366, 11366.5, and 11570.
- ¹⁷ H&S Code sec. 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.
- ¹⁸ *People v. Mower* (2002) 28 Cal.4th 457 at p. 476.
- ¹⁹ *Id.* Emphasis added.
- ²⁰ Packel, *Organization and Operation of Cooperatives*, 5th ed. (Philadelphia: American Law Institute, 1970), 4-5.
- ²¹ Sam Stanton, "Pot Clubs, Seized Plants, New President—Marijuana's Future Is Hazy," *Sacramento Bee*, 7 December 2008, 19A.
- ²² For a statewide list, see <http://canorml.org/prop/cbclist.html>.
- ²³ Laura McClure, "Fuming Over the Pot Clubs," *California Lawyer Magazine*, June 2006.
- ²⁴ H&S Code sec. 11362.765(c); see, e.g., *People v. Urziceanu*, 132 Cal.App.4th 747 at p. 764.
- ²⁵ *Gonzales v. Raich*, *supra*, 125 S.Ct. at page 2195.
- ²⁶ *People v. Urziceanu* (2005) 132 Cal.App.4th 747; see also H&S Code sec. 11362.765.
- ²⁷ Israel Packel, 4-5. Italics added.
- ²⁸ H&S Code sec. 11362.7(d)(1).
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Adverse Secondary Effects

The California Police Chiefs Association Task Force on Marijuana Dispensaries prepared a report that clearly outlined the adverse secondary effects of storefront dispensaries and similarly operated cooperatives. See Attachment K. Most notable of these effects are the criminal acts that stem from medical marijuana, ranging from murder, robbery, burglary, organized crime, to tax evasion. The California Police Chiefs Association compiled a list of medical marijuana related crimes including seven homicides from April 2008 to March 2009.

Data and supporting documentation from other cities indicates that the opening of the dispensaries have coincided with increases in calls for public safety services. Most cities have reported an increase in crime. See the September 2, 2010 Los Angeles Times article, for example.

<http://articles.latimes.com/2010/sep/02/local/la-me-0902-baca-pot-20100902>

Increased calls for service include calls related to fire alarms, medical calls, crimes ranging from loitering to homicide, driving under the influence, and traffic collisions (resulting from Driving Under the Influence).

A 2010 study by Al Crancer Jr., a retired research analyst for the National Highway Traffic Safety Administration, showed the largest increases in fatalities in fatal crashes where the driver tested positive for marijuana occurred over the 5 years following the legalization of medical marijuana in January 2004. There were 1,240 fatalities in fatal crashes where the driver tested positive for marijuana for the following five years, compared to the 631 fatalities for the five years before 2004; an increase of almost 100%. Based on the data from 2008 there were eight counties in California with 16% or more of the drivers in fatal crashes testing positive for marijuana and five of the eight counties had 20% or more.

http://www.californiapolicechiefs.org/nav_files/marijuana_files/files/Accident_M_J_Study_June_2010AAA.pdf

The California Department of Motor Vehicles website describes the effect of marijuana by saying that it lessens coordination, distorts sense of distance, and causes hallucinations, panic, depression, and fear.

http://www.dmv.ca.gov/teenweb/crazy_btn3/ability.htm

Data from other cities also indicate increases in the reported number of white-collar crimes, including embezzlement and tax evasion.

Fire Suppression Issues

Destructive fires from unsafe indoor marijuana grows have become commonplace. On December 26, 2010 a fire was reported at an apartment where marijuana was alleged to have grown.

<http://www.kron.com/News/ArticleView/tabid/298/smid/1126/ArticleID/7757/refTab/536/t/Fire%20Breaks%20Out%20in%20Apartment%20Allegedly%20Used%20to%20Grow%20Marijuana/Default.aspx>

On December 28, 2010 a house fire lead to the discovery of hundreds of marijuana plants in Sacramento.

<http://www.youtube.com/watch?v=40nwCHL6Ulk>

Growers seem to commonly use numerous 1000 watt bulbs from the same circuit which can result in fires, along with faulty wiring (not up to code), the use of extension cords, and illegally bypassing PG&E meters, which can all cause fires.

Arsons have also been reported at dispensaries. On January 12, 2011 a two-alarm fire broke out at the Herb Appeal collective in San Jose. KGO reported that the blaze may have been arson.

http://abclocal.go.com/kgo/story?section=news/local/south_bay&id=7893694

It is legal to grow up to six mature or 12 immature marijuana plants for personal medical use, and it is possible that limiting grows to that amount would be less likely to create dangerous fire hazards. However, growers commonly use numerous 1000 watt bulbs from the same circuit which can result in fires, along with faulty wiring (not up to code), the use of extension cords, and illegally bypassing PG&E meters, which can all cause fires.

Mexican Drug Cartels are the leading producers of marijuana in the U.S. The "Botello" Cartel is responsible for grows in California, Oregon, Washington, and Arizona. These Drug Cartels have been directly implicated in a recent California wildfire. In August 2009, an illegal marijuana operation being operated by Mexican drug cartel burned more than 88,650 acres (Santa Barbara County Wildfire).

Negative Effects on Our Youth

There are numerous studies that report the negative effects associated with adolescent use of marijuana. The effects include lower education and graduation rates, lower college attendance, lower employment, increased treatment for addiction/dependency, teen pregnancy, increased involvement in criminal activity, and an increased use of other addictive substances.

In June 2008, the National Center on Addiction and Substance Abuse at Columbia University reported that over the prior 15 years, there had been a 188% increase in the proportion of teen treatment admissions with a medical diagnosis of marijuana dependence, compared with a 54% decline for all other

substances of abuse.

<http://www.casacolumbia.org/templates/PressReleases.aspx?articleid=527&zoneid=68>

Several recent studies discuss the correlation of marijuana and mental illness. http://www.sciencedaily.com/news/mind_brain/marijuana/ Recent brain imaging research by UCLA and Childrens' Hospital of Philadelphia helps explain why marijuana is a cause of the problem. The studies found that marijuana use, particularly during adolescence, interrupts the white matter development in the brain and is a major cause of schizophrenia in youth.



AGENDA ITEM NO. 6.4

**STAFF REPORT
CITY OF IMPERIAL BEACH**

TO: HONORABLE MAYOR AND CITY COUNCIL

**FROM: GARY BROWN, CITY MANAGER
JENNIFER LYON, CITY ATTORNEY**

MEETING DATE: December 15, 2010

**SUBJECT: CONSIDERATION OF MEDICAL
MARIJUANA REGULATIONS**

BACKGROUND:

The City Council adopted a moratorium on medical marijuana dispensaries in July of 2009. In July of 2010, the Council approved an interim ordinance to extend the moratorium on medical marijuana dispensaries in the City to August 18, 2011. The Council also directed staff to bring back a timeline for consideration of permanent regulations related to medical marijuana facilities within the City. In September 2010, the Council approved the following timeline for consideration of an ordinance regulating medical marijuana dispensaries:

- **September 2010-January 2011-** Continue to monitor pending legal issues for their implications on cities' discretion and ability to regulate medical marijuana facilities.
- **January 2011-** Present to Council the main points that would be included in an ordinance and receive Council and community feedback.
- **February-April 2011-** Draft ordinance and submit to Council for first and second readings.
- **April 2011-** Submit ordinance to California Coastal Commission ("CCC") for approval.¹
- **August 2011(or sooner if CCC approves quickly)-** Proposed date for new regulations to take effect.

DISCUSSION:

The decision to adopt regulations related to medical marijuana dispensaries within the City is a policy decision for the City Council to make based on the unique characteristics and concerns of

¹ Any amendments to the City's zoning ordinance will likely not take effect until the CCC approves them. A recent submittal of an LCP amendment by a city related to medical marijuana facilities shows that the process took about 3 months from submittal to approval by CCC.

the City of Imperial Beach. The following is a list of potential options that the Council may wish to consider:

1. Regulate Dispensaries: Similar to what the County of San Diego has adopted, the Council may wish to adopt regulations to allow a limited number of facilities within the City limits under specific conditions. Any distribution activity or enterprise exceeding specified quantities of marijuana would be required to maintain specific operating and security requirements. Further, any dispensary would be limited to certain areas within the City based on specific distancing requirements from sensitive uses such as schools, day care centers, churches, and parks. Fees for processing of the application and regulation by the Sheriff would be required of any facility. (The County's regulations are attached.)
2. Ban Facilities: Based on a recent article published in the Los Angeles Times, approximately 100 cities and at least 9 counties within the State have adopted regulations to ban facilities that distribute medical marijuana. In San Diego County, some cities have adopted bans, including Vista and Oceanside, The *Anaheim* case is still in the appellate process, however, if the United States Supreme Court grants review to the case, it is unlikely that any decision will be issued before the moratorium expires. However, the City Council may decide to consider a ban on dispensaries, and might consider basing this ban on unique characteristics of the City of Imperial Beach such as its size, the location of other facilities in close proximity to the City, the limited amount of appropriate zones for any such use, and other similar factors .
3. Let Moratorium Expire: The City Council may simply want to let the moratorium expire on August 18, 2011 and then rely on the existing zoning code which does not specifically allow medical marijuana facilities to locate in the City. Since 2009, when the City Council adopted the first moratorium on this topic, the legal status of medical marijuana distribution and local authority to regulate it have not received the clear definition that was anticipated, so the City Council may consider this to be the best option.

FISCAL IMPACT:

Drafting proposed regulations will require further staff and legal services.

CITY MANAGER'S RECOMMENDATION:

Consider the proposed options and provide direction to staff so that a draft ordinance (if required) can be presented to the City Council at a January 2011 meeting.



Gary Brown, City Manager

Attachments:

1. Staff Report from City Manager Brown - Subject: Regulation of Medical Marijuana Dispensaries, dated December 15, 2010



**STAFF REPORT
CITY OF IMPERIAL BEACH**

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: CITY MANAGER

MEETING DATE: DECEMBER 15, 2010
ORIGINATING DEPT: GARY BROWN, CITY MANAGER

SUBJECT: REGULATION OF MEDICAL MARIJUANA DISPENSARIES

BACKGROUND:

By adoption and extension of an Interim Urgency Ordinance, the City of Imperial Beach currently has a moratorium on Medical Marijuana Dispensaries that will expire on August 18, 2011. During this moratorium, City staff and the City Attorney have been researching options for the possible regulation of these facilities.

In light of the time necessary to draft the ordinances, hold public hearings, and receive approval from the Coastal Commission for an ordinance that would regulate Medical Marijuana Dispensaries, it is appropriate for the City Council to first decide whether it wishes to allow and regulate the facilities or take another approach to this controversial topic.

DISCUSSION:

Having carefully considered the information gathered regarding the regulation of Medical Marijuana Dispensaries, much of which is attached to this agenda item, it is the City Manger's recommendation that these facilities should not be permitted within the City of Imperial Beach, for the following reasons:

1. Not allowing Medical Marijuana (MM) Dispensaries in Imperial Beach would not deprive those who need it from easy access to it. The Sheriff's Power Point, copy attached, states that a website lists over 60 locations for MM in various cities in the County with 25 such facilities offering delivery.
2. Crimes associated with MM Dispensaries include the following:

In San Francisco from January 2006 to February 2007:

- 3 homicides and 2 attempted homicides
- 6 possessions of a loaded firearm
- 57 robberies and 27 attempted robberies
- 97 aggrieved assaults
- 144 incidents of battery
- 1 forcible rape and 1 attempted rape
- 3 sexual batteries
- 198 burglary and 2 attempted burglaries

In Los Angeles:

- 200% increase in robberies
 - 52.2% increase in burglaries
 - 57.1% increase in aggravated assaults
 - 130.8% rise in burglaries from autos near cannabis clubs in L.A.
 - Use of armed gang members as "security guards"
3. The complexity of regulation and enforcement will place a costly burden on the City's limited resources.
 4. The County has restricted MM Dispensaries to industrial zones/areas only. We cannot do this because we have no industrial zones. Allowing MM Dispensaries in our commercial zone(s) would involve either on-site/indoor growing or delivery of MM to the facility. On-site/indoor growing presents many potential hazards within the dispensary, to the surrounding neighborhoods, and to Public Safety staff, Firefighters and Deputies, and other City staff in Public Works and Community Development. Allowing delivery to MM Dispensaries would present many regulatory and enforcement challenges beyond our current staffing capacities.
 5. Given the small geographic area of our City as a whole and of our commercial zones in particular, if we applied the same or similar distance restrictions from residential zones, schools, places of worship and parks that are applied in other jurisdictions, we would not find an acceptable commercial site within our City. It is not recommended that our residential zones/neighborhoods, schools, and parks be closer to MM Dispensaries than other communities find acceptable.

In summary, Imperial Beach is too small to either allow or to properly regulate and enforce laws on a MM Dispensary. Additionally, not allowing such a facility would not deny access to MM for those who need it.

ENVIRONMENTAL IMPACT:

There is no direct environmental impact associated with this report.

FISCAL IMPACT:

None with this action.

CITY MANAGER'S RECOMMENDATION:

That the City Council either ban Medical Marijuana Dispensaries or let the existing moratorium expire on August 18, 2011, and, thereafter, rely upon the existing Zoning Code which does not permit Medical Marijuana Dispensaries within the City.



Gary Brown, City Manager

Attachments:

1. Articles from "Western City Magazine" which present reasons to allow MM facilities and reason not to allow them.
2. The Sheriffs Power Point prepared for County Supervisors.
3. Background information provided to the County Supervisors.

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Addressing the Issue of Medical Marijuana Dispensaries

BY MICHAEL JENKINS, LAUREN FELDMAN, SONIA CARVALHO AND JEFF DUNN



About Legal Notes

This column is provided as general information and not as legal advice. The law is constantly evolving, and attorneys can and do disagree about what the law requires. Local agencies interested in determining how the law applies in a particular situation should consult their local agency attorneys.

In recent years perhaps no other legal issue has affected California's cities as much as medical marijuana. Cities have experienced a proliferation of dispensaries and other types of storefront medical marijuana distribution operations. While some cities allow dispensaries to provide medical marijuana, other cities have enacted outright bans on their use.

Although the possession, use and cultivation of marijuana is illegal under both state and federal laws,¹ California law allows an individual to use marijuana for certain medicinal purposes and creates a narrow affirmative defense to state criminal prosecution. In other words, when a person is arrested for marijuana possession, he can avoid being found guilty by asserting the defense that he is entitled to possess marijuana for medical purposes because he has complied with state law. In 1996, California voters approved Proposition 215, an initiative called the Compassionate Use Act (CUA) that allows people to use marijuana under certain circumstances for medical reasons.² The CUA was intended to "ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would 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."³

To further implement the CUA, the Legislature passed the Medical Marijuana Program Act (MMP) in January 2004.⁴ The MMP created, among other things, a voluntary program for issuing government identification cards to qualified patients and their defined primary caregivers, and it created rules and regulations pertaining to the operation of cooperatives and collectives. One of the MMP's more interesting aspects is that it explicitly articulates that it does not pre-empt a city's local land-use authority; it is primarily this section of the MMP that has sparked the ongoing debate over how a city may regulate dispensaries.

The two articles presented here examine the legal standards and practices under which cities may enact local laws either to ban or regulate medical marijuana dispensaries.

The Legal Basis for Banning Medical Marijuana Dispensaries

The Legal Basis for Allowing Medical Marijuana Operations

Footnotes:

¹ See Cal. Health and Safety Code §§11357-11360 and 21 U.S.C. §801 *et seq.*

² Proposition 215 is codified at Cal. Health and Safety Code § 11362.5.

³ Cal. Health and Safety Code §11362.765(b)(1)(D).

⁴ The MMPA is codified at Cal. Health and Safety Code §11362.7 *et seq.*

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The Legal Basis for Banning Medical Marijuana Dispensaries

BY SONIA CARVALHO AND JEFF DUNN



Sonia Carvalho is a partner in the Irvine office of the law firm Best Best & Krieger. She has served as city attorney for numerous California cities and can be reached at sonia.carvalho@bbklaw.com. Jeff Dunn is also a partner in the Irvine office of the law firm Best Best & Krieger. He represents cities throughout California on medical marijuana dispensary issues and can be reached at jeffrey.dunn@bbklaw.com.

Cities traditionally exercise nearly exclusive control over land use. They regularly invoke their land-use authority to limit or prohibit the location of various types of businesses and operations within their communities. They do so under their basic police powers, which permit them to adopt laws protecting health, safety and welfare. In instances where the state has not pre-empted local law-making authority, a city is free to regulate. Medical marijuana dispensaries are not expressly mentioned in either the Compassionate Use Act (CUA) or in the Medical Marijuana Program Act (MMP); and in the recent *City of Claremont v. Kruse* case the court's decision confirmed that these laws do not pre-empt a city's enactment or enforcement of land use, zoning or business license laws as they apply to medical marijuana dispensaries.¹

When a city's zoning code does not allow marijuana dispensaries or collectives, and it expressly states that any condition caused or permitted to exist in violation of its provisions constitutes a public nuisance, the city can ban the use. Accordingly, the city may enjoin the nuisance by filing a civil abatement action. Despite claims that the state's medical marijuana laws prevent cities from regulating marijuana dispensaries, the California Court of Appeal's thorough analysis of state pre-emption law in *Kruse* concluded that cities retain their police power to regulate and, if necessary, restrict the operation of dispensaries.

The courts have recognized that the CUA and the MMP create only narrow exceptions to criminal drug possession penalties. Numerous judicial decisions have confirmed that California voters approved limited defenses to possession of marijuana and did not intend to allow large-scale commercial operations. Most important to the theory that cities retain the right to ban dispensaries is the 2005 *People v. Urcizeanu*

decision, in which the court of appeal noted that the CUA "creates a narrow defense to crimes, not a constitutional right to obtain marijuana."²

Two Methods for Banning Marijuana Dispensaries

Some dispensary operators have obtained business permits under false pretenses, applying for city land-use and business permits under the guise of pharmacies or other permissible uses.³ In other cases operators outright refused to comply with city laws requiring business permits.⁴ Operators like these have been ordered by the courts to cease business based on the regulations that the cities had in place.

There are two primary methods cities use to ban dispensaries:

1. Adopt a business license provision that says licenses will be issued only to those operating in compliance with state and federal law; and
2. Prohibit dispensaries in all land-use zones.

Nearly 200 California cities have either banned pot collectives or have enforced moratoriums, according to Americans for Safe Access. The medical cannabis advocacy group reports on its website that 34 cities in California have specific ordinances that allow for medical marijuana cooperatives.

Pending Litigation

The City of Anaheim enacted an ordinance in 2007 banning all marijuana distribution facilities consisting of three or more people who otherwise qualified as patients or caregivers under California's MMP and CUA. The ban imposed a criminal penalty.

A collective called the Qualified Patients Association filed a lawsuit challenging the ban. The collective argued that local governments' ability to ban marijuana collectives is pre-empted by the California medical marijuana law. The collective argued that local governments may regulate but not ban marijuana distribution facilities.

The trial court disagreed, concluding there was no pre-emption and that Anaheim could use its police powers to ban marijuana distribution facilities and impose a criminal penalty for violating the ban. The collective has appealed and the matter is pending in the Fourth District Court of Appeal.

Unresolved Issues

While some cities have adopted ordinances permitting marijuana dispensaries under certain rules and regulations, the question of whether cities can authorize such uses by ordinance remains unclear. Government Code section 37100 states that a city's "legislative body may pass ordinances not in conflict with the Constitution and laws of the state or the United States." As all use of marijuana is illegal under

federal law, cities may lack the authority to adopt enforceable ordinances permitting marijuana dispensaries under any rules or regulations.

Footnotes:

¹ The California Supreme Court denied review and further denied requests to have the *Kruse* opinion depublished. *City of Claremont v. Kruse*, 2009 Cal. LEXIS 12497 (Cal., Dec. 2, 2009).

² *People v. Urcizeanu* (2005) 132 Cal.App.4th 747.

³ *City of Corona v. Naulls* (2008) 166 Cal.App.4th 618.

⁴ *City of Claremont v. Kruse* (2009) 177 Cal.App.4th 1153.

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The Legal Basis for Allowing Medical Marijuana Operations

BY MICHAEL JENKINS AND LAUREN FELDMAN



Michael Jenkins and Lauren Feldman are attorneys in the law firm of Jenkins & Hugin, which serves as city attorney for 11 Southern California cities and as special counsel for cities throughout the state. Jenkins can be reached at mjenkins@localgovlaw.com. Feldman can be reached at lfeldman@localgovlaw.com.

This article addresses how cities that support patients' access to medical marijuana can use an effectively drafted ordinance to permit properly run cooperatives or collectives, regulate them and keep them from proliferating.

California cities may adopt ordinances that do not conflict with state or federal laws.¹ Marijuana is a controlled substance that may not be cultivated, possessed or used under federal law.² The U.S. Supreme Court determined that strict compliance with California's medical marijuana program will not insulate a marijuana user or supplier from federal prosecution.³ Nonetheless, the current U.S. Justice Department has indicated that dispensaries operating in accord with California law will not be a priority for federal prosecution.

In California, marijuana can be used legally for personal medical use. Two panels of the California Court of Appeal found in recent years that California's medical marijuana program is not pre-empted by federal law;⁴ they concluded that the state's decriminalization of medical marijuana does not conflict with federal law because it does not purport to "legalize" marijuana or immunize marijuana possession or use from federal prosecution. Rather, California has decided not to punish certain marijuana offenses when used for medicinal purposes.⁵ Until a court determines otherwise California's program does not conflict with federal law, and a local ordinance sanctioning medical marijuana collectives meets the requirement to be consistent with federal law.

A local ordinance regulating cooperatives and collectives is also consistent with state law. The Legislature stated a clear intent to enhance medical marijuana access through collective and cooperative cultivation

projects,⁶ indicating the law contemplates collective distribution. Nothing in state law prohibits collectives from maintaining a place of business,⁷ and each city must determine how to regulate this use to ensure collectives operate within the narrow parameters of state law. Consequently, an ordinance permitting a use that is contemplated under state law and implements a state policy by making medical marijuana more accessible to seriously ill patients should be considered a proper exercise of a city's legislative authority.

The California Court of Appeal has determined that the state's authorization of cooperatives and collectives is intended to facilitate the transfer of medical marijuana to qualified patients. The court also found that storefront dispensaries that qualify as "cooperatives" or "collectives" and otherwise comply with state law, as interpreted by the attorney general, may operate legally.⁸

The attorney general published guidelines to clarify how a legitimate cooperative or collective is operated. The guidelines:

- Limit lawful distribution activities to true agricultural co-ops and collectives that provide crops to their members;
- Prohibit collectives and cooperatives from profiting from the sale of marijuana;
- Allow members to be reimbursed for certain services (including cultivation), provided that the reimbursement is limited to the amount to cover overhead costs and operating expenses;
- Allow members to reimburse the collective for marijuana that has been allocated to them.⁹ Marijuana may be provided free to members, provided in exchange for services, allocated based on fees for reimbursement only, or any combination of these; and
- Declare that distribution of medical marijuana is subject to sales tax and requires a seller's permit from the State Board of Equalization.

Unlike an agricultural cooperative, a "collective" is not defined under state law, but it similarly facilitates agricultural collaboration between members. A co-op, by definition, files articles of incorporation and must abide by certain rules for its organization, elections and distribution of earnings. A co-op's earnings must be used for the general welfare of its members or be distributed equally in the form of cash, property, services or credit. Both co-ops and collectives are formed for the benefit of their members and must require membership applications and verification of status as a caregiver or qualified patient; they must also refuse membership to those who divert marijuana for non-medical use. Collectives and co-ops should acquire marijuana from and allocate it to only constituent members.

Storefront dispensaries that deviate from these guidelines are likely outside the scope of state law and may not be permitted at the local level.

Regulating Medical Marijuana Collectives and Cooperatives

The most obvious methods for regulating the distribution of medical marijuana are through a zoning ordinance or regulatory business license ordinance — or a combination of both. Some cities require that collectives obtain a conditional use permit. West Hollywood recently rejected this approach. The city wanted a mechanism to examine an operator's criminal background and did not want the use to run indefinitely with the land. Consequently, the city's medical marijuana collectives are a permitted use in certain commercial zoning districts subject to distancing requirements from sensitive uses and other collectives, with a cap of four facilities operating at one time.

West Hollywood consulted with existing collective operators when drafting the operating requirements contained in its regulatory business license ordinance.¹⁰ The requirements include criminal background checks, compliance with the attorney general's standards for collectives (such as cash management practices), security requirements, limitations on operating hours, and a requirement that marijuana cannot be consumed onsite. Collectives may not occupy a space larger than 4,000 square feet, may not issue doctor recommendations onsite and are subject to limitations on the source of the collective's marijuana. The city holds bimonthly meetings with law enforcement and collective operators to address any negative impacts associated with the operations.

On the other hand, the cities of Arcata,¹¹ Santa Cruz¹² and Malibu¹³ effectively regulate collectives by requiring a use permit and imposing strict distancing requirements and operating standards. Arcata additionally subjects each collective to an annual performance review.

Most cities that permit collectives have determined that the distancing requirement and a cap on the number of facilities are the most effective ways to prevent an overconcentration of this use. The combination of the effective regulatory mechanism and the working relationship with collective operators has also proven to meet the goals of supporting access to medical marijuana while controlling negative impacts and the proliferation of collectives in a city.

Footnotes:

¹ Cal. Govt. Code section 37100.

² 21 U.S.C. Sections 801 *et seq.*

³ *Gonzalez v. Raich* (2005) 545 U.S. 1.

⁴ *San Diego et al v. NORML* (2008) 165 Cal.App.4th 798; *Garden Grove v. Superior Court* (2007) 157 Cal.App.4th 355.

⁵ *Garden Grove* 157 Cal.App.4th 355; *see also* Attorney General August 2008 Guidelines for Security and Non-Diversion of Marijuana Grown for Medical Use ("Guidelines").

⁶ Stats, 2003, c. 875 (S.B. 420), Section 1, subd. (b)(3).

⁷ *People v. Hochanadel* (2009) 176 Cal.App.4th 347, 363.

⁸ *Hochanadel* 176 Cal.App.4th at 363.

⁹ *See* Cal. Health and Safety Code Section 11362.765.

¹⁰ West Hollywood Municipal Code Chapter 5.70.

¹¹ Arcata Municipal Code Section 9.42.105.

¹² Santa Cruz Municipal Code Section 24.12.1300.

¹³ Malibu Municipal Code Section 17.66.120.

San Diego County's Medical Marijuana Ordinance

- Definitions
- How it's grown
- Safety issues
- Crime associated with collectives
- Edibles
- Collective locations
- Record keeping
- Security
- The Ordinance



“primary caregiver” is a person who (1) consistently provides care giving to a qualified patient, (2) independent of any assistance in taking medical cannabis, (3) at or before the time he or she assumed responsibility for assisting with medical cannabis.

“Qualified Patient” has the same meaning as defined by State law, including but not limited to Health & Safety Code sections 11362.7(f) and 11362.5(b).

“Medical Marijuana Collective” or “Collective” means any association or combination of Primary Caregivers and/or Qualified Patients collectively or cooperatively cultivating and or storing marijuana for medical purposes as provided in Health & Safety Code section 11362.775.

“Medical Marijuana Collective Facility” or “Collective Facility” means any location at which members of a Medical Marijuana Collective collectively or cooperatively cultivate or exchange marijuana among themselves or reimburse each other or the Medical Marijuana Collective for cultivation,

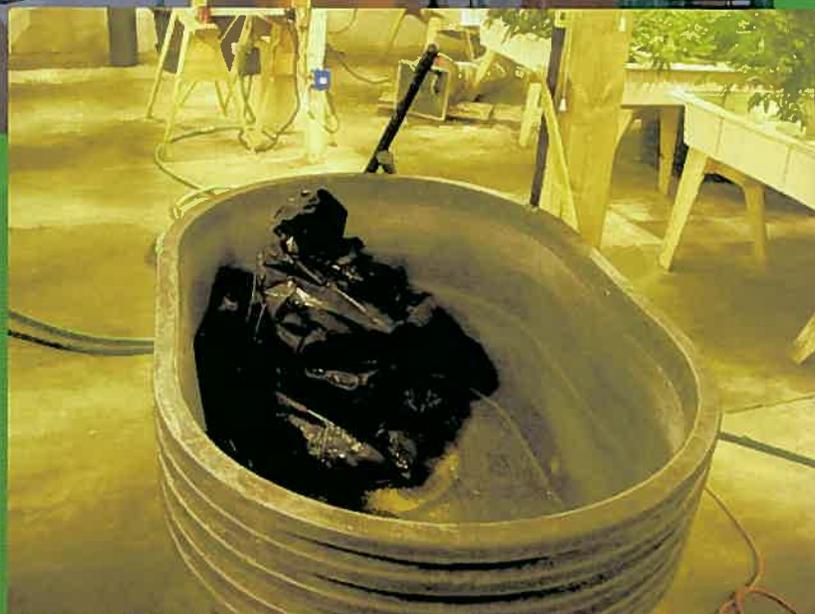
Indoor Marijuana Cultivation

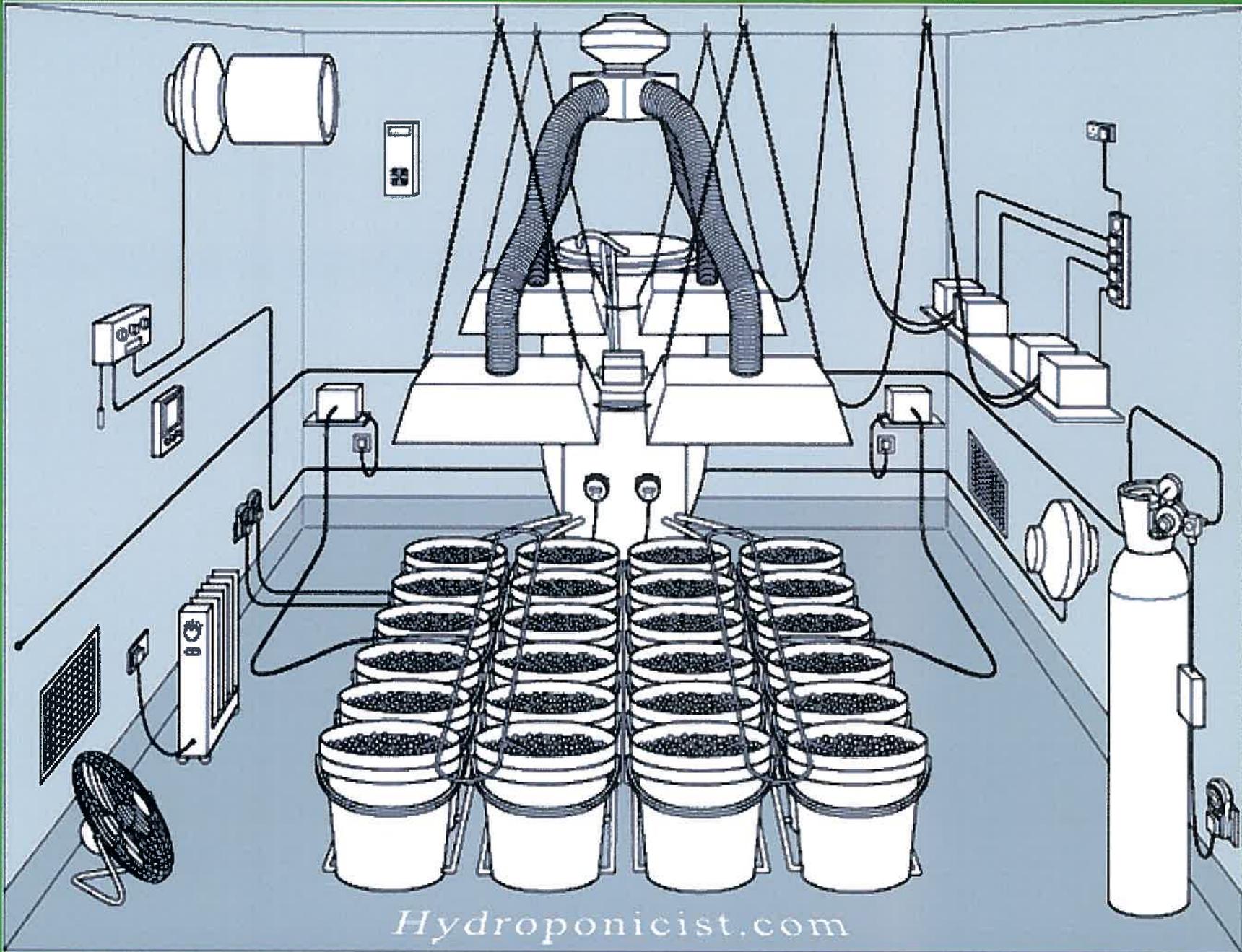


Producing high quality marijuana indoors is not as simple as planting seeds in soil and watering them.

Marijuana grown indoors utilizes a sophisticated process that involves expensive equipment, chemicals/gasses and specific time lines or stages.

Some indoor grow equipment



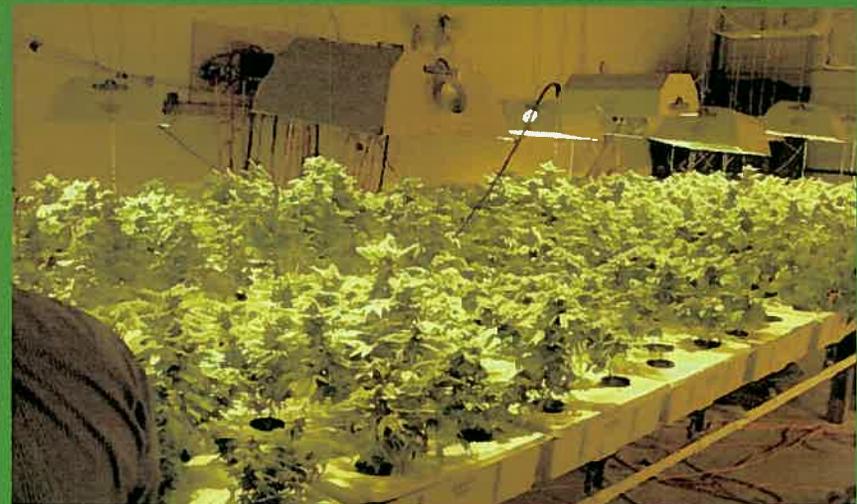


Hydroponicist.com

Indoor grows typically yield three crops a year with a ninety day harvest with each plant yielding approximately $\frac{1}{4}$ to $\frac{1}{2}$ a pound.



**The chemical responsible for the
potency of marijuana is
Tetrahydrocannabinol (THC)**



**THC content in marijuana produced in
the sixties was about 2%. The THC
content in marijuana grown indoors
today is 15 to 20%**

Current "Street" Market Values

Mexican low-grade

Pound \$300-\$340

Ounce \$75-\$100

Gram \$5-\$10

Domestic mid-grade

Pound \$750

Ounce \$150-\$200

Gram \$25

Sinsemilla high-grade

Pound \$2,500-\$6,000

Ounce \$300-\$600

1/8th ounce \$60-\$80



**Typical quality yielded
from indoor cultivation**

A Local Case Study

Operation San Pablo (DEA / JUDGE April 2008)

A 16 month long investigation resulted in search warrants for nine residences including four residential grow operations located in the communities of Vista, Fallbrook, Rainbow and Ramona.

6500 marijuana plants were recovered from the four grow houses.

90 day growth cycle would have yielded three harvests annually.

6500×3 (cycles) = 19500 plants $\times \frac{1}{4}$ lb. ea (low end yield) = 4875 lbs.

At \$4000 per pound (current mid level price), the operation had the potential earnings of \$19,500,000 dollars annually.

A bypassed electrical meter resulted in the theft of \$7000 a month of electricity at the Ramona location alone.

At another location, SDG&E replaced several transformers that had blown as a result of the grow operation.

Hazards Related To Indoor Marijuana Grow Operations

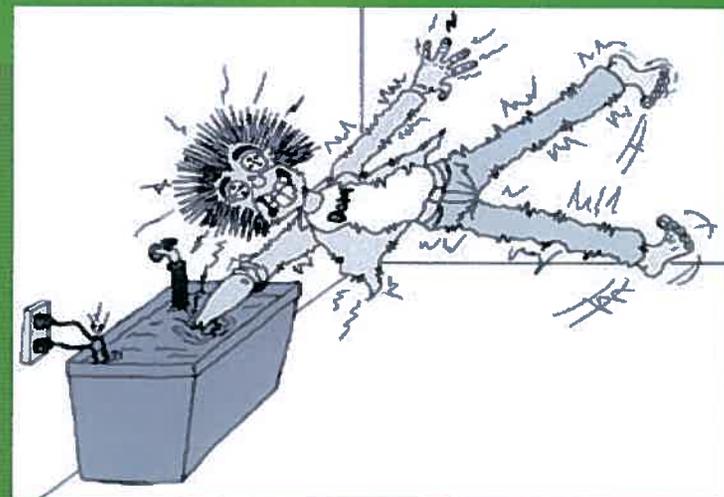


There are many hazards associated with indoor marijuana grow operations that could present a safety issue for collective members, police and fire rescue personnel

Electrical

- Grow operations can use up to ten times the normal electrical consumption of a similar sized structure.
- Illegal power taps or bypassed meters.
- Hydroponic growing combines two incompatibles, water and electricity

Information source "Response hazards at marijuana grow houses" Author: Michael Lee



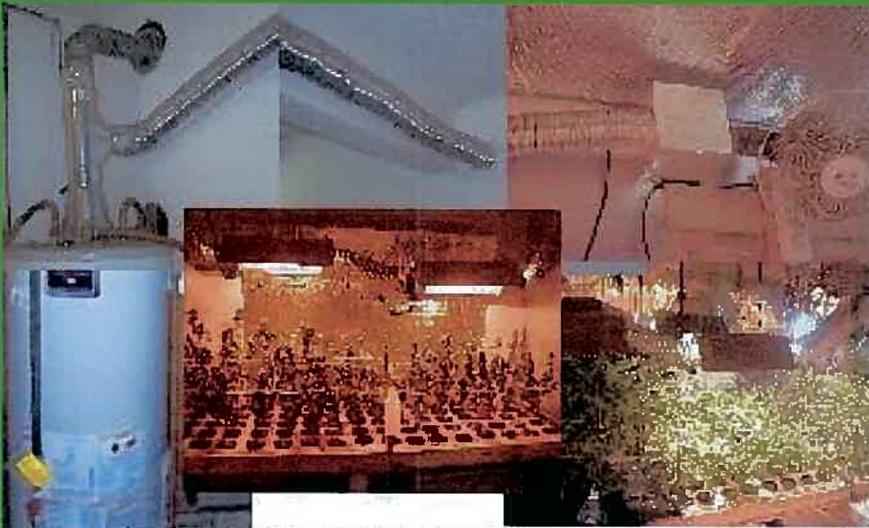
Atmospheric

- Oxygen deficient atmosphere. Oxygen levels below 19.5% are dangerous. Carbon Dioxide is often artificially introduced to the indoor grow to promote plant growth.

This is accomplished with carbon dioxide filled tanks or by burning propane which creates carbon dioxide.

Information source "Response hazards at marijuana grow houses"

Author: Michael Lee



Hot water heater CO2 generator for large grow op

Internet
instructions
for creating
CO2 with a
water heater.

use the exhaust gas from a natural gas hot water heater to enrich your growing area with co2. place a "T" in the exhaust line exiting the top of the heater. then ran a 4" metal duct (not that flimsy 4" dryer duct) into your grow room. Once inside its continued to a bathroom exhaust fan (\$14.00 at Loews) I built into a box and attached to the wall. The exit side is a 3" duct fitting that I attached a 90 degree elbow to it and directed the flow of exhaust gas (CO2) behind a 16" oscilating fan mounted close to the ceiling. for complete co2 saturation.I had to dial my generator in with a timer.the fan that pulls the co2 into the room is doing so mostly from the pilot light in the water heater which burns a steady BLUE flame which means mostly co2 and very little co. The ppm on both the co2 and co spike when the water heater is heating up the tank like when someone is takeing a shower and levels back out when the room runs thru a venting cycle. it keeps a constant 1500 -1900 ppm with lights on by setting my timer at 15 min on and 30 min off. I also installed a (CO) Carbon Monoxide alarm To be on the safe side, if I plan on being in the room I run a manual vent cycle for 10 min before i go in for safty

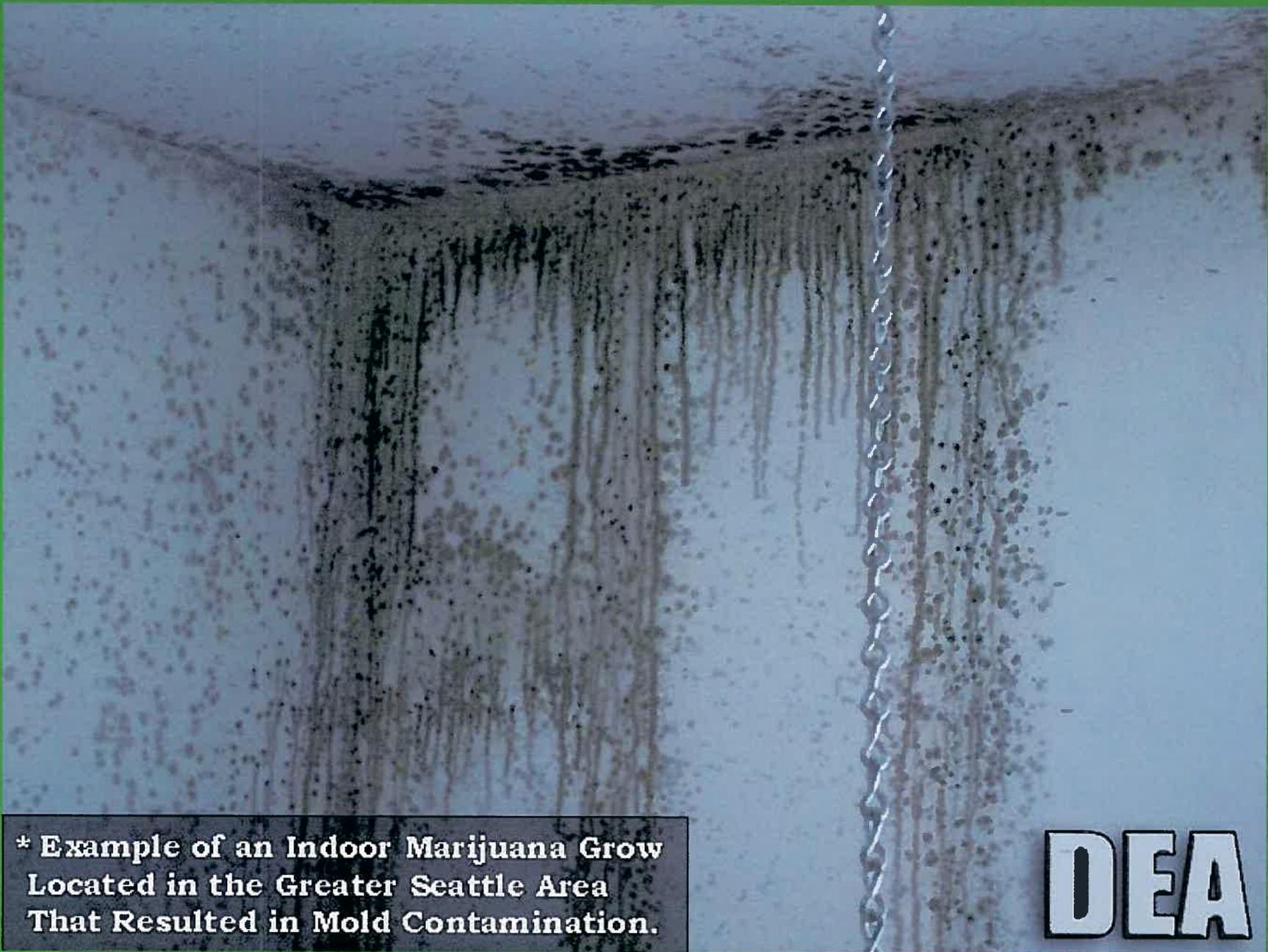
This grower
admits the
dangers!

Environmental

- Due to high humidity levels, mold is a standard byproduct growing in the same area as the product. Molds present a unique health threat in that exposure can cause allergic reactions, sinus and respiratory distress and in extreme cases death.

Information source "Response hazards at marijuana grow houses"

Author: Michael Lee



*** Example of an Indoor Marijuana Grow
Located in the Greater Seattle Area
That Resulted in Mold Contamination.**

DEA

Hazmat

- Pesticides, fungicides and Fertilizers are commonly used during an indoor grow. These items are often stored and disposed of improperly, including being poured down drains and sewers.

Information source "Legal Marijuana Grows-Growing a Problem"
Author: Caoimhin P. Connell, Forensic Industrial Hygienist



UV Hazards from grow lights

- Grow lights produce massive exposures to UV light. The UV spectrum not only damages unprotected surfaces, but also, the UV light is energetic enough to break down airborne materials (such as vapors or pesticides, etc) into a soup of other unknown contaminants with unexpected and unpredictable health consequences.
- In legitimate agricultural grow operations, the UV is properly shielded pursuant to OSHA regulations and the ventilation also meets OSHA standards.

Information source "Legal Marijuana Grows-Growing a Problem"
Author: Caoimhin P. Connell, Forensic Industrial Hygienist



Reflective Mylar wall covering

Thermometer

Exhaust duct

Grow Light

Fan

Costly Damage Repairs

According to the Insurance Bureau of Canada, the average claim to repair the damage caused to a grow house is between \$60,000 and \$80,000.

To grow a marijuana crop indoors, a number of structural modifications must be made to the building to allow for venting, water and additional electrical output to handle the extra power needs of the grow. In addition to these modifications, damage from mold and moisture adds to the costs.

Fire Hazards

NBC News Story

House Fire: Blame it on the Pot

By [H. HUGHES](#)

Updated 10:41 AM PDT, Mon, Mar 30, 2009

An attic fire broke out at a home in [Mira Mesa](#) early Sunday morning. While firefighters put out the fire, [San Diego Police](#) officers made a surprising discovery -- a full-blown marijuana "garden".

The fire started just after 5 a.m. in the 11200 block of Ganesta Road in Mira Mesa. Joshua Rasmussen, 28, was asleep at the time of the fire and was woken up by firefighters. He has been arrested for growing marijuana inside the home. Over 300 plants were found inside the house, all at various growth stages.

NBC News Story

House Fire Uncovers Illegal Drug Operation

By [ARTIE OJEDA](#)

Updated 9:51 AM PDT, Mon, Oct 20, 2008

A house fire in Carlsbad was started by an illegal marijuana growing operation, according to Carlsbad police.

Investigators said a neighbor noticed a fire coming from the second story of a home on the 900 block of Alyssum Road just after 10 a.m. The occupant of the house responded, but declined to open the door, according to police.

The Carlsbad Fire department eventually put out the fire and said it was caused from an indoor marijuana grow operation. Narcotics detectives were called in and acquired a search warrant. They said they seized about 40 marijuana plants.

Pot plants seized after Chula Vista fire

BY [KRISTINA DAVIS](#), UNION-TRIBUNE STAFF WRITER

FRIDAY, APRIL 30, 2010 AT 11:17 A.M. CHULA VISTA —

Authorities are investigating an indoor marijuana growing operation after firefighters putting out a house fire Thursday night found about 80 pot plants being grown in several bedrooms of a Chula Vista home. Neighbors reported smoke and flames coming from the back of the two-story house on Pelican Point Court about 10:30 p.m. Thursday.

Firefighters from Chula Vista and [San Diego](#) were able to contain the blaze within 10 to 15 minutes, said Chula Vista Deputy Fire Chief Jim Garcia.

During an initial search of the 2,200-square foot home, firefighters discovered about 80 mid- to full-sized plants. Two residents were able to escape safely and later handed police a medical marijuana card, saying they were caregivers, Garcia said.

Narcotics officers impounded the plants and the case will be forwarded to the District Attorney's Office for review, police said.

The cause of the fire is still under investigation, but initial findings indicate an electrical problem due to the large amount of power cords running through the house to grow the pot, Garcia said.

Damage to the structure was estimated at about \$50,000.

Crime associated with medical marijuana dispensaries

- **Under reported if reported at all**
 - 1. Fear of Prosecution**
 - 2. “Covert Industry”**
 - 3. Giving industry a bad name**
- **Crimes related to dispensaries may not be associated or recorded as such. (statistical gathering)**

San Francisco Experience

**Crimes that occurred at, or in close proximity to,
San Francisco's Dispensaries (Jan06/Feb07)**

- **3 homicides 2 attempted homicides**
- **6 possession of a loaded firearm**
- **1 exhibiting deadly weapon**
- **57 robberies and 27 attempted robberies**
- **98 aggravated assaults**
- **144 incidents of battery**
- **7 incidents of battery on a police officer**
- **1 forcible rape, 1 attempted rape**
- **3 sexual batteries**
- **198 Burglaries and 2 attempted burglaries**

Source Ca. Police Chiefs Association

Los Angeles Police Experience

- **200% increase in robberies,**
- **52.2% increase in burglaries,**
- **57.1% rise in aggravated assaults,**
- **130.8% rise in burglaries from autos near cannabis clubs in Los Angeles.**
- **Use of armed gang members as “security guards”***

Source LAPD Det. Dennis Packer Ret.

Organized crime activity associated with marijuana grow operations

In British Columbia Canada, outlaw motorcycle gangs and Asian street gangs are forcibly taking over grow operations in an effort to control and profit from the sale and distribution of marijuana.

Outlaw motorcycle gangs as well as the Mexican Mafia are also forcibly taking over marijuana grow operations in Los Angeles Ca.

Health and Safety issues related to Marijuana laced food products

“Edibles”

The Food and Drug Administration regularly tests foods to determine if pesticides are present in unacceptable amounts. If elevated levels are found, FDA takes corrective action.

Edibles containing marijuana sold in collectives are not regulated or inspected by the FDA because the FDA does not classify marijuana as a legitimate medical drug.

Are “Edibles” safe for consumption?

- **Who prepared these edibles?**
- **Where were they prepared?**
- **Approved/inspected preparation facility?**
- **What’s the dosage amount or potency of the product?**
- **Edibles are often packaged to resemble well known brands of candies, suckers and sodas making them easily mistaken as legitimate foods by children.**



DEA



DEA

Suckers



Sodas



Injuries from edibles

- **3/4/2010 Santa Ynez, Ca. – A female student was hospitalized after becoming ill from eating marijuana laced cookies. Another student became ill from a marijuana Loli-Pop obtained in a marijuana dispensary.**
- **3/2/2010 Denver, Co.- A ten month old toddler was hospitalized after eating marijuana laced “trail mix” found in his home. The parents were legally growing marijuana.**
- **12/4/2009 Denver, Co.- A three year old is placed in intensive care after eating marijuana cookies given to him by his Grandmother, a medical marijuana activist. (She later committed suicide before going to trial)**

California Health and Safety Codes

113980 H&S (paraphrased) All food kept for sale shall have been obtained from approved sources; shall otherwise be fully fit for human consumption; and shall conform to the applicable provisions of the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)).

114021(a)H&S Food shall be obtained from sources that comply with all applicable laws.

(b) Food stored or prepared in a private home shall not be used or offered for sale in a food facility.

114023 H&S Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

Marijuana cook books are readily available allowing a patient or caregiver to prepare marijuana “Edibles” for consumption in their own home



Limiting Collectives to industrial areas

- Intimidation of neighboring businesses and residents in the area.
- The heavy odor of marijuana and secondary smoke permeates surrounding businesses causing loss of customers and business in commercial zones.
- Industrial buildings are better equipped to handle the modifications required and the heavy electrical usage requirements.
- Higher crime rates associated with these businesses put uninvolved citizens at risk.
- Increased risks of fire and hazmat incidents.

There are currently many locations to obtain Medical Marijuana in cities located within San Diego County

Canorml.org, a website dedicated to “Reforming California’s Medical Marijuana laws,” lists locations for more than sixty medical marijuana collectives in various cities located within San Diego County. The website also lists twenty five businesses that offer a delivery service for marijuana.

Herbfolks.org lists ten additional sites located within San Diego County and there are many more.

weedmaps.com has interactive maps with locations and contact information for dispensaries throughout San Diego County

The screenshot displays the WeedMaps.com website in a Windows Internet Explorer browser. The browser's address bar shows the URL: http://legalmarijuanadisensary.com/index.php?option=com_jreviews&Itemid=117&url=Los-Angeles-Dispensaries/california-. The website's header features the WeedMaps.com logo with the tagline "Find Your Bud" and a navigation menu with options: "Dispensary Directory", "Featured", "Community", "TXT Coupons", and "App!". A search bar is located on the right side of the header. Below the navigation, there are tabs for different regions: "Los Angeles", "Orange County", "San Diego", "Northern CA", "Colorado", "Inland Empire", and "Other States". The main content area shows a map titled "Cannabis Clubs near San Diego, CA" with several purple location markers. The map includes street names like "Mission Valley East", "Camino De La Reina", "Adams Ave", "Madison Ave", "University Heights", and "El Cajon Blvd". A search bar above the map contains the text "Dispensary Zip City State" and a "Go!" button. On the right side of the map, there are map controls for "Map", "Satellite", and "Hybrid". The bottom of the browser window shows the Windows taskbar with the start button and several open applications, including "Inbox - Microsof...", "My Documents", "Microsoft Power...", and "Medical Marijua...". The system clock shows the time as 1:02 PM.

Medical Marijuana Collectives will be included as one of the many Sheriff's regulated activities. Other Sheriff's regulated activities include:

Amusement Establishments
Amusement ride/Go-Cart centers
Entertainment Establishments
Bath Houses
Carnivals/Circuses
Firearms Dealers
Junk Yards
Pawnbrokers
Massage Establishments
Taxicabs
Explosives / Fireworks

Each of these businesses has some record keeping requirements. For example, personal information is required in order to sell property to a pawnbroker.

These records of sale (Pawn slips) are provided to the local Police/Sheriff's Dept. daily and are kept on file at the business for a period of two years.

These businesses and their transaction records are also required to be open to inspection by the Sheriff or his designee during reasonable business hours.

PAWNBROKER/SECONDHAND DEALER REPORT
 WHITE - COP/LEW ENFORCEMENT | YELLOW - COP/PINK DEALER
 JIR 123 (7/88)

PLEASE PRINT CLEARLY

C H I S I S T E R I S M E R	LAST NAME										FIRST NAME										MIDDLE NAME									
	SEX	HAIR	EYES	HEIGHT	WEIGHT	BIRTHDATE	TRANSACTION DATE			LIC. NO.			LIC. STATE			LIC. EXPIRES			LIC. CLASS			LIC. TYPE								
	DRIVER'S LIC. NO. OR PASSPORT LIC. STATE										DATE OF ISSUE										YR. OF EXP.									
	ADDRESS / CITY / STATE										TIME										AMOUNT									
S T O R E	LICENSE NUMBER										POLICE DIVISION										MODEL									
	NAME										SERIAL NO.										COLOR									
	ADDRESS / CITY										PROPERTY DESCRIPTION (One item only, Gun, Coin, watch, etc)										CHECK ONE									
I T E M	ARTICLE										BRAND NAME										CHECK ONE									
	SERIAL NO.										MODEL										HANDGUN (PISTOL) <input type="checkbox"/> REVOLVER <input type="checkbox"/>									
PROPERTY DESCRIPTION (One item only, Gun, Coin, watch, etc)										SOM. AUTOMATIC <input type="checkbox"/>										BUY <input type="checkbox"/> COMB. <input type="checkbox"/> TRADE <input type="checkbox"/>										

CUSTOMER'S SIGNATURE (partly under partially obscured by arrow) I certify under penalty of perjury that to my knowledge and belief the information shown is true and complete and I am the owner, or have the authority of the owner, to sell or pledge the property.

STORE PERSON'S SIGNATURE

Name, physical description date of birth and address of seller

Dealer / Store information

Item description

Thumbprint

Seller's signature

JUNK/RECYCLERS DEALER REPORT

PLEASE PRINT CLEARLY

WHITE - STATION | YELLOW - DEALER

LAST NAME										FIRST NAME										MIDDLE NAME									
SEX	HAIR	EYES	HEIGHT	WEIGHT	BIRTHDATE	TRANSACTION DATE			LIC. NO.			LIC. STATE			LIC. EXPIRES			LIC. CLASS			LIC. TYPE								
DRIVER'S LIC. NO. OR PASSPORT LIC. STATE										DATE OF ISSUE										YR. OF EXP.									
ADDRESS / CITY / STATE										TIME										AMOUNT									
NAME										SERIAL NO.										MODEL									
ADDRESS										PROPERTY DESCRIPTION (MANUFACTURER'S NAME, GRAINS & MODEL #, TP PL, SZL, COLOR)										CHECK ONE									
ARTICLE / SERIAL #										WEIGHT										BUY <input type="checkbox"/> COMB. <input type="checkbox"/> TRADE <input type="checkbox"/>									
PROPERTY DESCRIPTION (MANUFACTURER'S NAME, GRAINS & MODEL #, TP PL, SZL, COLOR)										THUMBPRINT										CUSTOMER'S SIGNATURE									

CUSTOMER'S SIGNATURE I certify under penalty of perjury that to my knowledge and belief the information shown is true and complete and I am the owner, or have the authority of the owner, to sell the property.

Sheriff's proposed "Record of transaction" form for a Collective.

**MEDICAL MARIJUANA COLLECTIVE
RECORD OF TRANSACTION**

Pursuant to San Diego County Code of Regulatory Ordinance section 21.2505(c)(7)

Please Print Legibly (use black or blue ink pen)

Transaction Date _____ Pick Up Delivery

Membership Status: Qualified Patient Primary Caregiver

Last Name	First Name	Middle Name
Address	City	State
Driver's License Number	State Issued	Phone Number

Collective Member (Source of Marijuana)

Brand/Grade of Marijuana	Quantity	\$ Total Monetary Cost
--------------------------	----------	------------------------

Payment Type: Cash Check-ATM Card Money Order Credit Card

X _____
CUSTOMER'S SIGNATURE I certify under penalty of perjury that to my knowledge and belief the information above is true and complete and I am purchasing said product for my own personal use or for the purchase of a qualified patient under my primary care

X _____
STORE PERSON'S SIGNATURE

These records are only required to be maintained at the collective and available for inspection by law enforcement within seven days of the request.

Some collectives are also using Membership Agreements

To qualify for membership at “Socal Wellness,” a dispensary located in North San Diego County, you must provide:

Name, Address, Date of birth

Valid current California photo identification

Valid current Doctor’s recommendation

Must agree to terms and complete a membership application form with a signature

**SO CAL WELLNESS CENTER COOPERATIVE, INC.
MEMBERSHIP AGREEMENT**

General Information

Member Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

CA Driver's License or State ID Number: _____ Expiration: _____

Date of Birth: _____ Phone Number: () _____

E-mail Address: _____

Medicinal Marijuana ID Card Information

(If you already have a medicinal marijuana ID card issued by a county health department or other agency pursuant to California Health & Safety Code §11356.7, *et seq.* (SB-420, 2003).)

Card Issued By: _____

Card ID Number: _____ Issue Date: _____ Expiration: _____

Membership Agreement Terms

- I certify under penalty of perjury that the information provided above is true and accurate, and I am not seeking membership for any fraudulent purpose.
- I am a **qualified patient** or **primary caregiver** as defined under California law, and
 - (1) I have obtained a recommendation or approval from a physician currently licensed to practice medicine in the state of California to use medicinal marijuana to treat a serious illness; or
 - (2) I have been designated as the primary caregiver by a qualified patient to provide for that patient's health and well-being.
- I will not distribute medicine received from So Cal Wellness Center Cooperative, Inc. to any other person who is not a member of So Cal Wellness Center Cooperative, Inc.
- I will not use the medicinal marijuana obtained from So Cal Wellness Center Cooperative, Inc. for non-medical purposes.
- I authorize my recommending physician to verify his or her recommendation or approval for the use of medicinal marijuana.
- I authorize So Cal Wellness Center and its members to process, store, possess, transport and dispense medicinal marijuana for my medical needs.
- I have read and understand the facilities rules and guidelines and consent to joining this cooperative.

X _____ Date: _____
Member Signature

This Section for Staff Use Only

Doctor's Name: _____ Phone: _____

Recommendation Dated: _____ Expiration Date: _____

Recommendation Verification from Physician's Office by: _____

Date and Time of Verification: _____

So Cal Wellness Center Database ID Number: _____

Staff Signature: _____ Date: _____

San Diego County ordinance record keeping requirements

- **Roster of Qualified Patient collective members**
- **Roster of designated Primary Caregivers**
- **Records of all transactions involving money and/or marijuana**
- **Records of source of marijuana on premise**
- **Marijuana labeled with source information**
- **Marijuana labeled with Cost and Weight**
- **Must allow inspection of Collective and grow site (Source) by Law Enforcement**

Security Requirements

- 24hr. Monitored alarm system
- Closed circuit video monitoring/recording
- Vandal resistant window glazing or bars
- Secure roof hatches or sky-lights
- Sufficient exterior lighting per SDCC 51.201-209
- Fire suppression system
- Security hardware for doors
- Operating hours 8:00am to 8:00pm 7 days
- A licensed uniformed security guard on-site

These provisions do not apply to a collective operated by a qualified patient where the amount of marijuana at no times exceeds 1.5 times the amount allowed by state law for a single qualified patient, or a collective operated by a qualified care giver where only cultivation occurs and no exchange of marijuana or reimbursements for marijuana occur.

The safety of all citizens of San Diego County is the responsibility of the Sheriff and the Board of Supervisors.

The regulations and requirements imposed on Medical Marijuana Collectives are meant to protect collective members as well as citizens who are impacted by the location and operation of collectives.

San Diego County Sheriff's Department Mission Statement

**We provide the highest
quality public safety
service in an effort to
make San Diego the safest
urban county in the nation.**

**Created By Detectives Steven Brewer and Michael Helms of the San Diego
County Sheriff's Department Licensing division**

ATTACHMENT: A

Medical Marijuana Collective Facilities Ordinance

ORDINANCE NO. _____ (N.S)**AN ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE TO ADD
TITLE 2, DIVISION 1, CHAPTER 25 ADOPTING REGULATIONS
RELATING TO MEDICAL MARIJUANA COLLECTIVE FACILITIES**

The Board of Supervisors of the County of San Diego, State of California, ordains as follows:

Section 1.

Title 2, Division 1 of the San Diego County Code is amended to add Chapter 25, as follows:

CHAPTER 25: MEDICAL MARIJUANA**Section 21.2501. Legislative Findings And Intent**

(a) On November 5, 1996, California voters approved Proposition 215, The Compassionate Use Act of 1996 (“CUA”), which decriminalized the cultivation and use of marijuana by seriously ill individuals upon a physician’s recommendation, and recognized a qualified right to the collective and cooperative cultivation of medical marijuana. The CUA’s purposes are to “ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person’s health would benefit from the use of marijuana” and to “ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.” However, nothing in the CUA “shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.”

(b) On January 1, 2004, Senate Bill 420, the Medical Marijuana Program Act (“MMPA”), H&S §§ 11362.7 – 11362.83, became law. The MMPA requires the California Department of Public Health to establish and maintain a voluntary registration and identification card program, sets possession guidelines and recognizes a qualified right to the collective and cooperative cultivation of medical marijuana. The MMPA allows cities and counties to adopt and enforce rules consistent with the MMPA. In August 2008, the California Attorney General published “Guidelines For The Security And Non-Diversion Of Marijuana Grown For Medical Use.” That document provides counties and cities with California

Department of Justice guidance on the laws governing medical marijuana and preventing diversion of marijuana to illegal non-medical purposes and illicit markets.

(c) The CUA and MMPA contemplate a closed circuit of cultivation, expense-sharing and consumption by qualified patients and primary caregivers with no sales or purchases involving persons outside the collective or cooperative organization.

(d) In many communities in which so-called medical marijuana “dispensaries” have been established, law enforcement agencies have documented the serious and adverse impacts associated with such dispensaries. These communities and the media have reported increased crime, including burglaries, robberies, violence, illegal sales of marijuana to and use of marijuana by minors and others without medical need in the areas immediately surrounding such medical marijuana dispensaries. Other negative secondary effects include the smoking of marijuana in public areas and adverse impacts on neighboring businesses (including odor complaints). The County of San Diego could reasonably anticipate experiencing similar adverse impacts and effects from any marijuana dispensaries established in the unincorporated county.

(e) In July 2009, the County of San Diego implemented a Medical Marijuana Identification Card program through its Health and Human Services Agency and in compliance with the requirements of the MMPA. Section 252 of the San Diego County Administrative Code became effective August 20, 2009, establishing the fees for obtaining a Medical Marijuana Identification Card from the County of San Diego.

(f) Additionally, a number of sources, including the United States Department of Justice’s California Medical Marijuana website [which contains various documents and reports related to issues surrounding marijuana use (<http://www.usdoj.gov/dea/ongoing/legalization.html>)] and the “White Paper on Marijuana Dispensaries” published by the California Police Chiefs Association’s Task Force on Marijuana Dispensaries (April 22, 2009), have concluded that the establishment of marijuana dispensaries can lead to an increase in crime. Among the crimes cited as typical examples are burglaries, robberies, sales of illegal drugs in the areas immediately surrounding such dispensaries, as well as other public nuisances such as loitering, smoking marijuana in public places, sales to minors and driving while under the influence of marijuana. The Board of Supervisors finds that these data and conclusions justify the implementation of the regulatory and safety measures included in this ordinance.

(g) It is intent of the Board of Supervisors to protect the citizens of the County of San Diego and promote their general welfare and safety by ensuring that marijuana is not diverted for illegal purposes or to illicit markets. It is the Board's further intent that medical marijuana be limited to authorized legal use by San Diego County residents who are qualified patients as defined by State law and who suffer from one or more of the following serious medical conditions: AIDS; anorexia; arthritis; cachexia; cancer; chronic pain; glaucoma; migraine; seizures; severe nausea; persistent muscle spasms; any other chronic or persistent medical condition that either limits their ability to conduct one or more major life activity as defined by the American Disability Act of 1990 or may cause harm if not alleviated. It is the further intent of the Board to ensure that only qualified medical marijuana patients and primary caregivers, as defined by State law, associate within the County in order to collectively or cooperatively cultivate marijuana for medical purposes. This Chapter is not intended to apply to personal, individual cultivation and use for legitimate medical purposes as contemplated by the CUA and the MMPA.

Section 21.2502 Definitions

(a) "Primary Care Giver" has the same meaning as defined by State statutes, including but not limited to Health & Safety Code sections 11362.5(e) and 11362.7(d). As explained in *People v. Mentch* (2008) 45 Cal.4th 274, a "primary caregiver" is a person who (1) consistently provides caregiving to a qualified patient, (2) independent of any assistance in taking medical cannabis, (3) at or before the time he or she assumed responsibility for assisting with medical cannabis.

(b) "Qualified Patient" has the same meaning as defined by State law, including but not limited to Health & Safety Code sections 11362.7(f) and 11362.5(b).

(c) "Medical Marijuana Collective" or "Collective" means any association or combination of Primary Caregivers and/or Qualified Patients collectively or cooperatively cultivating and/or storing marijuana for medical purposes as provided in Health & Safety Code section 11362.775.

(d) "Medical Marijuana Collective Facility" or "Collective Facility" means any location at which members of a Medical Marijuana Collective collectively or cooperatively cultivate or exchange marijuana among themselves or reimburse each other or the Medical Marijuana Collective for cultivation, overhead costs and operating expenses. "Medical Marijuana Collective Facility" or "Collective Facility" does not mean or include the following facilities licensed pursuant to the following provisions of Division 2 of the Health and Safety Code:

- (1) A clinic licensed pursuant to Chapter 1;
- (2) A health facility licensed pursuant to Chapter;
- (3) A residential care facility for persons with chronic, life-threatening illnesses licensed pursuant to Chapter 3.01;
- (4) A residential care facility for the elderly licensed pursuant to Chapter 3.2; or
- (5) A residential hospice or a home health agency licensed pursuant to Chapter 8.

(e) “Marijuana” has the same meaning as defined by Health & Safety Code section 11018.

(f) “Caregiver Events” means visits, consultations, transactions, interactions or other events involving a Qualified Patient and his or her Primary Caregiver designated by the Qualified Patient and his or her Primary Caregiver to demonstrate that the Primary Caregiver meets the requirements of state law, including but not limited to Health & Safety Code section 11362.5(e), other relevant statutes and court decisions.

(g) “Responsible Persons” means those members of the Collective who shall be jointly and severally responsible for operating the Collective Facility in compliance with State law and this Ordinance.

(h) “Applicant” or “Applicants” means those persons who are completing and executing the Application for a Medical Marijuana Collective Facility Operating Compliance Certificate (“Operating Certificate”).

Section 21.2503 Operating Certificate Required; Applications

(a) A Collective may only operate a Collective Facility in the unincorporated area of San Diego County if a valid Medical Marijuana Collective Facility Operating Compliance Certificate (“Operating Certificate”) has been issued by the Sheriff’s Department to a member of the Collective.

(b) The procedure for obtaining an Operating Certificate, including appeals of denials and revocations, shall be as set forth in Chapter 1 of the County of San Diego Uniform Licensing Procedure, except as set forth in this Chapter and

in addition, shall be subject to the specific requirements and regulations set forth in this Chapter.

(c) The form of application for an Operating Certificate shall be developed by the Sheriff's Department. At a minimum, the form of application developed by the Sheriff shall require the applicant(s) to provide sufficient information deemed necessary by the Sheriff to make an initial determination that (1) the Applicant(s) will be operating a legitimate Collective Facility in compliance with State and this Ordinance, and (2) the Applicant(s) is or are the owner(s) of the property for which the Operating Certificate is sought or have the written permission of the owner(s) of the property for which the license is sought.

(d) As a condition for obtaining an Operating Certificate from the Sheriff, the Applicant must show proof that the location has been approved by the Department of Planning and Land Use, Zoning Division, and a building permit (including a tenant improvement permit) has been applied for if required by the California Building Code.

(e) The form of application, which upon completion shall be signed by the Applicant(s), shall also require the Applicant(s), at a minimum, to make the following express representations:

(1) That no activities prohibited by State law will occur on or at the Collective Facility with the knowledge of the Responsible Person(s).

(2) That the Collective Facility, the Collective and its members will comply with all provisions of this Chapter and State law pertaining to medical marijuana.

(f) An Operating Certificate issued pursuant to this section shall be valid only for the address for which it was issued.

(g) Section 21.108(c) of the County of San Diego Uniform Licensing Procedure shall not apply to the issuance of Operating Certificates for Collective Facilities.

(h) The Applicant(s) shall provide to the Sheriff along with a completed application and fee for the Operating Certificate, evidence that any required building permit (including a tenant improvement permit) issued by the Department of Planning and Land Use has passed final inspection and occupancy approval has been issued before the Sheriff's Operating Certificate can be effective.

(i) For purposes of facilitating the provisions of this ordinance, a Collective must have a unique identifying name that will be entered onto the application for an Operating Certificate.

(j) The fee for an Operating Certificate shall be as provided in section 21.1901 of the County Code of Regulatory Ordinances.

(k) The application for an Operating Certificate shall designate and identify one or more persons as Responsible Persons. The designated Responsible Person(s) shall include the Applicant(s).

(l) An Operating Certificate shall not be issued where a Responsible Party has a felony conviction.

Section 21.2504 Infrastructure Requirements For Collective Facilities

(a) Alarms, Closed Circuit Television.

(1) A Sheriff Department-licensed, 24-hour centrally monitored alarm system is required.

(2) Closed Circuit Television (CCTV) video monitoring shall be installed that meets the following criteria:

(A) Continuous 24-hour operation and recording with minimum archival period of 14 days.

(B) Sufficient cameras, angles of observation and lighting to allow facial feature identification of persons in interior and exterior areas where marijuana is present at any time.

(C) Sufficient cameras, angles of observation and lighting to allow facial feature identification of persons in the immediate exterior areas of doors, windows or other avenues of potential access.

(D) All CCTV recordings shall be accessible to law or code enforcement officers at all times during operating hours and otherwise upon reasonable request. All CCTV recording systems shall have the capability of producing tapes, DVDs or other removable media of recordings made by the CCTV system.

(E) To prevent tampering, the recorder shall be kept in a secure location and all recordings shall be date and time stamped.

(b) Windows.

(1) Windows and glass panes shall have vandal-resistant glazing, shatter-resistant film, glass block, or bars installed equipped with latches that may be released quickly from the inside to allow exit in the event of emergency.

(2) Windows vulnerable to intrusion by a vehicle must be protected by bollards or landscaping grade separation reasonably sufficient to prevent such intrusion.

(c) Roofs, roof hatches, sky lights, ceilings.

For buildings in which a Collective Facility is located:

(1) All means of gaining unauthorized access to the roof shall be eliminated. Exterior roof ladders shall be secured with locked ladder covers.

(2) Roof hatches and skylights shall be secured so as to prevent intrusion.

(3) Where a Collective Facility is located in a building with other tenants, the Collective Facility shall be secured against unauthorized access from other tenant spaces or common areas, including access through crawl spaces, ceiling spaces, ventilation systems or other access points concealed from the common areas.

(d) Visibility.

(1) No marijuana may be visible from any location off the property on which a Collective Facility is located.

(2) Exterior landscaping within 10 feet of any building in which a Collective Facility is located shall be free of locations which could reasonably be considered places where a person could conceal themselves considering natural or artificial illumination.

(3) Exterior building lighting and parking area lighting must be in compliance with County of San Diego Light Pollution Code (Sections 51.201-51.209 of the San Diego County Code), County of San Diego Zoning Ordinance (Sections 6322 - 6326), and California Energy Code (Title 24-Chapter 6 of the California Code of Regulations). Lighting must be of sufficient foot-candles and color rendition, so as to allow the ready identification of any individual committing a crime on site at a distance of no less than forty feet.

(f) **Fire suppression system:** An approved automatic fire sprinkler system, designed in compliance with NFPA 13, shall be provided in buildings and portions thereof used as a Collective Facility.

(g) Parking

A Collective Facility shall conform to the requirements of Zoning Ordinance Section 6762 and shall be considered an "Office" occupancy type for purposes of that Section.

(h) Entrances, exits, doors.

(1) A Collective Facility shall have a single plainly identified primary entrance/exit site that is visible from public or common areas.

(2) Any exit or entrance that is not visible from a public or common area shall be plainly marked as an emergency exit only. Such emergency exits shall be self-closing, self-locking, equipped with an alarm and not used except in an emergency.

(3) Any aluminum door shall be fitted with steel inserts at the lock receptacles.

(4) Any outward opening doors shall be fitted with hinge stud kits, welded hinges or set-screw hinge pins.

(5) Panic exit hardware shall be "push-bar" design.

(6) Double doors shall be fitted with three-point locking hardware and push-bars consistent with fire agency regulations or requirements.

(7) All emergency exits shall be solid core doors featuring hinge-pin removable deterrence. Emergency exit doors shall have latch guards at least 12 inches in length protecting the locking bolt area. Latch guards shall be of minimum 0.125-inch thick steel, affixed to the exterior of the door with non-removable bolts, and attached so as to cover the gap between the door and the doorjamb for a minimum of six inches both above and below the area of the latch.

(8) All glass doors or doors with glass panes shall have shatter-resistant film affixed to prevent glass breakage.

(i) The provisions of this section do not apply to the following Collective Facilities:

(1) A Collective Facility operated by a Qualified Patient where the amount of marijuana at no time exceeds 1.5 times the amount allowed by state law for a single Qualified Patient under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur.

(2) A Collective Facility operated by a Primary Care Giver where the amount of marijuana at no time exceeds the amount allowed by state law for a single Primary Care Giver under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur.

Section 21.2505 Operating Requirements For Collective Facilities

(a) The hours of operation of a Collective Facility shall be no earlier than 8 a.m. and no later than 8 p.m., seven days a week.

(b) No persons under the age of eighteen are allowed at, in or on a Collective Facility, unless such individual is a qualified patient and accompanied by their licensed attending physician, parent or documented legal guardian.

(c) In order to facilitate verification that a Collective Facility is operating pursuant to State and local laws, the following records must be maintained at the Collective Facility at all times and available for inspection by the Sheriff's Department:

(1) A record identifying all current Qualified Patient members of the Collective associated with the Collective Facility. The record shall identify each Qualified Patient's designated Primary Caregiver, the name of the physician providing the recommendation for medical marijuana and shall reflect whether the recommendation is written or oral. The record shall identify the city and county of residence for each Qualified Patient and his or her Primary Caregiver.

(2) A record identifying all current Primary Caregiver members of the Collective associated with the Collective Facility, and the persons for whom they are the designated Primary Caregiver. The record will show the city and county of residence for all Qualified Patients and Primary Caregivers.

(3) A current record of Caregiver Events for each Member of the Collective associated with the Collective Facility. Such record should include, at a minimum, the dates, times, duration, participants and nature of the Caregiver Event(s). Such record shall not include information protected by Federal or State medical information privacy laws.

(4) A record identifying the source or sources of all marijuana currently on the premises of the Collective Facility or that has been on the premises during the two-year period preceding the current date. The record shall reflect the grower and the address and location of cultivation of the identified marijuana.

(5) All marijuana at the Collective Facility must at all times be physically labeled with information which, used in conjunction with the record required by section 21.2505(c)(4), will allow for ready identification of the specific Collective member who is the source of the marijuana.

(6) All marijuana at the Collective Facility must at all times be physically labeled with the monetary amount to be charged (or “price” for purposes of this subparagraph only) to a Collective member as reimbursement for cost of cultivation, overhead and operating expenses. Marijuana that is stored in bulk, and which is distributed by requested weight amount, shall be labeled with the price-per-ounce. Marijuana that is stored and distributed in fixed weight packages shall be labeled with the price and weight of the marijuana in the package.

(7) Current records of all transactions involving money and/or marijuana occurring in connection with the operation and activities of the Collective or the Collective Facility during the two-year period preceding the current date. Such records must include at a minimum the following information: (a) The names the persons involved, the person’s membership status in the Collective associated with the Collective Facility, and whether they are a Qualified Patient or a Primary Caregiver; (b) the amount of cash involved, if any, (c) the amount of marijuana involved, if any, (d) the method of payment if not by cash, and (d) if marijuana was involved, the Collective member who was source of the marijuana.

(8) An agreement, signed by each member of the Collective associated with the Collective Facility and who is a source of marijuana to the Collective Facility as identified by sections 21.2505(c)(4) and 21.2505(c)(5), that:

(A) within seven days of request by the Sheriff’s Department, the Member will produce for inspection by law enforcement a record, current to within 48 hours, of costs of cultivation, overhead and operating expenses; and

(B) the location of the cultivation of the marijuana supplied by the Member shall be subject to inspection for physical verification by appropriate law enforcement or fire agencies.

The form of the agreement required by this subdivision shall be determined by the Sheriff's Department, and shall require as a minimum the full name, home address, cultivation site address, home and emergency telephone numbers and the agreement required by this section.

(9) A record showing the identification of the Responsible Persons for the Collective by name, home address and telephone number.

(10) A clearly-visible, posted document identifying the names of the Responsible Persons and their emergency contact telephone numbers.

(d) The total quantity of marijuana located at any Collective Facility shall not exceed the maximum quantity limits set by state law, as established by statute and court decisions, in relation to the number of Qualified Patients and Primary Caregivers that are members of the Collective.

(e) All marijuana at a Collective Facility must have been cultivated at that Collective Facility or have as its source a member or members of the Collective with which the Collective Facility is associated.

(f) Only marijuana as herein defined is allowed at the Collective Facility. No food or drink containing marijuana is allowed.

(g) No smoking or any other consumption or ingestion of marijuana is allowed at a Collective Facility.

(h) Only persons who are members of the Collective that is associated with a Collective Facility shall collectively or cooperatively cultivate, store or exchange marijuana among themselves, or reimburse each other or the Medical Marijuana Collective for cultivation, overhead costs and operating expenses, at the Collective Facility.

(i) Collective Facilities shall be available for inspection by the Sheriff, the Director of Planning and Land Use, the fire authority having jurisdiction or their respective authorized representatives, at all times during operating hours and upon reasonable notice during non-operating hours.

(j) A Collective Facility shall have on its premises, posted in a prominent location, a copy of its Operating Certificate and a document that provides the names, home addresses, home telephone numbers and 24-hour emergency telephone numbers of its operators.

(k) A licensed, uniformed security guard shall be present at a Collective Facility at all times during Hours of Operation pursuant to section 21.2505(a).

(l) The provisions of this section do not apply to the following Collective Facilities:

(1) A Collective Facility operated by a Qualified Patient where the amount of marijuana at no time exceeds 1.5 times the amount allowed by state law for a single Qualified Patient under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur.

(2) A Collective Facility operated by a Primary Care Giver where the amount of marijuana at no time exceeds the amount allowed by state law for a single Primary Care Giver under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur.

Section 21.2506 Facility Limits; Naming

(a) A Collective may operate only one Collective Facility where members of the Collective exchange marijuana among themselves or reimburse each other or the Collective for cultivation, overhead costs and operating expenses. A Collective may operate additional Collective Facilities where only cultivation occurs, all of which must meet the requirements of this ordinance except as expressly provided by this ordinance.

(b) A Collective must have a unique identifying name, identified on the Operating Certificate Application, for purposes of tracking membership and facilities

Section 21.2507 Administrative and Civil Penalties

(a) An Operating Certificate may be revoked for any violation of state law or this Chapter, or for failure to comply with conditions listed on the Operating Certificate. Revocation proceedings, hearings and appeals shall be conducted as set forth in Chapter 1 of the County of San Diego Uniform Licensing Procedure. Administrative civil penalties shall be assessed pursuant to sections 18.201 et seq. of this Code or successor or amended administrative civil penalty provisions as may be adopted.

(b) In a civil action filed by the County to enforce provisions of this Ordinance, a court may assess a maximum civil penalty of \$2500 per violation for each day during which any violation of any provision of this Ordinance is committed, continued, permitted or maintained by such person(s). As part of said civil action, a court may also assess a maximum civil penalty of \$6000 for each

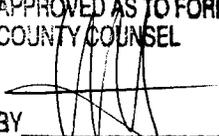
day any person intentionally violates an injunction prohibiting the violation of any provision of this Ordinance.

(c) Any violation of this Chapter may also be deemed a public nuisance and may be enforced by any remedy available to the County for abatement of public nuisances.

Section 21.2508 Severability.

(a) If any part of this Chapter is for any reason held to be invalid, unlawful, or unconstitutional, such invalidity, unlawfulness or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any other part of this Chapter.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY 

SENIOR DEPUTY

ATTACHMENT: B

Zoning Ordinance Amendment – Regulating Medical Marijuana Collectives

ORDINANCE NO. _____ (N.S.)

**AN ORDINANCE AMENDING THE ZONING ORDINANCE REGARDING
MEDICAL MARIJUANA COLLECTIVE FACILITIES**

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The purpose and intent of this ordinance are stated at paragraph a of new Zoning Ordinance Section 6835 below.

Section 2. Section 6935 is hereby added to the Zoning Ordinance, to read as follows:

6935 MEDICAL MARIJUANA COLLECTIVE FACILITIES

- a. **Purpose and Intent.** It is the purpose of this section to implement the Compassionate Use Act of 1996 (Health & Safety Code Section 11362.5) and the Medical Marijuana Program (Health & Safety Code Sections 11362.7 et seq.) by establishing reasonable and uniform zoning regulations of medical marijuana collective facilities which, in combination with licensing requirements contained in the San Diego County Code, will allow qualified patients and primary caregivers to collectively or cooperatively cultivate marijuana for medical purposes, and at the same time protect the public health, safety and welfare of communities, within the unincorporated area of San Diego County. It is the intent of this section that the regulations be utilized to preserve the character of neighborhoods and property values and to deter the spread of crime and prevent problems of blight, deterioration, and public safety which often accompany and are brought about by the operation of medical marijuana collective facilities.
- b. **Definition.** The terms "Medical Marijuana Collective Facility" or "Collective Facility" shall have the meanings given in San Diego County Code Section 21.2502(d).
- c. **Use Regulations Where Collective Facilities Are Allowed.** A Collective Facility may only be located upon property to which the M50, M52, M54, M56 or M58 Use Regulations apply, and within those areas, the separation restrictions of paragraph d below shall apply.
- d. **Separation Requirements For Collective Facilities.** A Collective Facility shall not be allowed or permitted upon any parcel, any portion of which would be, at the time of establishment of the Collective Facility, within any of the following:
 1. 500 feet from a parcel to which a residential Use Regulation applies;
 2. 600 feet from a parcel containing a school, playground, park, church, recreation center, or youth center; or
 3. 1000 feet from a parcel on which another Collective Facility has been established.

The distance between a Collective Facility and the parcels containing the uses listed in paragraph d above shall be measured in a straight line, without regard for intervening structures, from any parcel line of the real property on which the Collective Facility is located, to the nearest point on a parcel line of the real property on which any portion of the facility, building, or structure in which the above listed use occurs or is located.

- e. **Openness of Premises.** A Collective Facility shall be designed and constructed such that no area or portion where marijuana is cultivated or stored is visible from the exterior; however, the entrance shall be fully visible from the public street or building frontage.
- f. **Operating License Required.** Pursuant to San Diego County Code Section 21.2503, a Medical Marijuana Collective Facility Operating Compliance Certificate is required for the operation of a Collective Facility.
- g. **Premises Requirements.**
 - 1. **Signage.** Exterior signage shall conform to the requirements of Section 6250 et al.
 - 2. **Parking.** A Collective Facility shall conform to the requirements of Section 6762 and shall be considered an "Office" occupancy type for purposes of that Section.
 - 3. **Physical Appearance.** The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment or property values within the immediate area.
- h. **Nonconforming Uses.** Notwithstanding Section 6852, a Collective Facility which was lawfully established before August 1, 2010 shall cease operations no later than August 1, 2013. The Collective Facility may apply for one six-month extension of this period. The Director may grant that extension if upon determining that the operator would be subjected to unreasonable financial hardship if forced to cease operations, considering (1) the availability of alternative complying locations; (2) the term of any applicable lease for the premises and whether it may be modified or terminated; (3) the non-recoverable costs of any improvements that would only be of use to the Collective Facility; (4) the profits which have been received during the period from August 1, 2010 to August 1, 2013, and (5) the potential for other conforming uses to locate on the site.

Any nonconforming medical marijuana collective facility shall not be expanded, enlarged, extended or altered except that the use may be changed to a conforming use.

Section 3. This ordinance shall take effect and be in force thirty days after the date of its passage, and before the expiration of fifteen days after its passage it or a summary thereof shall be published once with the names of the members voting for and against the same in _____, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY


SENIOR DEPUTY

ATTACHMENT: C

Zoning Ordinance Amendment – Prohibiting Illegal Non-Medical Marijuana Dispensaries

ORDINANCE NO. _____ (N.S.)

**AN ORDINANCE AMENDING THE ZONING ORDINANCE
TO PROHIBIT NON-MEDICAL MARIJUANA DISPENSARIES
WITHIN THE UNINCORPORATED AREA
OF THE COUNTY OF SAN DIEGO**

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines as follows: Use or possession of marijuana for non-medical purposes, which is not authorized by state law, is a violation of federal and state law. Facilities which dispense marijuana without authorization under state law have proven to have serious harmful effects on the neighborhoods in which they are located, to owners of property in such neighborhoods, and to citizens living, visiting, shopping, conducting business or otherwise present in the area. Such effects are due to such factors as the illegal nature of the activity, the presence of large quantities of marijuana at the dispensaries, the presence of large amounts of cash, the presence of weapons, and other factors. Harmful effects at the dispensaries, which are not authorized under state law, and the surrounding area have included an increase in burglaries, robberies, illegal sales of drugs, use or possession of marijuana by unauthorized persons, attacks on persons entering or leaving the premises, loitering, smoking marijuana in public places, and driving while under the influence of marijuana. It is the intent of this ordinance to protect neighborhoods in the unincorporated area by prohibiting facilities which dispense marijuana for non-medical purposes without authorization under state law throughout the unincorporated area of the County of San Diego.

Section 2. Section 1110 DEFINITIONS (M) of the Zoning Ordinance is hereby amended to add the term "Marijuana Dispensary - Non-Medical (Not Authorized Under State Law)", inserted into the appropriate alphabetical location, to read as follows:

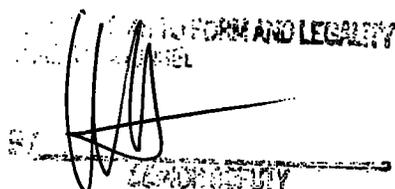
Marijuana Dispensary - Non-Medical (Not Authorized Under State Law): Any store, office, business, building, property or other facility in or from which marijuana is sold, given, traded, supplied, bartered, consumed, raised, processed, stored, used, cultivated, possessed, or transported by any person other than a person authorized to possess or cultivate marijuana for the personal medical purposes of the qualified patient, pursuant to the provisions of the Compassionate Use Act of 1996 (Health and Safety Code Sections 11362.5 and following) and the Medical Marijuana Program Act (Health and Safety Code Sections 11362.7-11362.83). Persons authorized to possess or cultivate marijuana for the personal medical purposes of the qualified patient include persons, who under state law, are: (i) qualified patients, (ii) primary caregivers of qualified patients, or (iii) such patients and caregivers who associate to collectively or cooperatively cultivate marijuana for medical purposes.

Section 3. Section 6976 is hereby added to the Zoning Ordinance, to read as follows:

6976 MARIJUANA DISPENSARIES – NON-MEDICAL (NOT AUTHORIZED UNDER STATE LAW)

No person shall cause or permit the establishment, operation, enlargement or transfer of ownership of a dispensary of marijuana for non-medical purposes, meeting the definition "Marijuana Dispensary - Non-Medical (Not Authorized Under State Law)" in Section 1110. This prohibition shall apply throughout all use regulations.

Section 4. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the Daily Commerce, a newspaper of general circulation published in the County of San Diego.

A handwritten signature in black ink is written over a rectangular official stamp. The stamp contains the text "INFORM AND LEGALITY" at the top and "ZONING DEPARTMENT" at the bottom. The signature is a stylized, cursive-like scribble.

ATTACHMENT: H

Attorney General Guidelines

EDMUND G. BROWN JR.
Attorney General



DEPARTMENT OF JUSTICE
State of California

**GUIDELINES FOR THE SECURITY AND NON-DIVERSION
 OF MARIJUANA GROWN FOR MEDICAL USE**
August 2008

In 1996, California voters approved an initiative that exempted certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana. In 2003, the Legislature enacted additional legislation relating to medical marijuana. One of those statutes requires the Attorney General to adopt “guidelines to ensure the security and nondiversion of marijuana grown for medical use.” (Health & Saf. Code, § 11362.81(d).¹) To fulfill this mandate, this Office is issuing the following guidelines to (1) ensure that marijuana grown for medical purposes remains secure and does not find its way to non-patients or illicit markets, (2) help law enforcement agencies perform their duties effectively and in accordance with California law, and (3) help patients and primary caregivers understand how they may cultivate, transport, possess, and use medical marijuana under California law.

I. SUMMARY OF APPLICABLE LAW

A. California Penal Provisions Relating to Marijuana.

The possession, sale, cultivation, or transportation of marijuana is ordinarily a crime under California law. (See, e.g., § 11357 [possession of marijuana is a misdemeanor]; § 11358 [cultivation of marijuana is a felony]; Veh. Code, § 23222 [possession of less than 1 oz. of marijuana while driving is a misdemeanor]; § 11359 [possession with intent to sell any amount of marijuana is a felony]; § 11360 [transporting, selling, or giving away marijuana in California is a felony; under 28.5 grams is a misdemeanor]; § 11361 [selling or distributing marijuana to minors, or using a minor to transport, sell, or give away marijuana, is a felony].)

B. Proposition 215 - The Compassionate Use Act of 1996.

On November 5, 1996, California voters passed Proposition 215, which decriminalized the cultivation and use of marijuana by seriously ill individuals upon a physician’s recommendation. (§ 11362.5.) Proposition 215 was enacted to “ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person’s health would benefit from the use of marijuana,” and to “ensure that patients and their primary caregivers who obtain and use marijuana for

¹ Unless otherwise noted, all statutory references are to the Health & Safety Code.

medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.” (§ 11362.5(b)(1)(A)-(B).)

The Act further states that “Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient’s primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or verbal recommendation or approval of a physician.” (§ 11362.5(d).) Courts have found an implied defense to the transportation of medical marijuana when the “quantity transported and the method, timing and distance of the transportation are reasonably related to the patient’s current medical needs.” (*People v. Trippet* (1997) 56 Cal.App.4th 1532, 1551.)

C. Senate Bill 420 - The Medical Marijuana Program Act.

On January 1, 2004, Senate Bill 420, the Medical Marijuana Program Act (MMP), became law. (§§ 11362.7-11362.83.) The MMP, among other things, requires the California Department of Public Health (DPH) to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers through a statewide identification card system. Medical marijuana identification cards are intended to help law enforcement officers identify and verify that cardholders are able to cultivate, possess, and transport certain amounts of marijuana without being subject to arrest under specific conditions. (§§ 11362.71(e), 11362.78.)

It is mandatory that all counties participate in the identification card program by (a) providing applications upon request to individuals seeking to join the identification card program; (b) processing completed applications; (c) maintaining certain records; (d) following state implementation protocols; and (e) issuing DPH identification cards to approved applicants and designated primary caregivers. (§ 11362.71(b).)

Participation by patients and primary caregivers in the identification card program is voluntary. However, because identification cards offer the holder protection from arrest, are issued only after verification of the cardholder’s status as a qualified patient or primary caregiver, and are immediately verifiable online or via telephone, they represent one of the best ways to ensure the security and non-diversion of marijuana grown for medical use.

In addition to establishing the identification card program, the MMP also defines certain terms, sets possession guidelines for cardholders, and recognizes a qualified right to collective and cooperative cultivation of medical marijuana. (§§ 11362.7, 11362.77, 11362.775.)

D. Taxability of Medical Marijuana Transactions.

In February 2007, the California State Board of Equalization (BOE) issued a Special Notice confirming its policy of taxing medical marijuana transactions, as well as its requirement that businesses engaging in such transactions hold a Seller’s Permit. (<http://www.boe.ca.gov/news/pdf/medseller2007.pdf>.) According to the Notice, having a Seller’s Permit does not allow individuals to make unlawful sales, but instead merely provides a way to remit any sales and use taxes due. BOE further clarified its policy in a

June 2007 Special Notice that addressed several frequently asked questions concerning taxation of medical marijuana transactions. (<http://www.boe.ca.gov/news/pdf/173.pdf>.)

E. Medical Board of California.

The Medical Board of California licenses, investigates, and disciplines California physicians. (Bus. & Prof. Code, § 2000, et seq.) Although state law prohibits punishing a physician simply for recommending marijuana for treatment of a serious medical condition (§ 11362.5(c)), the Medical Board can and does take disciplinary action against physicians who fail to comply with accepted medical standards when recommending marijuana. In a May 13, 2004 press release, the Medical Board clarified that these accepted standards are the same ones that a reasonable and prudent physician would follow when recommending or approving any medication. They include the following:

1. Taking a history and conducting a good faith examination of the patient;
2. Developing a treatment plan with objectives;
3. Providing informed consent, including discussion of side effects;
4. Periodically reviewing the treatment's efficacy;
5. Consultations, as necessary; and
6. Keeping proper records supporting the decision to recommend the use of medical marijuana.

(http://www.mbc.ca.gov/board/media/releases_2004_05-13_marijuana.html.)

Complaints about physicians should be addressed to the Medical Board (1-800-633-2322 or www.mbc.ca.gov), which investigates and prosecutes alleged licensing violations in conjunction with the Attorney General's Office.

F. The Federal Controlled Substances Act.

Adopted in 1970, the Controlled Substances Act (CSA) established a federal regulatory system designed to combat recreational drug abuse by making it unlawful to manufacture, distribute, dispense, or possess any controlled substance. (21 U.S.C. § 801, et seq.; *Gonzales v. Oregon* (2006) 546 U.S. 243, 271-273.) The CSA reflects the federal government's view that marijuana is a drug with "no currently accepted medical use." (21 U.S.C. § 812(b)(1).) Accordingly, the manufacture, distribution, or possession of marijuana is a federal criminal offense. (*Id.* at §§ 841(a)(1), 844(a).)

The incongruity between federal and state law has given rise to understandable confusion, but no legal conflict exists merely because state law and federal law treat marijuana differently. Indeed, California's medical marijuana laws have been challenged unsuccessfully in court on the ground that they are preempted by the CSA. (*County of San Diego v. San Diego NORML* (July 31, 2008) --- Cal.Rptr.3d ---, 2008 WL 2930117.) Congress has provided that states are free to regulate in the area of controlled substances, including marijuana, provided that state law does not positively conflict with the CSA. (21 U.S.C. § 903.) Neither Proposition 215, nor the MMP, conflict with the CSA because, in adopting these laws, California did not "legalize" medical marijuana, but instead exercised the state's reserved powers to not punish certain marijuana offenses under state law when a physician has recommended its use to treat a serious medical condition. (See *City of Garden Grove v. Superior Court (Kha)* (2007) 157 Cal.App.4th 355, 371-373, 381-382.)

In light of California's decision to remove the use and cultivation of physician-recommended marijuana from the scope of the state's drug laws, this Office recommends that state and local law enforcement officers not arrest individuals or seize marijuana under federal law when the officer determines from the facts available that the cultivation, possession, or transportation is permitted under California's medical marijuana laws.

II. DEFINITIONS

A. **Physician's Recommendation:** Physicians may not prescribe marijuana because the federal Food and Drug Administration regulates prescription drugs and, under the CSA, marijuana is a Schedule I drug, meaning that it has no recognized medical use. Physicians may, however, lawfully issue a verbal or written recommendation under California law indicating that marijuana would be a beneficial treatment for a serious medical condition. (§ 11362.5(d); *Conant v. Walters* (9th Cir. 2002) 309 F.3d 629, 632.)

B. **Primary Caregiver:** A primary caregiver is a person who is designated by a qualified patient and "has consistently assumed responsibility for the housing, health, or safety" of the patient. (§ 11362.5(e).) California courts have emphasized the consistency element of the patient-caregiver relationship. Although a "primary caregiver who consistently grows and supplies . . . medicinal marijuana for a section 11362.5 patient is serving a health need of the patient," someone who merely maintains a source of marijuana does not automatically become the party "who has consistently assumed responsibility for the housing, health, or safety" of that purchaser. (*People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1390, 1400.) A person may serve as primary caregiver to "more than one" patient, provided that the patients and caregiver all reside in the same city or county. (§ 11362.7(d)(2).) Primary caregivers also may receive certain compensation for their services. (§ 11362.765(c) ["A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided . . . to enable [a patient] to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, . . . shall not, on the sole basis of that fact, be subject to prosecution" for possessing or transporting marijuana].)

C. **Qualified Patient:** A qualified patient is a person whose physician has recommended the use of marijuana to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief. (§ 11362.5(b)(1)(A).)

D. **Recommending Physician:** A recommending physician is a person who (1) possesses a license in good standing to practice medicine in California; (2) has taken responsibility for some aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient; and (3) has complied with accepted medical standards (as described by the Medical Board of California in its May 13, 2004 press release) that a reasonable and prudent physician would follow when recommending or approving medical marijuana for the treatment of his or her patient.

III. GUIDELINES REGARDING INDIVIDUAL QUALIFIED PATIENTS AND PRIMARY CAREGIVERS

A. State Law Compliance Guidelines.

1. **Physician Recommendation:** Patients must have a written or verbal recommendation for medical marijuana from a licensed physician. (§ 11362.5(d).)

2. **State of California Medical Marijuana Identification Card:** Under the MMP, qualified patients and their primary caregivers may voluntarily apply for a card issued by DPH identifying them as a person who is authorized to use, possess, or transport marijuana grown for medical purposes. To help law enforcement officers verify the cardholder's identity, each card bears a unique identification number, and a verification database is available online (www.calmmp.ca.gov). In addition, the cards contain the name of the county health department that approved the application, a 24-hour verification telephone number, and an expiration date. (§§ 11362.71(a); 11362.735(a)(3)-(4); 11362.745.)

3. **Proof of Qualified Patient Status:** Although verbal recommendations are technically permitted under Proposition 215, patients should obtain and carry written proof of their physician recommendations to help them avoid arrest. A state identification card is the best form of proof, because it is easily verifiable and provides immunity from arrest if certain conditions are met (see section III.B.4, below). The next best forms of proof are a city- or county-issued patient identification card, or a written recommendation from a physician.

4. Possession Guidelines:

a) **MMP:²** Qualified patients and primary caregivers who possess a state-issued identification card may possess 8 oz. of dried marijuana, and may maintain no more than 6 mature or 12 immature plants per qualified patient. (§ 11362.77(a).) But, if “a qualified patient or primary caregiver has a doctor’s recommendation that this quantity does not meet the qualified patient’s medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient’s needs.” (§ 11362.77(b).) Only the dried mature processed flowers or buds of the female cannabis plant should be considered when determining allowable quantities of medical marijuana for purposes of the MMP. (§ 11362.77(d).)

b) **Local Possession Guidelines:** Counties and cities may adopt regulations that allow qualified patients or primary caregivers to possess

² On May 22, 2008, California’s Second District Court of Appeal severed Health & Safety Code § 11362.77 from the MMP on the ground that the statute’s possession guidelines were an unconstitutional amendment of Proposition 215, which does not quantify the marijuana a patient may possess. (See *People v. Kelly* (2008) 163 Cal.App.4th 124, 77 Cal.Rptr.3d 390.) The Third District Court of Appeal recently reached a similar conclusion in *People v. Phomphakdy* (July 31, 2008) --- Cal.Rptr.3d ---, 2008 WL 2931369. The California Supreme Court has granted review in *Kelly* and the Attorney General intends to seek review in *Phomphakdy*.

medical marijuana in amounts that exceed the MMP's possession guidelines. (§ 11362.77(c).)

c) **Proposition 215:** Qualified patients claiming protection under Proposition 215 may possess an amount of marijuana that is "reasonably related to [their] current medical needs." (*People v. Trippet* (1997) 56 Cal.App.4th 1532, 1549.)

B. Enforcement Guidelines.

1. **Location of Use:** Medical marijuana may not be smoked (a) where smoking is prohibited by law, (b) at or within 1000 feet of a school, recreation center, or youth center (unless the medical use occurs within a residence), (c) on a school bus, or (d) in a moving motor vehicle or boat. (§ 11362.79.)

2. **Use of Medical Marijuana in the Workplace or at Correctional Facilities:** The medical use of marijuana need not be accommodated in the workplace, during work hours, or at any jail, correctional facility, or other penal institution. (§ 11362.785(a); *Ross v. RagingWire Telecomms., Inc.* (2008) 42 Cal.4th 920, 933 [under the Fair Employment and Housing Act, an employer may terminate an employee who tests positive for marijuana use].)

3. **Criminal Defendants, Probationers, and Parolees:** Criminal defendants and probationers may request court approval to use medical marijuana while they are released on bail or probation. The court's decision and reasoning must be stated on the record and in the minutes of the court. Likewise, parolees who are eligible to use medical marijuana may request that they be allowed to continue such use during the period of parole. The written conditions of parole must reflect whether the request was granted or denied. (§ 11362.795.)

4. **State of California Medical Marijuana Identification Cardholders:** When a person invokes the protections of Proposition 215 or the MMP and he or she possesses a state medical marijuana identification card, officers should:

a) Review the identification card and verify its validity either by calling the telephone number printed on the card, or by accessing DPH's card verification website (<http://www.calmmp.ca.gov>); and

b) If the card is valid and not being used fraudulently, there are no other indicia of illegal activity (weapons, illicit drugs, or excessive amounts of cash), and the person is within the state or local possession guidelines, the individual should be released and the marijuana should not be seized. Under the MMP, "no person or designated primary caregiver in possession of a valid state medical marijuana identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana." (§ 11362.71(e).) Further, a "state or local law enforcement agency or officer shall not refuse to accept an identification card issued by the department unless the state or local law enforcement agency or officer

has reasonable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.” (§ 11362.78.)

5. **Non-Cardholders:** When a person claims protection under Proposition 215 or the MMP and only has a locally-issued (i.e., non-state) patient identification card, or a written (or verbal) recommendation from a licensed physician, officers should use their sound professional judgment to assess the validity of the person’s medical-use claim:

a) Officers need not abandon their search or investigation. The standard search and seizure rules apply to the enforcement of marijuana-related violations. Reasonable suspicion is required for detention, while probable cause is required for search, seizure, and arrest.

b) Officers should review any written documentation for validity. It may contain the physician’s name, telephone number, address, and license number.

c) If the officer reasonably believes that the medical-use claim is valid based upon the totality of the circumstances (including the quantity of marijuana, packaging for sale, the presence of weapons, illicit drugs, or large amounts of cash), and the person is within the state or local possession guidelines or has an amount consistent with their current medical needs, the person should be released and the marijuana should not be seized.

d) Alternatively, if the officer has probable cause to doubt the validity of a person’s medical marijuana claim based upon the facts and circumstances, the person may be arrested and the marijuana may be seized. It will then be up to the person to establish his or her medical marijuana defense in court.

e) Officers are not obligated to accept a person’s claim of having a verbal physician’s recommendation that cannot be readily verified with the physician at the time of detention.

6. **Exceeding Possession Guidelines:** If a person has what appears to be valid medical marijuana documentation, but exceeds the applicable possession guidelines identified above, all marijuana may be seized.

7. **Return of Seized Medical Marijuana:** If a person whose marijuana is seized by law enforcement successfully establishes a medical marijuana defense in court, or the case is not prosecuted, he or she may file a motion for return of the marijuana. If a court grants the motion and orders the return of marijuana seized incident to an arrest, the individual or entity subject to the order must return the property. State law enforcement officers who handle controlled substances in the course of their official duties are immune from liability under the CSA. (21 U.S.C. § 885(d).) Once the marijuana is returned, federal authorities are free to exercise jurisdiction over it. (21 U.S.C. §§ 812(c)(10), 844(a); *City of Garden Grove v. Superior Court (Kha)* (2007) 157 Cal.App.4th 355, 369, 386, 391.)

IV. GUIDELINES REGARDING COLLECTIVES AND COOPERATIVES

Under California law, medical marijuana patients and primary caregivers may “associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes.” (§ 11362.775.) The following guidelines are meant to apply to qualified patients and primary caregivers who come together to collectively or cooperatively cultivate physician-recommended marijuana.

A. Business Forms: Any group that is collectively or cooperatively cultivating and distributing marijuana for medical purposes should be organized and operated in a manner that ensures the security of the crop and safeguards against diversion for non-medical purposes. The following are guidelines to help cooperatives and collectives operate within the law, and to help law enforcement determine whether they are doing so.

1. **Statutory Cooperatives:** A cooperative must file articles of incorporation with the state and conduct its business for the mutual benefit of its members. (Corp. Code, § 12201, 12300.) No business may call itself a “cooperative” (or “co-op”) unless it is properly organized and registered as such a corporation under the Corporations or Food and Agricultural Code. (*Id.* at § 12311(b).) Cooperative corporations are “democratically controlled and are not organized to make a profit for themselves, as such, or for their members, as such, but primarily for their members as patrons.” (*Id.* at § 12201.) The earnings and savings of the business must be used for the general welfare of its members or equitably distributed to members in the form of cash, property, credits, or services. (*Ibid.*) Cooperatives must follow strict rules on organization, articles, elections, and distribution of earnings, and must report individual transactions from individual members each year. (See *id.* at § 12200, et seq.) Agricultural cooperatives are likewise nonprofit corporate entities “since they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers.” (Food & Agric. Code, § 54033.) Agricultural cooperatives share many characteristics with consumer cooperatives. (See, e.g., *id.* at § 54002, et seq.) Cooperatives should not purchase marijuana from, or sell to, non-members; instead, they should only provide a means for facilitating or coordinating transactions between members.

2. **Collectives:** California law does not define collectives, but the dictionary defines them as “a business, farm, etc., jointly owned and operated by the members of a group.” (*Random House Unabridged Dictionary*; Random House, Inc. © 2006.) Applying this definition, a collective should be an organization that merely facilitates the collaborative efforts of patient and caregiver members – including the allocation of costs and revenues. As such, a collective is not a statutory entity, but as a practical matter it might have to organize as some form of business to carry out its activities. The collective should not purchase marijuana from, or sell to, non-members; instead, it should only provide a means for facilitating or coordinating transactions between members.

B. Guidelines for the Lawful Operation of a Cooperative or Collective:

Collectives and cooperatives should be organized with sufficient structure to ensure security, non-diversion of marijuana to illicit markets, and compliance with all state and local laws. The following are some suggested guidelines and practices for operating collective growing operations to help ensure lawful operation.

1. **Non-Profit Operation:** Nothing in Proposition 215 or the MMP authorizes collectives, cooperatives, or individuals to profit from the sale or distribution of marijuana. (See, e.g., § 11362.765(a) [“nothing in this section shall authorize . . . any individual or group to cultivate or distribute marijuana for profit”]).

2. **Business Licenses, Sales Tax, and Seller’s Permits:** The State Board of Equalization has determined that medical marijuana transactions are subject to sales tax, regardless of whether the individual or group makes a profit, and those engaging in transactions involving medical marijuana must obtain a Seller’s Permit. Some cities and counties also require dispensing collectives and cooperatives to obtain business licenses.

3. **Membership Application and Verification:** When a patient or primary caregiver wishes to join a collective or cooperative, the group can help prevent the diversion of marijuana for non-medical use by having potential members complete a written membership application. The following application guidelines should be followed to help ensure that marijuana grown for medical use is not diverted to illicit markets:

a) Verify the individual’s status as a qualified patient or primary caregiver. Unless he or she has a valid state medical marijuana identification card, this should involve personal contact with the recommending physician (or his or her agent), verification of the physician’s identity, as well as his or her state licensing status. Verification of primary caregiver status should include contact with the qualified patient, as well as validation of the patient’s recommendation. Copies should be made of the physician’s recommendation or identification card, if any;

b) Have the individual agree not to distribute marijuana to non-members;

c) Have the individual agree not to use the marijuana for other than medical purposes;

d) Maintain membership records on-site or have them reasonably available;

e) Track when members’ medical marijuana recommendation and/or identification cards expire; and

f) Enforce conditions of membership by excluding members whose identification card or physician recommendation are invalid or have expired, or who are caught diverting marijuana for non-medical use.

4. **Collectives Should Acquire, Possess, and Distribute Only Lawfully Cultivated Marijuana:** Collectives and cooperatives should acquire marijuana only from their constituent members, because only marijuana grown by a qualified patient or his or her primary caregiver may lawfully be transported by, or distributed to, other members of a collective or cooperative. (§§ 11362.765, 11362.775.) The collective or cooperative may then allocate it to other members of the group. Nothing allows marijuana to be purchased from outside the collective or cooperative for distribution to its members. Instead, the cycle should be a closed-circuit of marijuana cultivation and consumption with no purchases or sales to or from non-members. To help prevent diversion of medical marijuana to non-medical markets, collectives and cooperatives should document each member's contribution of labor, resources, or money to the enterprise. They also should track and record the source of their marijuana.

5. **Distribution and Sales to Non-Members are Prohibited:** State law allows primary caregivers to be reimbursed for certain services (including marijuana cultivation), but nothing allows individuals or groups to sell or distribute marijuana to non-members. Accordingly, a collective or cooperative may not distribute medical marijuana to any person who is not a member in good standing of the organization. A dispensing collective or cooperative may credit its members for marijuana they provide to the collective, which it may then allocate to other members. (§ 11362.765(c).) Members also may reimburse the collective or cooperative for marijuana that has been allocated to them. Any monetary reimbursement that members provide to the collective or cooperative should only be an amount necessary to cover overhead costs and operating expenses.

6. **Permissible Reimbursements and Allocations:** Marijuana grown at a collective or cooperative for medical purposes may be:

- a) Provided free to qualified patients and primary caregivers who are members of the collective or cooperative;
- b) Provided in exchange for services rendered to the entity;
- c) Allocated based on fees that are reasonably calculated to cover overhead costs and operating expenses; or
- d) Any combination of the above.

7. **Possession and Cultivation Guidelines:** If a person is acting as primary caregiver to more than one patient under section 11362.7(d)(2), he or she may aggregate the possession and cultivation limits for each patient. For example, applying the MMP's basic possession guidelines, if a caregiver is responsible for three patients, he or she may possess up to 24 oz. of marijuana (8 oz. per patient) and may grow 18 mature or 36 immature plants. Similarly, collectives and cooperatives may cultivate and transport marijuana in aggregate amounts tied to its membership numbers. Any patient or primary caregiver exceeding individual possession guidelines should have supporting records readily available when:

- a) Operating a location for cultivation;
- b) Transporting the group's medical marijuana; and
- c) Operating a location for distribution to members of the collective or cooperative.

8. **Security:** Collectives and cooperatives should provide adequate security to ensure that patients are safe and that the surrounding homes or businesses are not negatively impacted by nuisance activity such as loitering or crime. Further, to maintain security, prevent fraud, and deter robberies, collectives and cooperatives should keep accurate records and follow accepted cash handling practices, including regular bank runs and cash drops, and maintain a general ledger of cash transactions.

C. **Enforcement Guidelines:** Depending upon the facts and circumstances, deviations from the guidelines outlined above, or other indicia that marijuana is not for medical use, may give rise to probable cause for arrest and seizure. The following are additional guidelines to help identify medical marijuana collectives and cooperatives that are operating outside of state law.

1. **Storefront Dispensaries:** Although medical marijuana “dispensaries” have been operating in California for years, dispensaries, as such, are not recognized under the law. As noted above, the only recognized group entities are cooperatives and collectives. (§ 11362.775.) It is the opinion of this Office that a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law, but that dispensaries that do not substantially comply with the guidelines set forth in sections IV(A) and (B), above, are likely operating outside the protections of Proposition 215 and the MMP, and that the individuals operating such entities may be subject to arrest and criminal prosecution under California law. For example, dispensaries that merely require patients to complete a form summarily designating the business owner as their primary caregiver – and then offering marijuana in exchange for cash “donations” – are likely unlawful. (*Peron, supra*, 59 Cal.App.4th at p. 1400 [cannabis club owner was not the primary caregiver to thousands of patients where he did not consistently assume responsibility for their housing, health, or safety].)

2. **Indicia of Unlawful Operation:** When investigating collectives or cooperatives, law enforcement officers should be alert for signs of mass production or illegal sales, including (a) excessive amounts of marijuana, (b) excessive amounts of cash, (c) failure to follow local and state laws applicable to similar businesses, such as maintenance of any required licenses and payment of any required taxes, including sales taxes, (d) weapons, (e) illicit drugs, (f) purchases from, or sales or distribution to, non-members, or (g) distribution outside of California.

ATTACHMENT: I

White Paper on Medical Marijuana Dispensaries

WHITE PAPER ON MARIJUANA DISPENSARIES

by

**CALIFORNIA POLICE CHIEFS ASSOCIATION'S
TASK FORCE ON MARIJUANA DISPENSARIES**

ACKNOWLEDGMENTS

Beyond any question, this White Paper is the product of a major cooperative effort among representatives of numerous law enforcement agencies and allies who share in common the goal of bringing to light the criminal nexus and attendant societal problems posed by marijuana dispensaries that until now have been too often hidden in the shadows. The critical need for this project was first recognized by the California Police Chiefs Association, which put its implementation in the very capable hands of CPCA's Executive Director Leslie McGill, City of Modesto Chief of Police Roy Wasden, and City of El Cerrito Chief of Police Scott Kirkland to spearhead. More than 30 people contributed to this project as members of CPCA's Medical Marijuana Dispensary Crime/Impact Issues Task Force, which has been enjoying the hospitality of Sheriff John McGinnis at regular meetings held at the Sacramento County Sheriff's Department's Headquarters Office over the past three years about every three months. The ideas for the White Paper's components came from this group, and the text is the collaborative effort of numerous persons both on and off the task force. Special mention goes to Riverside County District Attorney Rod Pacheco and Riverside County Deputy District Attorney Jacqueline Jackson, who allowed their Office's fine White Paper on Medical Marijuana: History and Current Complications to be utilized as a partial guide, and granted permission to include material from that document. Also, Attorneys Martin Mayer and Richard Jones of the law firm of Jones & Mayer are thanked for preparing the pending legal questions and answers on relevant legal issues that appear at the end of this White Paper. And, I thank recently retired San Bernardino County Sheriff Gary Penrod for initially assigning me to contribute to this important work.

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WHITE PAPER ON MARIJUANA DISPENSARIES

by

**CALIFORNIA POLICE CHIEFS ASSOCIATION'S
TASK FORCE ON MARIJUANA DISPENSARIES****EXECUTIVE SUMMARY****INTRODUCTION**

Proposition 215, an initiative authorizing the limited possession, cultivation, and use of marijuana by patients and their care providers for certain medicinal purposes recommended by a physician without subjecting such persons to criminal punishment, was passed by California voters in 1996. This was supplemented by the California State Legislature's enactment in 2003 of the Medical Marijuana Program Act (SB 420) that became effective in 2004. The language of Proposition 215 was codified in California as the Compassionate Use Act, which added section 11362.5 to the California Health & Safety Code. Much later, the language of Senate Bill 420 became the Medical Marijuana Program Act (MMPA), and was added to the California Health & Safety Code as section 11362.7 *et seq.* Among other requirements, it purports to direct all California counties to set up and administer a voluntary identification card system for medical marijuana users and their caregivers. Some counties have already complied with the mandatory provisions of the MMPA, and others have challenged provisions of the Act or are awaiting outcomes of other counties' legal challenges to it before taking affirmative steps to follow all of its dictates. And, with respect to marijuana dispensaries, the reaction of counties and municipalities to these nascent businesses has been decidedly mixed. Some have issued permits for such enterprises. Others have refused to do so within their jurisdictions. Still others have conditioned permitting such operations on the condition that they not violate any state or federal law, or have reversed course after initially allowing such activities within their geographical borders by either limiting or refusing to allow any further dispensaries to open in their community. This White Paper explores these matters, the apparent conflicts between federal and California law, and the scope of both direct and indirect adverse impacts of marijuana dispensaries in local communities. It also recounts several examples that could be emulated of what some governmental officials and law enforcement agencies have already instituted in their jurisdictions to limit the proliferation of marijuana dispensaries and to mitigate their negative consequences.

FEDERAL LAW

Except for very limited and authorized research purposes, federal law through the Controlled Substances Act absolutely prohibits the use of marijuana for any legal purpose, and classifies it as a banned Schedule I drug. It cannot be legally prescribed as medicine by a physician. And, the federal regulation supersedes any state regulation, so that under federal law California medical marijuana statutes do not provide a legal defense for cultivating or possessing marijuana—even with a physician's recommendation for medical use.

CALIFORNIA LAW

Although California law generally prohibits the cultivation, possession, transportation, sale, or other transfer of marijuana from one person to another, since late 1996 after passage of an initiative (Proposition 215) later codified as the Compassionate Use Act, it has provided a limited affirmative defense to criminal prosecution for those who cultivate, possess, or use limited amounts of marijuana for medicinal purposes as qualified patients with a physician's recommendation or their designated primary caregiver or cooperative. Notwithstanding these limited exceptions to criminal culpability, California law is notably silent on any such available defense for a storefront marijuana dispensary, and California Attorney General Edmund G. Brown, Jr. has recently issued guidelines that generally find marijuana dispensaries to be unprotected and illegal drug-trafficking enterprises except in the rare instance that one can qualify as a true cooperative under California law. A primary caregiver must consistently and regularly assume responsibility for the housing, health, or safety of an authorized medical marijuana user, and nowhere does California law authorize cultivating or providing marijuana—medical or non-medical—for profit.

California's Medical Marijuana Program Act (Senate Bill 420) provides further guidelines for mandated county programs for the issuance of identification cards to authorized medical marijuana users on a voluntary basis, for the chief purpose of giving them a means of certification to show law enforcement officers if such persons are investigated for an offense involving marijuana. This system is currently under challenge by the Counties of San Bernardino and San Diego and Sheriff Gary Penrod, pending a decision on review by the U.S. Supreme Court, as is California's right to permit any legal use of marijuana in light of federal law that totally prohibits any personal cultivation, possession, sale, transportation, or use of this substance whatsoever, whether for medical or non-medical purposes.

PROBLEMS POSED BY MARIJUANA DISPENSARIES

Marijuana dispensaries are commonly large money-making enterprises that will sell marijuana to most anyone who produces a physician's written recommendation for its medical use. These recommendations can be had by paying unscrupulous physicians a fee and claiming to have most any malady, even headaches. While the dispensaries will claim to receive only donations, no marijuana will change hands without an exchange of money. These operations have been tied to organized criminal gangs, foster large grow operations, and are often multi-million-dollar profit centers.

Because they are repositories of valuable marijuana crops and large amounts of cash, several operators of dispensaries have been attacked and murdered by armed robbers both at their storefronts and homes, and such places have been regularly burglarized. Drug dealing, sales to minors, loitering, heavy vehicle and foot traffic in retail areas, increased noise, and robberies of customers just outside dispensaries are also common ancillary byproducts of their operations. To repel store invasions, firearms are often kept on hand inside dispensaries, and firearms are used to hold up their proprietors. These dispensaries are either linked to large marijuana grow operations or encourage home grows by buying marijuana to dispense. And, just as destructive fires and unhealthy mold in residential neighborhoods are often the result of large indoor home grows designed to supply dispensaries, money laundering also naturally results from dispensaries' likely unlawful operations.

LOCAL GOVERNMENTAL RESPONSES

Local governmental bodies can impose a moratorium on the licensing of marijuana dispensaries while investigating this issue; can ban this type of activity because it violates federal law; can use zoning to control the dispersion of dispensaries and the attendant problems that accompany them in unwanted areas; and can condition their operation on not violating any federal or state law, which is akin to banning them, since their primary activities will always violate federal law as it now exists—and almost surely California law as well.

LIABILITY

While highly unlikely, local public officials, including county supervisors and city council members, could potentially be charged and prosecuted for aiding and abetting criminal acts by authorizing and licensing marijuana dispensaries if they do not qualify as “cooperatives” under California law, which would be a rare occurrence. Civil liability could also result.

ENFORCEMENT OF MARIJUANA LAWS

While the Drug Enforcement Administration has been very active in raiding large-scale marijuana dispensaries in California in the recent past, and arresting and prosecuting their principals under federal law in selective cases, the new U.S. Attorney General, Eric Holder, Jr., has very recently announced a major change of federal position in the enforcement of federal drug laws with respect to marijuana dispensaries. It is to target for prosecution only marijuana dispensaries that are exposed as fronts for drug trafficking. It remains to be seen what standards and definitions will be used to determine what indicia will constitute a drug trafficking operation suitable to trigger investigation and enforcement under the new federal administration.

Some counties, like law enforcement agencies in the County of San Diego and County of Riverside, have been aggressive in confronting and prosecuting the operators of marijuana dispensaries under state law. Likewise, certain cities and counties have resisted granting marijuana dispensaries business licenses, have denied applications, or have imposed moratoria on such enterprises. Here, too, the future is uncertain, and permissible legal action with respect to marijuana dispensaries may depend on future court decisions not yet handed down.

Largely because the majority of their citizens have been sympathetic and projected a favorable attitude toward medical marijuana patients, and have been tolerant of the cultivation and use of marijuana, other local public officials in California cities and counties, especially in Northern California, have taken a “hands off” attitude with respect to prosecuting marijuana dispensary operators or attempting to close down such operations. But, because of the life safety hazards caused by ensuing fires that have often erupted in resultant home grow operations, and the violent acts that have often shadowed dispensaries, some attitudes have changed and a few political entities have reversed course after having previously licensed dispensaries and authorized liberal permissible amounts of marijuana for possession by medical marijuana patients in their jurisdictions. These “patients” have most often turned out to be young adults who are not sick at all, but have secured a physician’s written recommendation for marijuana use by simply paying the required fee demanded for this document without even first undergoing a physical examination. Too often “medical marijuana” has been used as a smokescreen for those who want to legalize it and profit off it, and storefront dispensaries established as cover for selling an illegal substance for a lucrative return.

WHITE PAPER ON MARIJUANA DISPENSARIES

by

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INTRODUCTION

In November of 1996, California voters passed Proposition 215. The initiative set out to make marijuana available to people with certain illnesses. The initiative was later supplemented by the Medical Marijuana Program Act. Across the state, counties and municipalities have varied in their responses to medical marijuana. Some have allowed businesses to open and provide medical marijuana. Others have disallowed all such establishments within their borders. Several 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, and more specifically, the problems associated with medical marijuana and marijuana dispensaries, under whatever name they operate.

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 has ruled that this federal regulation supersedes any state's regulation of marijuana – even California's. (*Gonzales v. Raich* (2005) 125 S.Ct. 2195, 2215.) “The Supremacy Clause unambiguously provides that if there is any conflict between federal law and state law, federal law shall prevail.” (*Gonzales v. Raich, supra.*) Even more recently, the 9th Circuit Court of Appeals found that there is no fundamental right under the United States Constitution to even use medical marijuana. (*Raich v. Gonzales* (9th Cir. 2007) 500 F.3d 850, 866.)

In *Gonzales v. Raich*, the High Court 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 under federal law. As such, there are no exceptions to its illegality. (21 USC secs. 812(c), 841(a)(1).) Over the past thirty years, there have been several attempts to have marijuana reclassified to a different schedule which would permit medical use of the drug. All of these attempts have failed. (*See Gonzales v. Raich* (2005) 125 S.Ct. 2195, fn 23.) 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.¹ 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.”²

Gonzales v. Raich addressed the concerns of two California individuals growing and using marijuana under California’s medical marijuana statute. The Court explained that under the Controlled Substances Act marijuana is a Schedule I drug and is strictly regulated.³ “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.”⁴ (21 USC sec. 812(b)(1).) 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.⁵ 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. This notwithstanding, on March 19, 2009, U.S. Attorney General Eric Holder, Jr. announced that under the new Obama Administration the U.S. Department of Justice plans to target for prosecution only those marijuana dispensaries that use medical marijuana dispensing as a front for dealers of illegal drugs.⁶

CALIFORNIA LAW

Generally, the possession, cultivation, possession for sale, transportation, distribution, furnishing, and giving away of marijuana is unlawful under California state statutory law. (See Cal. Health & Safety Code secs. 11357-11360.) But, on November 5, 1996, California voters adopted Proposition 215, an initiative statute authorizing the medical use of marijuana.⁷ The initiative added California 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”⁸ The codified section is known as the Compassionate Use Act of 1996.⁹ Additionally, the State Legislature passed Senate Bill 420 in 2003. It became the Medical Marijuana Program Act and took effect on January 1, 2004.¹⁰ This act expanded the definitions of “patient” and “primary caregiver”¹¹ and created guidelines for identification cards.¹² It defined the amount of marijuana that “patients,” and “primary caregivers” can possess.¹³ It also created a limited affirmative defense to criminal prosecution for qualifying individuals that collectively gather to cultivate medical marijuana,¹⁴ as well as to the crimes of marijuana possession, possession for sale, transportation, sale, furnishing, cultivation, and maintenance of places for storage, use, or distribution of marijuana for a person who qualifies as a “patient,” a “primary caregiver,” or as a member of a legally recognized “cooperative,” as those terms are defined within the statutory scheme. Nevertheless, there is no provision in any of these laws that authorizes or protects the establishment of a “dispensary” or other storefront marijuana distribution operation.

Despite their illegality in the federal context, 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.

Former California Attorney General Bill Lockyer has also spoken about medical marijuana, and strictly construed California law relating to it. 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. Attorney General Lockyer made the recommendation that law enforcement neither arrest nor prosecute “individuals within the legal scope of California’s Compassionate Use Act.” Now the current California Attorney General, Edmund G. Brown, Jr., has issued guidelines concerning the handling of issues relating to California’s medical marijuana laws and marijuana dispensaries. The guidelines are much tougher on storefront dispensaries—generally finding them to be unprotected, illegal drug-trafficking enterprises if they do not fall within the narrow legal definition of a “cooperative”—than on the possession and use of marijuana upon the recommendation of a physician.

When California’s medical marijuana laws are strictly construed, it appears that the decision in *Gonzales v. Raich* does affect California law. However, provided that federal law does not preempt California law in this area, it does appear 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, they may have some state legal protection for specified marijuana activity. Conversely, all marijuana establishments that fall outside the letter and spirit of the statutes, including dispensaries and storefront facilities, are not legal. These establishments have no legal protection. Neither the former California Attorney General’s opinion nor the current California Attorney General’s guidelines present a contrary view. Nevertheless, without specifically addressing marijuana dispensaries, Attorney General Brown has sent his deputies attorney general to defend the codified Medical Marijuana Program Act against court challenges, and to advance the position that the state’s regulations promulgated to enforce the provisions of the codified Compassionate Use Act (Proposition 215), including a statewide database and county identification card systems for marijuana patients authorized by their physicians to use marijuana, are all valid.

1. Conduct

California 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,” he or she has an affirmative defense to possessing a defined amount of marijuana. Under the statutes no more than eight ounces of dried marijuana can be possessed. Additionally, either six mature or twelve immature plants may be possessed.¹⁵ If a person claims patient or primary caregiver status, and possesses more than this amount of marijuana, he or she can be prosecuted for drug possession. The qualifying individuals may also cultivate, plant, harvest, dry, and/or process marijuana, but only 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.¹⁶

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. Patients and Cardholders

A dispensary obviously is not a patient or cardholder. A “qualified patient” is an individual with a physician’s recommendation that indicates marijuana will benefit the treatment of a qualifying illness. (Cal. H&S Code secs. 11362.5(b)(1)(A) and 11362.7(f).) Qualified illnesses include cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or *any other illness for which marijuana provides relief*.¹⁷ 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.

A “person with an identification card” means an individual who is a qualified patient who has applied for and received a valid identification card issued by the State Department of Health Services. (Cal. H&S Code secs. 11362.7(c) and 11362.7(g).)

3. Primary Caregivers

The only person or entity authorized to receive compensation for services provided to patients and cardholders is a primary caregiver. (Cal. H&S Code sec. 11362.77(c).) However, nothing in the law authorizes any individual or group to cultivate or distribute marijuana for profit. (Cal. H&S Code sec. 11362.765(a).) It is important to note that it is almost impossible for a storefront marijuana business to gain true primary caregiver status. Businesses that call themselves “cooperatives,” but function like storefront 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.¹⁸ 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.¹⁹ (Emphasis added.)

The key to being a primary caregiver is not simply that marijuana is provided for a patient’s health; the responsibility for the health must be consistent; it must be independent of merely providing marijuana for a qualified person; and such a primary caregiver-patient relationship must begin before or contemporaneously with the time of assumption of responsibility for assisting the individual with marijuana. (*People v. Mentch* (2008) 45 Cal.4th 274, 283.) Any relationship a storefront marijuana business has with a patient is much more likely to be transitory than consistent, and to be wholly lacking in providing for a patient’s health needs beyond just supplying him or her with marijuana.

A “primary caregiver” is an individual or facility that has “consistently assumed responsibility for the housing, health, or safety of a patient” over time. (Cal. H&S Code sec. 11362.5(e).) “Consistency” is the key to meeting this definition. A patient can elect to patronize any dispensary that he or she chooses. The patient can visit different dispensaries on a single day or any subsequent day. The statutory definition includes some clinics, health care facilities, residential care facilities, and hospices. But, in light of the holding in *People v. Mentch, supra*, to qualify as a primary caregiver, more aid to a person’s health must occur beyond merely dispensing marijuana to a given customer.

Additionally, if more than one patient designates the same person as the primary caregiver, all individuals must reside in the same city or county. And, in most circumstances the primary caregiver must be at least 18 years of age.

The courts have found that the act of signing a piece of paper declaring that someone is a primary caregiver does not necessarily make that person one. (*See People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1390: “One maintaining a source of marijuana supply, from which all members of the public qualified as permitted medicinal users may or may not discretionarily elect to make purchases, does not thereby become the party ‘who has consistently assumed responsibility for the housing, health, or safety’ of that purchaser as section 11362.5(e) requires.”)

The California Legislature had the opportunity to legalize the existence of dispensaries when setting forth what types of facilities could qualify as “primary caregivers.” Those included in the list clearly show the Legislature’s intent to restrict the definition to one involving a significant and long-term commitment to the patient’s health, safety, and welfare. The only facilities which the Legislature authorized to serve as “primary caregivers” are clinics, health care facilities, residential care facilities, home health agencies, and hospices which actually provide medical care or supportive services to qualified patients. (Cal. H&S Code sec. 11362.7(d)(1).) Any business that cannot prove that 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. Cooperatives and Collectives

According to the California Attorney General’s recently issued *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use*, unless they meet stringent requirements, dispensaries also cannot reasonably claim to be cooperatives or collectives. In passing the Medical Marijuana Program Act, the Legislature sought, in part, to enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation programs. (*People v. Urziceanu* (2005) 132 Cal.App.4th 747, 881.) The Act added section 11362.775, which provides that “Patients and caregivers who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions” for the crimes of marijuana possession, possession for sale, transportation, sale, furnishing, cultivation, and maintenance of places for storage, use, or distribution of marijuana. However, there is no authorization for any individual or group to cultivate or distribute marijuana for profit. (Cal. H&S Code sec. 11362.77(a).) If a dispensary is only a storefront distribution operation open to the general public, and there is no indication that it has been involved with growing or cultivating marijuana for the benefit of members as a non-profit enterprise, it will not qualify as a cooperative to exempt it from criminal penalties under California’s marijuana laws.

Further, 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.”²⁰ Marijuana businesses, of any kind, do not normally meet this legal definition.

Based on the foregoing, it is clear that virtually all marijuana dispensaries are not legal enterprises under either federal **or** state law.

LAWS IN OTHER STATES

Besides California, at the time of publication of this White Paper, thirteen other states have enacted medical marijuana laws on their books, whereby to some degree marijuana recommended or prescribed by a physician to a specified patient may be legally possessed. These states are Alaska, Colorado, Hawaii, Maine, Maryland, Michigan, Montana, Nevada, New Mexico, Oregon, Rhode Island, Vermont, and Washington. And, possession of marijuana under one ounce has now been decriminalized in Massachusetts.²¹

STOREFRONT MARIJUANA DISPENSARIES AND COOPERATIVES

Since the passage of the Compassionate Use Act of 1996, many storefront marijuana businesses have opened in California.²² Some are referred to as dispensaries, and 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.²³ 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.²⁴ These facilities are able to operate because they apply for and receive business licenses from cities and counties.

Federally, all existing storefront marijuana businesses are subject to search and closure since they violate federal law.²⁵ Their mere existence violates federal law. Consequently, they have no right to exist or operate, and arguably cities and counties in California have no authority to sanction them.

Similarly, in California there is no apparent authority for the existence of these storefront marijuana businesses. The Medical Marijuana Program Act of 2004 allows *patients* and *primary caregivers* to grow and cultivate marijuana, and no one else.²⁶ Although California 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 storefront 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.”²⁷ 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.²⁸ Clearly, it is doubtful that any of the storefront 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.

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 marijuana dispensary works.²⁹

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. Although employees are neither pharmacists nor doctors, sales clerks will probably make recommendations about what type of marijuana will best relieve a given medical symptom. 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 desired and is told what the “contribution” will be for the product. The California Health & Safety 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 available evidence, 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 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 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.”³⁰ 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 storefront 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.**”³¹ The key to being a primary caregiver is not simply that 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 storefront marijuana business’s relationship with a patient is most likely transitory. In order to provide a qualified patient with marijuana, a storefront 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 that person 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.

ADVERSE SECONDARY EFFECTS OF MARIJUANA DISPENSARIES AND SIMILARLY OPERATING COOPERATIVES

Of great concern are the adverse secondary effects of these dispensaries and storefront cooperatives. They are many. Besides flouting federal law by selling a prohibited Schedule I drug under the Controlled Substances Act, marijuana dispensaries attract or cause numerous ancillary social problems as byproducts of their operation. The most glaring of these are other criminal acts.

ANCILLARY CRIMES

A. ARMED ROBBERIES AND MURDERS

Throughout California, many violent crimes have been committed that can be traced to the proliferation of marijuana dispensaries. These include armed robberies and murders. For example, as far back as 2002, two home occupants were shot in Willits, California in the course of a home-invasion robbery targeting medical marijuana.³² And, a series of four armed robberies of a marijuana dispensary in Santa Barbara, California occurred through August 10, 2006, in which thirty dollars and fifteen baggies filled with marijuana on display were taken by force and removed from the premises in the latest holdup. The owner said he failed to report the first three robberies because “medical marijuana is such a controversial issue.”³³

On February 25, 2004, in Mendocino County two masked thugs 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 state prison.³⁴ And, on August 19, 2005, 18-year-old Demarco Lowrey was “shot in the stomach” and “bled to death” during a gunfight with the business owner when he and his friends attempted a takeover robbery of a storefront marijuana business in the City of San Leandro, California. The owner fought back with the hooded home invaders, and a gun battle ensued. Demarco Lowrey was hit by gunfire and “dumped outside the emergency entrance of Children’s Hospital Oakland” after the shootout.³⁵ He did not survive.³⁶

Near Hayward, California, on September 2, 2005, upon leaving a marijuana dispensary, a patron of the CCA Cannabis Club had a gun put to his head as he was relieved of over \$250 worth of pot. Three weeks later, another break-in occurred at the Garden of Eden Cannabis Club in September of 2005.³⁷

Another known marijuana-dispensary-related murder occurred on November 19, 2005. Approximately six gun- and bat-wielding burglars broke into Les Crane’s home in Laytonville, California while yelling, “This is a raid.” Les Crane, who owned two storefront marijuana businesses, was at home and shot to death. He received gunshot wounds to his head, arm, and abdomen.³⁸ Another man present at the time was beaten with a baseball bat. The murderers left the home after taking an unknown sum of U.S. currency and a stash of processed marijuana.³⁹

Then, on January 9, 2007, marijuana plant cultivator Rex Farrance was shot once in the chest and killed in his own home after four masked intruders broke in and demanded money. When the homeowner ran to fetch a firearm, he was shot dead. The robbers escaped with a small amount of

cash and handguns. Investigating officers counted 109 marijuana plants in various phases of cultivation inside the house, along with two digital scales and just under 4 pounds of cultivated marijuana.⁴⁰

More recently in Colorado, Ken Gorman, a former gubernatorial candidate and dispenser of marijuana who had been previously robbed over twelve times at his home in Denver, was found murdered by gunshot inside his home. He was a prominent proponent of medical marijuana and the legalization of marijuana.⁴¹

B. BURGLARIES

In June of 2007, after two burglarizing youths in Bellflower, California were caught by the homeowner trying to steal the fruits of his indoor marijuana grow, he shot one who was running away, and killed him.⁴² And, again in January of 2007, Claremont Councilman Corey Calaycay went on record calling marijuana dispensaries “crime magnets” after a burglary occurred in one in Claremont, California.⁴³

On July 17, 2006, the El Cerrito City Council voted to ban all such marijuana facilities. It did so after reviewing a nineteen-page report that detailed a rise in crime near these storefront dispensaries in other cities. The crimes included robberies, assaults, burglaries, murders, and attempted murders.⁴⁴ Even though marijuana storefront businesses do not currently exist in the City of Monterey Park, California, it issued a moratorium on them after studying the issue in August of 2006.⁴⁵ After allowing these establishments to operate within its borders, the City of West Hollywood, California 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”⁴⁶

C. TRAFFIC, NOISE, AND DRUG DEALING

Increased noise and pedestrian traffic, including nonresidents in pursuit of marijuana, and out of area criminals in search of prey, are commonly encountered just outside marijuana dispensaries,⁴⁷ as well as drug-related offenses in the vicinity—like resales of products just obtained inside—since these marijuana centers regularly attract marijuana growers, drug users, and drug traffickers.⁴⁸ Sharing just purchased marijuana outside dispensaries also regularly takes place.⁴⁹

Rather than the “seriously ill,” for whom medical marijuana was expressly intended,⁵⁰ “‘perfectly healthy’ young people frequenting dispensaries” are a much more common sight.⁵¹ Patient records seized by law enforcement officers from dispensaries during raids in San Diego County, California in December of 2005 “showed that 72 percent of patients were between 17 and 40 years old”⁵² Said one admitted marijuana trafficker, “The people I deal with are the same faces I was dealing with 12 years ago but now, because of Senate Bill 420, they are supposedly legit. I can totally see why cops are bummed.”⁵³

Reportedly, a security guard sold half a pound of marijuana to an undercover officer just outside a dispensary in Morro Bay, California.⁵⁴ And, the mere presence of marijuana dispensaries encourages illegal growers to plant, cultivate, and transport ever more marijuana, in order to supply and sell their crops to these storefront operators in the thriving medical marijuana dispensary market, so that the national domestic marijuana yield has been estimated to be 35.8 billion dollars, of which a 13.8 billion dollar share is California grown.⁵⁵ It is a big business. And, although the operators of some dispensaries will claim that they only accept monetary contributions for the products they

dispense, and do not sell marijuana, a patron will not receive any marijuana until an amount of money acceptable to the dispensary has changed hands.

D. ORGANIZED CRIME, MONEY LAUNDERING, AND FIREARMS VIOLATIONS

Increasingly, reports have been surfacing about organized crime involvement in the ownership and operation of marijuana dispensaries, including Asian and other criminal street gangs and at least one member of the Armenian Mafia.⁵⁶ The dispensaries or “pot clubs” are often used as a front by organized crime gangs to traffic in drugs and launder money. One such gang whose territory included San Francisco and Oakland, California reportedly ran a multi-million dollar business operating ten warehouses in which vast amounts of marijuana plants were grown.⁵⁷ Besides seizing over 9,000 marijuana plants during surprise raids on this criminal enterprise’s storage facilities, federal officers also confiscated three firearms,⁵⁸ which seem to go hand in hand with medical marijuana cultivation and dispensaries.⁵⁹

Marijuana storefront businesses have allowed criminals to flourish in California. In the summer of 2007, the City of San Diego cooperated with federal authorities and served search warrants on several marijuana dispensary locations. In addition to marijuana, many weapons were recovered, including a stolen handgun and an M-16 assault rifle.⁶⁰ 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.⁶¹ Active Asian gangs have included members of Vietnamese organized crime syndicates who have migrated from Canada to buy homes throughout the United States to use as grow houses.⁶²

Some or all of the processed harvest of marijuana plants nurtured in these homes then wind up at storefront marijuana dispensaries owned and operated by these gangs. Storefront marijuana businesses are very dangerous enterprises that thrive on ancillary grow operations.

Besides fueling marijuana dispensaries, some monetary proceeds from the sale of harvested marijuana derived from plants grown inside houses are being used by organized crime syndicates to fund other legitimate businesses for profit and the laundering of money, and to conduct illegal business operations like prostitution, extortion, and drug trafficking.⁶³ Money from residential grow operations is also sometimes traded by criminal gang members for firearms, and used to buy drugs, personal vehicles, and additional houses for more grow operations,⁶⁴ and along with the illegal income derived from large-scale organized crime-related marijuana production operations comes widespread income tax evasion.⁶⁵

E. POISONINGS

Another social problem somewhat unique to marijuana dispensaries is poisonings, both intentional and unintentional. On August 16, 2006, the Los Angeles Police Department received two such reports. One involved a security guard who ate a piece of cake extended to him from an operator of a marijuana clinic as a “gift,” and soon afterward felt dizzy and disoriented.⁶⁶ The second incident concerned a UPS driver who experienced similar symptoms after accepting and eating a cookie given to him by an operator of a different marijuana clinic.⁶⁷

OTHER ADVERSE SECONDARY IMPACTS IN THE IMMEDIATE VICINITY OF DISPENSARIES

Other adverse secondary impacts from the operation of marijuana dispensaries include street dealers lurking about dispensaries to offer a lower price for marijuana to arriving patrons; marijuana smoking in public and in front of children in the vicinity of dispensaries; loitering and nuisances; acquiring marijuana and/or money by means of robbery of patrons going to or leaving dispensaries; an increase in burglaries at or near dispensaries; a loss of trade for other commercial businesses located near dispensaries; the sale at dispensaries of other illegal drugs besides marijuana; an increase in traffic accidents and driving under the influence arrests in which marijuana is implicated; and the failure of marijuana dispensary operators to report robberies to police.⁶⁸

SECONDARY ADVERSE IMPACTS IN THE COMMUNITY AT LARGE

A. UNJUSTIFIED AND FICTITIOUS PHYSICIAN RECOMMENDATIONS

California's legal requirement under California Health and Safety Code section 11362.5 that a physician's recommendation is required for a patient or caregiver to possess medical marijuana has resulted in other undesirable outcomes: wholesale issuance of recommendations by unscrupulous physicians seeking a quick buck, and the proliferation of forged or fictitious physician recommendations. Some doctors link up with a marijuana dispensary and take up temporary residence in a local hotel room where they advertise their appearance in advance, and pass out medical marijuana use recommendations to a line of "patients" at "about \$150 a pop."⁶⁹ Other individuals just make up their own phony doctor recommendations,⁷⁰ which are seldom, if ever, scrutinized by dispensary employees for authenticity. Undercover DEA agents sporting fake medical marijuana recommendations were readily able to purchase marijuana from a clinic.⁷¹ Far too often, California's medical marijuana law is used as a smokescreen for healthy pot users to get their desired drug, and for proprietors of marijuana dispensaries to make money off them, without suffering any legal repercussions.⁷²

On March 11, 2009, the Osteopathic Medical Board of California adopted the proposed decision revoking Dr. Alfonso Jimenez's Osteopathic Physician's and Surgeon's Certificate and ordering him to pay \$74,323.39 in cost recovery. Dr. Jimenez operated multiple marijuana clinics and advertised his services extensively on the Internet. Based on information obtained from raids on marijuana dispensaries in San Diego, in May of 2006, the San Diego Police Department ran two undercover operations on Dr. Jimenez's clinic in San Diego. In January of 2007, a second undercover operation was conducted by the Laguna Beach Police Department at Dr. Jimenez's clinic in Orange County. Based on the results of the undercover operations, the Osteopathic Medical Board charged Dr. Jimenez with gross negligence and repeated negligent acts in the treatment of undercover operatives posing as patients. After a six-day hearing, the Administrative Law Judge (ALJ) issued her decision finding that Dr. Jimenez violated the standard of care by committing gross negligence and repeated negligence in care, treatment, and management of patients when he, among other things, issued medical marijuana recommendations to the undercover agents without conducting adequate medical examinations, failed to gain proper informed consent, and failed to consult with any primary care and/or treating physicians or obtain and review prior medical records before issuing medical marijuana recommendations. The ALJ also found Dr. Jimenez engaged in dishonest behavior by preparing false and/or misleading medical records and disseminating false and misleading advertising to the public, including representing himself as a "Cannabis Specialist" and "Qualified Medical Marijuana Examiner" when no such formal specialty or qualification existed. Absent any

requested administrative agency reconsideration or petition for court review, the decision was to become effective April 24, 2009.

B. PROLIFERATION OF GROW HOUSES IN RESIDENTIAL AREAS

In recent years the proliferation of grow houses in residential neighborhoods has exploded. This phenomenon is country wide, and ranges from the purchase for purpose of marijuana grow operations of small dwellings to “high priced McMansions”⁷³ Mushrooming residential marijuana grow operations have been detected in California, Connecticut, Florida, Georgia, New Hampshire, North Carolina, Ohio, South Carolina, and Texas.⁷⁴ In 2007 alone, such illegal operations were detected and shut down by federal and state law enforcement officials in 41 houses in California, 50 homes in Florida, and 11 homes in New Hampshire.⁷⁵ Since then, the number of residences discovered to be so impacted has increased exponentially. Part of this recent influx of illicit residential grow operations is because the “THC-rich ‘B.C. bud’ strain” of marijuana originally produced in British Columbia “can be grown only in controlled indoor environments,” and the Canadian market is now reportedly saturated with the product of “competing Canadian gangs,” often Asian in composition or outlaw motorcycle gangs like the Hells Angels.⁷⁶ Typically, a gutted house can hold about 1,000 plants that will each yield almost half a pound of smokable marijuana; this collectively nets about 500 pounds of usable marijuana per harvest, with an average of three to four harvests per year.⁷⁷ With a street value of \$3,000 to \$5,000 per pound” for high-potency marijuana, and such multiple harvests, “a successful grow house can bring in between \$4.5 million and \$10 million a year”⁷⁸ The high potency of hydroponically grown marijuana can command a price as much as six times higher than commercial grade marijuana.⁷⁹

C. LIFE SAFETY HAZARDS CREATED BY GROW HOUSES

In Humboldt County, California, structure fires caused by unsafe indoor marijuana grow operations have become commonplace. The city of Arcata, which sports four marijuana dispensaries, was the site of a house fire in which a fan had fallen over and ignited a fire; it had been turned into a grow house by its tenant. Per Arcata Police Chief Randy Mendosa, altered and makeshift “no code” electrical service connections and overloaded wires used to operate high-powered grow lights and fans are common causes of the fires. Large indoor marijuana growing operations can create such excessive draws of electricity that PG&E power pole transformers are commonly blown. An average 1,500-square-foot tract house used for growing marijuana can generate monthly electrical bills from \$1,000 to \$3,000 per month. From an environmental standpoint, the carbon footprint from greenhouse gas emissions created by large indoor marijuana grow operations should be a major concern for every community in terms of complying with Air Board AB-32 regulations, as well as other greenhouse gas reduction policies. Typically, air vents are cut into roofs, water seeps into carpeting, windows are blacked out, holes are cut in floors, wiring is jury-rigged, and electrical circuits are overloaded to operate grow lights and other apparatus. When fires start, they spread quickly.

The May 31, 2008 edition of the *Los Angeles Times* reported, “Law enforcement officials estimate that as many as 1,000 of the 7,500 homes in this Humboldt County community are being used to cultivate marijuana, slashing into the housing stock, spreading building-safety problems and sowing neighborhood discord.” Not surprisingly, in this bastion of liberal pot possession rules that authorized the cultivation of up to 99 plants for medicinal purpose, most structural fires in the community of Arcata have been of late associated with marijuana cultivation.⁸⁰ Chief of Police Mendosa clarified that the actual number of marijuana grow houses in Arcata has been an ongoing subject of public debate. Mendosa added, “We know there are numerous grow houses in almost every neighborhood in and around the city, which has been the source of constant citizen complaints.” House fires caused by

grower-installed makeshift electrical wiring or tipped electrical fans are now endemic to Humboldt County.⁸¹

Chief Mendosa also observed that since marijuana has an illicit street value of up to \$3,000 per pound, marijuana grow houses have been susceptible to violent armed home invasion robberies. Large-scale marijuana grow houses have removed significant numbers of affordable houses from the residential rental market. When property owners discover their rentals are being used as grow houses, the residences are often left with major structural damage, which includes air vents cut into roofs and floors, water damage to floors and walls, and mold. The June 9, 2008 edition of the *New York Times* shows an unidentified Arcata man tending his indoor grow; the man claimed he can make \$25,000 every three months by selling marijuana grown in the bedroom of his rented house.⁸² Claims of ostensible medical marijuana growing pursuant to California's medical marijuana laws are being advanced as a mostly false shield in an attempt to justify such illicit operations.

Neither is fire an uncommon occurrence at grow houses elsewhere across the nation. Another occurred not long ago in Holiday, Florida.⁸³ To compound matters further, escape routes for firefighters are often obstructed by blocked windows in grow houses, electric wiring is tampered with to steal electricity, and some residences are even booby-trapped to discourage and repel unwanted intruders.⁸⁴

D. INCREASED ORGANIZED GANG ACTIVITIES

Along with marijuana dispensaries and the grow operations to support them come members of organized criminal gangs to operate and profit from them. Members of an ethnic Chinese drug gang were discovered to have operated 50 indoor grow operations in the San Francisco Bay area, while Cuban-American crime organizations have been found to be operating grow houses in Florida and elsewhere in the South. A Vietnamese drug ring was caught operating 19 grow houses in Seattle and Puget Sound, Washington.⁸⁵ In July of 2008, over 55 Asian gang members were indicted for narcotics trafficking in marijuana and ecstasy, including members of the Hop Sing Gang that had been actively operating marijuana grow operations in Elk Grove and elsewhere in the vicinity of Sacramento, California.⁸⁶

E. EXPOSURE OF MINORS TO MARIJUANA

Minors who are exposed to marijuana at dispensaries or residences where marijuana plants are grown may be subtly influenced to regard it as a generally legal drug, and inclined to sample it. In grow houses, children are exposed to dangerous fire and health conditions that are inherent in indoor grow operations.⁸⁷ Dispensaries also sell marijuana to minors.⁸⁸

F. IMPAIRED PUBLIC HEALTH

Indoor marijuana grow operations emit a skunk-like odor,⁸⁹ and foster generally unhealthy conditions like allowing chemicals and fertilizers to be placed in the open, an increased carbon dioxide level within the grow house, and the accumulation of mold,⁹⁰ all of which are dangerous to any children or adults who may be living in the residence,⁹¹ although many grow houses are uninhabited.

G. LOSS OF BUSINESS TAX REVENUE

When business suffers as a result of shoppers staying away on account of traffic, blight, crime, and the undesirability of a particular business district known to be frequented by drug users and traffickers, and organized criminal gang members, a city's tax revenues necessarily drop as a direct consequence.

H. DECREASED QUALITY OF LIFE IN DETERIORATING NEIGHBORHOODS, BOTH BUSINESS AND RESIDENTIAL

Marijuana dispensaries bring in the criminal element and loiterers, which in turn scare off potential business patrons of nearby legitimate businesses, causing loss of revenues and deterioration of the affected business district. Likewise, empty homes used as grow houses emit noxious odors in residential neighborhoods, project irritating sounds of whirring fans,⁹² and promote the din of vehicles coming and going at all hours of the day and night. Near harvest time, rival growers and other uninvited enterprising criminals sometimes invade grow houses to beat "clip crews" to the site and rip off mature plants ready for harvesting. As a result, violence often erupts from confrontations in the affected residential neighborhood.⁹³

ULTIMATE CONCLUSIONS REGARDING ADVERSE SECONDARY EFFECTS

On balance, any utility to medical marijuana patients in care giving and convenience that marijuana dispensaries may appear to have on the surface is enormously outweighed by a much darker reality that is punctuated by the many adverse secondary effects created by their presence in communities, recounted here. These drug distribution centers have even proven to be unsafe for their own proprietors.

POSSIBLE LOCAL GOVERNMENTAL RESPONSES TO MARIJUANA DISPENSARIES

A. IMPOSED MORATORIA BY ELECTED LOCAL GOVERNMENTAL OFFICIALS

While in the process of investigating and researching the issue of licensing marijuana dispensaries, as an interim measure city councils may enact date-specific moratoria that expressly prohibit the presence of marijuana dispensaries, whether for medical use or otherwise, and prohibiting the sale of marijuana in any form on such premises, anywhere within the incorporated boundaries of the city until a specified date. Before such a moratorium's date of expiration, the moratorium may then either be extended or a city ordinance enacted completely prohibiting or otherwise restricting the establishment and operation of marijuana dispensaries, and the sale of all marijuana products on such premises.

County supervisors can do the same with respect to marijuana dispensaries sought to be established within the unincorporated areas of a county. Approximately 80 California cities, including the cities of Antioch, Brentwood, Oakley, Pinole, and Pleasant Hill, and 6 counties, including Contra Costa County, have enacted moratoria banning the existence of marijuana dispensaries. In a novel approach, the City of Arcata issued a moratorium on any new dispensaries in the downtown area, based on no agricultural activities being permitted to occur there.⁹⁴

B. IMPOSED BANS BY ELECTED LOCAL GOVERNMENTAL OFFICIALS

While the Compassionate Use Act of 1996 permits seriously ill persons to legally obtain and use marijuana for medical purposes upon a physician's recommendation, it is silent on marijuana dispensaries and does not expressly authorize the sale of marijuana to patients or primary caregivers.

Neither Proposition 215 nor Senate Bill 420 specifically authorizes the dispensing of marijuana in any form from a storefront business. And, no state statute presently exists that expressly permits the licensing or operation of marijuana dispensaries.⁹⁵ Consequently, approximately 39 California cities, including the Cities of Concord and San Pablo, and 2 counties have prohibited marijuana dispensaries within their respective geographical boundaries, while approximately 24 cities, including the City of Martinez, and 7 counties have allowed such dispensaries to do business within their jurisdictions. Even the complete prohibition of marijuana dispensaries within a given locale cannot be found to run afoul of current California law with respect to permitted use of marijuana for medicinal purposes, so long as the growing or use of medical marijuana by a city or county resident in conformance with state law is not proscribed.⁹⁶

In November of 2004, the City of Brampton in Ontario, Canada passed The Grow House Abatement By-law, which authorized the city council to appoint inspectors and local police officers to inspect suspected grow houses and render safe hydro meters, unsafe wiring, booby traps, and any violation of the Fire Code or Building Code, and remove discovered controlled substances and ancillary equipment designed to grow and manufacture such substances, at the involved homeowner's cost.⁹⁷ And, after state legislators became appalled at the proliferation of for-profit residential grow operations, the State of Florida passed the Marijuana Grow House Eradication act (House Bill 173) in June of 2008. The governor signed this bill into law, making owning a house for the purpose of cultivating, packaging, and distributing marijuana a third-degree felony; growing 25 or more marijuana plants a second-degree felony; and growing "25 or more marijuana plants in a home with children present" a first-degree felony.⁹⁸ It has been estimated that approximately 17,500 marijuana grow operations were active in late 2007.⁹⁹ To avoid becoming a dumping ground for organized crime syndicates who decide to move their illegal grow operations to a more receptive legislative environment, California and other states might be wise to quickly follow suit with similar bills, for it may already be happening.¹⁰⁰

C. IMPOSED RESTRICTED ZONING AND OTHER REGULATION BY ELECTED LOCAL GOVERNMENTAL OFFICIALS

If so inclined, rather than completely prohibit marijuana dispensaries, through their zoning power city and county officials have the authority to restrict owner operators to locate and operate so-called "medical marijuana dispensaries" in prescribed geographical areas of a city or designated unincorporated areas of a county, and require them to meet prescribed licensing requirements before being allowed to do so. This is a risky course of action though for would-be dispensary operators, and perhaps lawmakers too, since federal authorities do not recognize any lawful right for the sale, purchase, or use of marijuana for medical use or otherwise anywhere in the United States, including California. Other cities and counties have included as a condition of licensure for dispensaries that the operator shall "violate no federal or state law," which puts any applicant in a "Catch-22" situation since to federal authorities any possession or sale of marijuana is automatically a violation of federal law.

Still other municipalities have recently enacted or revised comprehensive ordinances that address a variety of medical marijuana issues. For example, according to the City of Arcata Community

Development Department in Arcata, California, in response to constant citizen complaints from what had become an extremely serious community problem, the Arcata City Council revised its Land Use Standards for Medical Marijuana Cultivation and Dispensing. In December of 2008, City of Arcata Ordinance #1382 was enacted. It includes the following provisions:

“Categories:

1. Personal Use
2. Cooperatives or Collectives

Medical Marijuana for Personal Use: An individual qualified patient shall be allowed to cultivate medical marijuana within his/her private residence in conformance with the following standards:

1. Cultivation area shall not exceed 50 square feet and not exceed ten feet (10') in height.
 - a. Cultivation lighting shall not exceed 1200 watts;
 - b. Gas products (CO₂, butane, etc.) for medical marijuana cultivation or processing is prohibited.
 - c. Cultivation and sale is prohibited as a Home Occupation (sale or dispensing is prohibited).
 - d. Qualified patient shall reside in the residence where the medical marijuana cultivation occurs;
 - e. Qualified patient shall not participate in medical marijuana cultivation in any other residence.
 - f. Residence kitchen, bathrooms, and primary bedrooms shall not be used primarily for medical marijuana cultivation;
 - g. Cultivation area shall comply with the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation.
 - h. The medical marijuana cultivation area shall not adversely affect the health or safety of the nearby residents.
2. City Zoning Administrator may approve up to 100 square foot:
 - a. Documentation showing why the 50 square foot cultivation area standard is not feasible.
 - b. Include written permission from the property owner.
 - c. City Building Official must inspect for California Building Code and Fire Code.
 - d. At a minimum, the medical marijuana cultivation area shall be constructed with a 1-hour firewall assembly of green board.
 - e. Cultivation of medical marijuana for personal use is limited to detached single family residential properties, or the medical marijuana cultivation area shall be limited to a garage or self-contained outside accessory building that is secured, locked, and fully enclosed.

Medical Marijuana Cooperatives or Collectives.

1. Allowed with a Conditional Use Permit.
2. In Commercial, Industrial, and Public Facility Zoning Districts.
3. Business form must be a cooperative or collective.
4. Existing cooperative or collective shall be in full compliance within one year.
5. Total number of medical marijuana cooperatives or collectives is limited to four and ultimately two.
6. Special consideration if located within
 - a. A 300 foot radius from any existing residential zoning district,
 - b. Within 500 feet of any other medical marijuana cooperative or collective.

- c. Within 500 feet from any existing public park, playground, day care, or school.
7. Source of medical marijuana.
- a. Permitted Cooperative or Collective. On-site medical marijuana cultivation shall not exceed twenty-five (25) percent of the total floor area, but in no case greater than 1,500 square feet and not exceed ten feet (10') in height.
 - b. Off-site Permitted Cultivation. Use Permit application and be updated annually.
 - c. Qualified Patients. Medical marijuana acquired from an individual qualified patient shall received no monetary remittance, and the qualified patient is a member of the medical marijuana cooperative or collective. Collective or cooperative may credit its members for medical marijuana provided to the collective or cooperative, which they may allocate to other members.
8. Operations Manual at a minimum include the following information:
- a. Staff screening process including appropriate background checks.
 - b. Operating hours.
 - c. Site, floor plan of the facility.
 - d. Security measures located on the premises, including but not limited to, lighting, alarms, and automatic law enforcement notification.
 - e. Screening, registration and validation process for qualified patients.
 - f. Qualified patient records acquisition and retention procedures.
 - g. Process for tracking medical marijuana quantities and inventory controls including on-site cultivation, processing, and/or medical marijuana products received from outside sources.
 - h. Measures taken to minimize or offset energy use from the cultivation or processing of medical marijuana.
 - i. Chemicals stored, used and any effluent discharged into the City's wastewater and/or storm water system.
9. Operating Standards.
- a. No dispensing medical marijuana more than twice a day.
 - b. Dispense to an individual qualified patient who has a valid, verified physician's recommendation. The medical marijuana cooperative or collective shall verify that the physician's recommendation is current and valid.
 - c. Display the client rules and/or regulations at each building entrance.
 - d. Smoking, ingesting or consuming medical marijuana on the premises or in the vicinity is prohibited.
 - e. Persons under the age of eighteen (18) are precluded from entering the premises.
 - f. No on-site display of marijuana plants.
 - g. No distribution of live plants, starts and clones on through Use Permit.
 - h. Permit the on-site display or sale of marijuana paraphernalia only through the Use Permit.
 - i. Maintain all necessary permits, and pay all appropriate taxes. Medical marijuana cooperatives or collectives shall also provide invoices to vendors to ensure vendor's tax liability responsibility;
 - j. Submit an "Annual Performance Review Report" which is intended to identify effectiveness of the approved Use Permit, Operations Manual, and Conditions of Approval, as well as the identification and implementation of additional procedures as deemed necessary.
 - k. Monitoring review fees shall accompany the "Annual Performance Review Report" for costs associated with the review and approval of the report.
10. Permit Revocation or Modification. A use permit may be revoked or modified for non-compliance with one or more of the items described above."

LIABILITY ISSUES

With respect to issuing business licenses to marijuana storefront 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 could be applied to counties and cities allowing 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 marijuana business are subject to federal prosecution. When an individual in California cultivates, possesses, transports, or uses marijuana, he or she is committing a federal crime.

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

This very problem is why some counties are re-thinking the presence of 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 storefront marijuana businesses to operate within their borders, San Diego and San Bernardino Counties filed consolidated lawsuits against the state seeking to prevent the State of California from enforcing its medical marijuana statutes which potentially subject them to criminal liability, and squarely asserting that California medical marijuana laws are preempted by federal law in this area. After California's medical marijuana laws were all upheld at the trial level, California's Fourth District Court of Appeal found that the State of California could mandate counties to adopt and enforce a voluntary medical marijuana identification card system, and the appellate court bypassed the preemption issue by finding that San Diego and San Bernardino Counties lacked standing to raise this challenge to California's medical marijuana laws. Following this state appellate court decision, independent petitions for review filed by the two counties were both denied by the California Supreme Court.

Largely because of the quandary that county and city peace officers in California face in the field when confronted with alleged medical marijuana with respect to enforcement of the total federal criminal prohibition of all marijuana, and state exemption from criminal penalties for medical marijuana users and caregivers, petitions for a writ of certiorari were then separately filed by the two counties seeking review of this decision by the United States Supreme Court in the consolidated cases of *County of San Diego, County of San Bernardino, and Gary Penrod, as Sheriff of the County of San Bernardino v. San Diego Norml, State of California, and Sandra Shewry, Director of the California Department of Health Services in her official capacity*, Ct.App. Case No. D-5-333.) The High Court has requested the State of California and other interested parties to file responsive briefs to the two counties' and Sheriff Penrod's writ petitions before it decides whether to grant or deny review of these consolidated cases. The petitioners would then be entitled to file a reply to any filed response. It is anticipated that the U.S. Supreme Court will formally grant or deny review of these consolidated cases in late April or early May of 2009.

In another case, *City of Garden Grove v. Superior Court* (2007) 157 Cal.App.4th 355, although the federal preemption issue was not squarely raised or addressed in its decision, California's Fourth District Court of Appeal found that public policy considerations allowed a city standing to challenge a state trial court's order directing the return by a city police department of seized medical marijuana to a person determined to be a patient. After the court-ordered return of this federally banned substance was upheld at the intermediate appellate level, and not accepted for review by the California Supreme Court, a petition for a writ of certiorari was filed by the City of Garden Grove to the U.S. Supreme Court to consider and reverse the state appellate court decision. But, that petition was also denied. However, the case of *People v. Kelly* (2008) 163 Cal.App.4th 124—in which a successful challenge was made to California's Medical Marijuana Program's maximum amounts of marijuana and marijuana plants permitted to be possessed by medical marijuana patients (Cal. H&S Code sec. 11362.77 *et seq.*), which limits were found at the court of appeal level to be without legal authority for the state to impose—has been accepted for review by the California Supreme Court on the issue of whether this law was an improper amendment to Proposition 215's Compassionate Use Act of 1996.

A SAMPLING OF EXPERIENCES WITH MARIJUANA DISPENSARIES

1. MARIJUANA DISPENSARIES-THE SAN DIEGO STORY

After the passage of Proposition 215 in 1996, law enforcement agency representatives in San Diego, California met many times to formulate a comprehensive strategy of how to deal with cases that may arise out of the new law. In the end it was decided to handle the matters on a case-by-case basis. In addition, questionnaires were developed for patient, caregiver, and physician interviews. At times patients without sales indicia but large grows were interviewed and their medical records reviewed in making issuing decisions. In other cases where sales indicia and amounts supported a finding of sales the cases were pursued. At most, two cases a month were brought for felony prosecution.

In 2003, San Diego County's newly elected District Attorney publicly supported Prop. 215 and wanted her newly created Narcotics Division to design procedures to ensure patients were not caught up in case prosecutions. As many already know, law enforcement officers rarely arrest or seek prosecution of a patient who merely possesses personal use amounts. Rather, it is those who have sales amounts in product or cultivation who are prosecuted. For the next two years the District Attorney's Office proceeded as it had before. But, on the cases where the patient had too many plants or product but not much else to show sales—the DDAs assigned to review the case would interview and listen to input to respect the patient's and the DA's position. Some cases were rejected and others issued but the case disposition was often generous and reflected a "sin no more" view.

All of this changed after the passage of SB 420. The activists and pro-marijuana folks started to push the envelope. Dispensaries began to open for business and physicians started to advertise their availability to issue recommendations for the purchase of medical marijuana. By spring of 2005 the first couple of dispensaries opened up—but they were discrete. This would soon change. By that summer, 7 to 10 dispensaries were open for business, and they were selling marijuana openly. In fact, the local police department was doing a small buy/walk project and one of its target dealers said he was out of pot but would go get some from the dispensary to sell to the undercover officer (UC); he did. It was the proliferation of dispensaries and ancillary crimes that prompted the San Diego Police Chief (the Chief was a Prop. 215 supporter who sparred with the Fresno DEA in his prior job over this issue) to authorize his officers to assist DEA.

The Investigation

San Diego DEA and its local task force (NTF) sought assistance from the DA's Office as well as the U.S. Attorney's Office. Though empathetic about being willing to assist, the DA's Office was not sure how prosecutions would fare under the provisions of SB 420. The U.S. Attorney had the easier road but was noncommittal. After several meetings it was decided that law enforcement would work on using undercover operatives (UCs) to buy, so law enforcement could see exactly what was happening in the dispensaries.

The investigation was initiated in December of 2005, after NTF received numerous citizen complaints regarding the crime and traffic associated with "medical marijuana dispensaries." The City of San Diego also saw an increase in crime related to the marijuana dispensaries. By then approximately 20 marijuana dispensaries had opened and were operating in San Diego County, and investigations on 15 of these dispensaries were initiated.

During the investigation, NTF learned that all of the business owners were involved in the transportation and distribution of large quantities of marijuana, marijuana derivatives, and marijuana food products. In addition, several owners were involved in the cultivation of high grade marijuana. The business owners were making significant profits from the sale of these products and not properly reporting this income.

Undercover Task Force Officers (TFO's) and SDPD Detectives were utilized to purchase marijuana and marijuana food products from these businesses. In December of 2005, thirteen state search warrants were executed at businesses and residences of several owners. Two additional follow-up search warrants and a consent search were executed the same day. Approximately 977 marijuana plants from seven indoor marijuana grows, 564.88 kilograms of marijuana and marijuana food products, one gun, and over \$58,000 U.S. currency were seized. There were six arrests made during the execution of these search warrants for various violations, including outstanding warrants, possession of marijuana for sale, possession of psilocybin mushrooms, obstructing a police officer, and weapons violations. However, the owners and clerks were not arrested or prosecuted at this time—just those who showed up with weapons or product to sell.

Given the fact most owners could claim mistake of law as to selling (though not a legitimate defense, it could be a jury nullification defense) the DA's Office decided not to file cases at that time. It was hoped that the dispensaries would feel San Diego was hostile ground and they would do business elsewhere. Unfortunately this was not the case. Over the next few months seven of the previously targeted dispensaries opened, as well as a slew of others. Clearly prosecutions would be necessary.

To gear up for the re-opened and new dispensaries prosecutors reviewed the evidence and sought a second round of UC buys wherein the UC would be buying for themselves and they would have a second UC present at the time acting as UC1's caregiver who also would buy. This was designed to show the dispensary was not the caregiver. There is no authority in the law for organizations to act as primary caregivers. Caregivers must be individuals who care for a marijuana patient. A primary caregiver is defined by Proposition 215, as codified in H&S Code section 11362.5(e), as, "For the purposes of this section, 'primary caregiver' means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person." The goal was to show that the stores were only selling marijuana, and not providing care for the hundreds who bought from them.

In addition to the caregiver-controlled buys, another aim was to put the whole matter in perspective for the media and the public by going over the data that was found in the raided dispensary records, as well as the crime statistics. An analysis of the December 2005 dispensary records showed a breakdown of the purported illness and youthful nature of the patients. The charts and other PR aspects played out after the second take down in July of 2006.

The final attack was to reveal the doctors (the gatekeepers for medical marijuana) for the fraud they were committing. UCs from the local PD went in and taped the encounters to show that the pot docs did not examine the patients and did not render care at all; rather they merely sold a medical MJ recommendation whose duration depended upon the amount of money paid.

In April of 2006, two state and two federal search warrants were executed at a residence and storage warehouse utilized to cultivate marijuana. Approximately 347 marijuana plants, over 21 kilograms of marijuana, and \$2,855 U.S. currency were seized.

Due to the pressure from the public, the United States Attorney's Office agreed to prosecute the owners of the businesses with large indoor marijuana grows and believed to be involved in money laundering activities. The District Attorney's Office agreed to prosecute the owners in the other investigations.

In June of 2006, a Federal Grand Jury indicted six owners for violations of Title 21 USC, sections 846 and 841(a)(1), Conspiracy to Distribute Marijuana; sections 846 and 841(a), Conspiracy to Manufacture Marijuana; and Title 18 USC, Section 2, Aiding and Abetting.

In July of 2006, 11 state and 11 federal search warrants were executed at businesses and residences associated with members of these businesses. The execution of these search warrants resulted in the arrest of 19 people, seizure of over \$190,000 in U.S. currency and other assets, four handguns, one rifle, 405 marijuana plants from seven grows, and over 329 kilograms of marijuana and marijuana food products.

Following the search warrants, two businesses reopened. An additional search warrant and consent search were executed at these respective locations. Approximately 20 kilograms of marijuana and 32 marijuana plants were seized.

As a result, all but two of the individuals arrested on state charges have pled guilty. Several have already been sentenced and a few are still awaiting sentencing. All of the individuals indicted federally have also pled guilty and are awaiting sentencing.

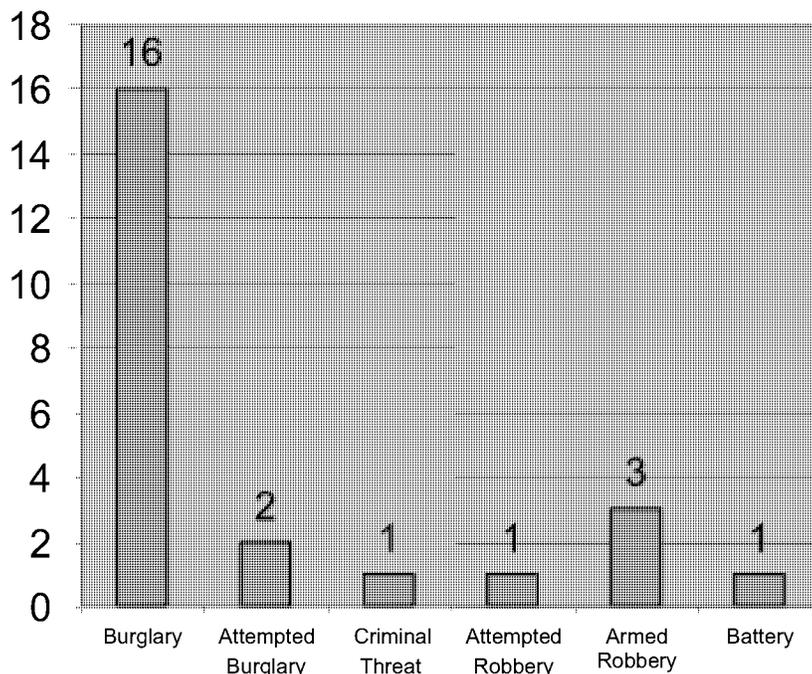
After the July 2006 search warrants a joint press conference was held with the U.S. Attorney and District Attorney, during which copies of a complaint to the medical board, photos of the food products which were marketed to children, and the charts shown below were provided to the media.

Directly after these several combined actions, there were no marijuana distribution businesses operating in San Diego County. Law enforcement agencies in the San Diego region have been able to successfully dismantle these businesses and prosecute the owners. As a result, medical marijuana advocates have staged a number of protests demanding DEA allow the distribution of marijuana. The closure of these businesses has reduced crime in the surrounding areas.

The execution of search warrants at these businesses sent a powerful message to other individuals operating marijuana distribution businesses that they are in violation of both federal law **and** California law.

Press Materials:

**Reported Crime at Marijuana Dispensaries
From January 1, 2005 through June 23, 2006**



Information showing the dispensaries attracted crime:

The marijuana dispensaries were targets of violent crimes because of the amount of marijuana, currency, and other contraband stored inside the businesses. From January 1, 2005 through June 23, 2006, 24 violent crimes were reported at marijuana dispensaries. An analysis of financial records seized from the marijuana dispensaries showed several dispensaries were grossing over \$300,000 per month from selling marijuana and marijuana food products. The majority of customers purchased marijuana with cash.

Crime statistics inadequately reflect the actual number of crimes committed at the marijuana dispensaries. These businesses were often victims of robberies and burglaries, but did not report the crimes to law enforcement on account of fear of being arrested for possession of marijuana in excess of Prop. 215 guidelines. NTF and the San Diego Police Department (SDPD) received numerous citizen complaints regarding every dispensary operating in San Diego County.

Because the complaints were received by various individuals, the exact number of complaints was not recorded. The following were typical complaints received:

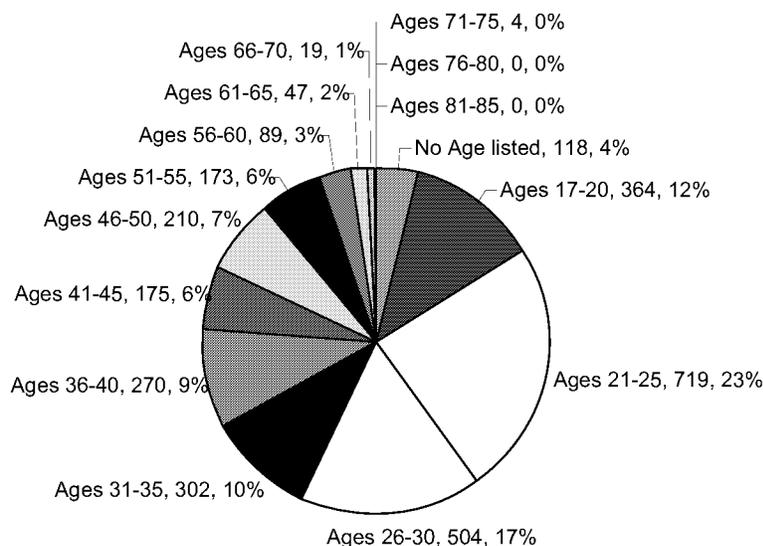
- high levels of traffic going to and from the dispensaries
- people loitering in the parking lot of the dispensaries
- people smoking marijuana in the parking lot of the dispensaries

- vandalism near dispensaries
- threats made by dispensary employees to employees of other businesses
- citizens worried they may become a victim of crime because of their proximity to dispensaries

In addition, the following observations (from citizen activists assisting in data gathering) were made about the marijuana dispensaries:

- Identification was not requested for individuals who looked under age 18
- Entrance to business was not refused because of lack of identification
- Individuals were observed loitering in the parking lots
- Child-oriented businesses and recreational areas were situated nearby
- Some businesses made no attempt to verify a submitted physician's recommendation

Dispensary Patients By Age



An analysis of patient records seized during search warrants at several dispensaries show that 52% of the customers purchasing marijuana were between the ages of 17 to 30. 63% of primary caregivers purchasing marijuana were between the ages of 18 through 30. Only 2.05% of customers submitted a physician's recommendation for AIDS, glaucoma, or cancer.

Why these businesses were deemed to be criminal--not compassionate:

The medical marijuana businesses were deemed to be criminal enterprises for the following reasons:

- Many of the business owners had histories of drug and violence-related arrests.
- The business owners were street-level marijuana dealers who took advantage of Prop. 215 in an attempt to legitimize marijuana sales for profit.
- Records, or lack of records, seized during the search warrants showed that all the owners were not properly reporting income generated from the sales of marijuana. Many owners were involved in money laundering and tax evasion.
- The businesses were selling to individuals without serious medical conditions.
- There are no guidelines on the amount of marijuana which can be sold to an individual. For

example, an individual with a physician's recommendation can go to as many marijuana distribution businesses and purchase as much marijuana as he/she wants.

- California law allows an individual to possess 6 mature or 12 immature plants per qualified person. However, the San Diego Municipal Code states a "caregiver" can only provide care to 4 people, including themselves; this translates to 24 mature or 48 immature plants total. Many of these dispensaries are operating large marijuana grows with far more plants than allowed under law. Several of the dispensaries had indoor marijuana grows inside the businesses, with mature and/or immature marijuana plants over the limits.
- State law allows a qualified patient or primary caregiver to possess no more than eight ounces of dried marijuana per qualified patient. However, the San Diego Municipal Code allows primary caregivers to possess no more than two pounds of processed marijuana. Under either law, almost every marijuana dispensary had over two pounds of processed marijuana during the execution of the search warrants.
- Some marijuana dispensaries force customers to sign forms designating the business as their primary caregiver, in an attempt to circumvent the law.

2. EXPERIENCES WITH MARIJUANA DISPENSARIES IN RIVERSIDE COUNTY

There were some marijuana dispensaries operating in the County of Riverside until the District Attorney's Office took a very aggressive stance in closing them. In Riverside, anyone that is not a "qualified patient" or "primary caregiver" under the Medical Marijuana Program Act who possesses, sells, or transports marijuana is being prosecuted.

Several dispensary closures illustrate the impact this position has had on marijuana dispensaries. For instance, the Palm Springs Caregivers dispensary (also known as Palm Springs Safe Access Collective) was searched after a warrant was issued. All materials inside were seized, and it was closed down and remains closed. The California Caregivers Association was located in downtown Riverside. Very shortly after it opened, it was also searched pursuant to a warrant and shut down. The CannaHelp dispensary was located in Palm Desert. It was searched and closed down early in 2007. The owner and two managers were then prosecuted for marijuana sales and possession of marijuana for the purpose of sale. However, a judge granted their motion to quash the search warrant and dismissed the charges. The District Attorney's Office then appealed to the Fourth District Court of Appeal. Presently, the Office is waiting for oral arguments to be scheduled.

Dispensaries in the county have also been closed by court order. The Healing Nations Collective was located in Corona. The owner lied about the nature of the business in his application for a license. The city pursued and obtained an injunction that required the business to close. The owner appealed to the Fourth District Court of Appeal, which ruled against him. (*City of Corona v. Ronald Naulls et al.*, Case No. E042772.)

3. MEDICAL MARIJUANA DISPENSARY ISSUES IN CONTRA COSTA COUNTY CITIES AND IN OTHER BAY AREA COUNTIES

Several cities in Contra Costa County, California have addressed this issue by either banning dispensaries, enacting moratoria against them, regulating them, or taking a position that they are simply not a permitted land use because they violate federal law. Richmond, El Cerrito, San Pablo, Hercules, and Concord have adopted permanent ordinances banning the establishment of marijuana dispensaries. Antioch, Brentwood, Oakley, Pinole, and Pleasant Hill have imposed moratoria against dispensaries. Clayton, San Ramon, and Walnut Creek have not taken any formal action regarding the establishment of marijuana dispensaries but have indicated that marijuana dispensaries

are not a permitted use in any of their zoning districts as a violation of federal law. Martinez has adopted a permanent ordinance regulating the establishment of marijuana dispensaries.

The Counties of Alameda, Santa Clara, and San Francisco have enacted permanent ordinances regulating the establishment of marijuana dispensaries. The Counties of Solano, Napa, and Marin have enacted neither regulations nor bans. A brief overview of the regulations enacted in neighboring counties follows.

A. Alameda County

Alameda County has a nineteen-page regulatory scheme which allows the operation of three permitted dispensaries in unincorporated portions of the county. Dispensaries can only be located in commercial or industrial zones, or their equivalent, and may not be located within 1,000 feet of other dispensaries, schools, parks, playgrounds, drug recovery facilities, or recreation centers. Permit issuance is controlled by the Sheriff, who is required to work with the Community Development Agency and the Health Care Services agency to establish operating conditions for each applicant prior to final selection. Adverse decisions can be appealed to the Sheriff and are ruled upon by the same panel responsible for setting operating conditions. That panel's decision may be appealed to the Board of Supervisors, whose decision is final (subject to writ review in the Superior Court per CCP sec. 1094.5). Persons violating provisions of the ordinance are guilty of a misdemeanor.

B. Santa Clara County

In November of 1998, Santa Clara County passed an ordinance permitting dispensaries to exist in unincorporated portions of the county with permits first sought and obtained from the Department of Public Health. In spite of this regulation, neither the County Counsel nor the District Attorney's Drug Unit Supervisor believes that Santa Clara County has had *any* marijuana dispensaries in operation at least through 2006.

The only permitted activities are the on-site cultivation of medical marijuana and the distribution of medical marijuana/medical marijuana food stuffs. No retail sales of any products are permitted at the dispensary. Smoking, ingestion or consumption is also prohibited on site. All doctor recommendations for medical marijuana must be verified by the County's Public Health Department.

C. San Francisco County

In December of 2001, the Board of Supervisors passed Resolution No. 012006, declaring San Francisco to be a "Sanctuary for Medical Cannabis." City voters passed Proposition S in 2002, directing the city to explore the possibility of establishing a medical marijuana cultivation and distribution program run by the city itself.

San Francisco dispensaries must apply for and receive a permit from the Department of Public Health. They may only operate as a collective or cooperative, as defined by California Health and Safety Code section 11362.7 (see discussion in section 4, under "California Law" above), and may only sell or distribute marijuana to members. Cultivation, smoking, and making and selling food products may be allowed. Permit applications are referred to the Departments of Planning, Building Inspection, and Police. Criminal background checks are required but exemptions could still allow the operation of dispensaries by individuals with prior convictions for violent felonies or who have had prior permits suspended or revoked. Adverse decisions can be appealed to the Director of

Public Health and the Board of Appeals. It is unclear how many dispensaries are operating in the city at this time.

D. Crime Rates in the Vicinity of MariCare

Sheriff's data have been compiled for "Calls for Service" within a half-mile radius of 127 Aspen Drive, Pacheco. However, in research conducted by the El Cerrito Police Department and relied upon by Riverside County in recently enacting its ban on dispensaries, it was recognized that 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. Therefore, these statistics cannot paint a complete picture of the impact a marijuana dispensary has had on crime rates.

The statistics show that the overall number of calls decreased (3,746 in 2005 versus 3,260 in 2006). However, there have been **increases** in the numbers of crimes which appear to be related to a business which is an attraction to a criminal element. Reports of commercial burglaries increased (14 in 2005, 24 in 2006), as did reports of residential burglaries (13 in 2005, 16 in 2006) and miscellaneous burglaries (5 in 2005, 21 in 2006).

Tender Holistic Care (THC marijuana dispensary formerly located on N. Buchanan Circle in Pacheco) was forcibly burglarized on June 11, 2006. \$4,800 in cash was stolen, along with marijuana, hash, marijuana food products, marijuana pills, marijuana paraphernalia, and marijuana plants. The total loss was estimated to be \$16,265.

MariCare was also burglarized within two weeks of opening in Pacheco. On April 4, 2006, a window was smashed after 11:00 p.m. while an employee was inside the business, working late to get things organized. The female employee called "911" and locked herself in an office while the intruder ransacked the downstairs dispensary and stole more than \$200 worth of marijuana. Demetrio Ramirez indicated that since they were just moving in, there wasn't much inventory.

Reports of vehicle thefts increased (4 in 2005, 6 in 2006). Disturbance reports increased in nearly all categories (Fights: 5 in 2005, 7 in 2006; Harassment: 4 in 2005, 5 in 2006; Juveniles: 4 in 2005, 21 in 2006; Loitering: 11 in 2005, 19 in 2006; Verbal: 7 in 2005, 17 in 2006). Littering reports increased from 1 in 2005 to 5 in 2006. Public nuisance reports increased from 23 in 2005 to 26 in 2006.

These statistics reflect the complaints and concerns raised by nearby residents. Residents have reported to the District Attorney's Office, as well as to Supervisor Piepho's office, that when calls are made to the Sheriff's Department, the offender has oftentimes left the area before law enforcement can arrive. This has led to less reporting, as it appears to local residents to be a futile act and residents have been advised that law enforcement is understaffed and cannot always timely respond to all calls for service. As a result, Pacheco developed a very active, visible Neighborhood Watch program. The program became much more active in 2006, according to Doug Stewart. Volunteers obtained radios and began frequently receiving calls directly from local businesses and residents who contacted them **instead** of law enforcement. It is therefore significant that there has still been an increase in many types of calls for law enforcement service, although the overall number of calls has decreased.

Other complaints from residents included noise, odors, smoking/consuming marijuana in the area, littering and trash from the dispensary, loitering near a school bus stop and in the nearby church parking lot, observations that the primary patrons of MariCare appear to be individuals under age 25,

and increased traffic. Residents observed that the busiest time for MariCare appeared to be from 4:00 p.m. to 6:00 p.m. On a typical Friday, 66 cars were observed entering MariCare's facility; 49 of these were observed to contain additional passengers. The slowest time appeared to be from 1:00 p.m. to 3:00 p.m. On a typical Saturday, 44 cars were counted during this time, and 29 of these were observed to have additional passengers. MariCare has claimed to serve 4,000 "patients."

E. Impact of Proposed Ordinance on MedDelivery Dispensary, El Sobrante

It is the position of Contra Costa County District Attorney Robert J. Kochly that a proposed ordinance should terminate operation of the dispensary in El Sobrante because the land use of that business would be inconsistent with both state and federal law. However, the Community Development Department apparently believes that MedDelivery can remain as a "legal, non-conforming use."

F. Banning Versus Regulating Marijuana Dispensaries in Unincorporated Contra Costa County

It is simply bad public policy to allow the proliferation of any type of business which is illegal and subject to being raided by federal and/or state authorities. In fact, eight locations associated with the New Remedies dispensary in San Francisco and Alameda Counties were raided in October of 2006, and eleven Southern California marijuana clinics were raided by federal agents on January 18, 2007. The Los Angeles head of the federal Drug Enforcement Administration told CBS News after the January raids that "Today's enforcement operations show that these establishments are nothing more than drug-trafficking organizations bringing criminal activities to our neighborhoods and drugs near our children and schools." A Lafayette, California resident who owned a business that produced marijuana-laced foods and drinks for marijuana clubs was sentenced in federal court to five years and 10 months behind bars as well as a \$250,000 fine. Several of his employees were also convicted in that case.

As discussed above, there is absolutely no exception to the federal prohibition against marijuana cultivation, possession, transportation, use, and distribution. Neither California's voters nor its Legislature authorized the existence or operation of marijuana dispensing businesses when given the opportunity to do so. These enterprises cannot fit themselves into the few, narrow exceptions that were created by the Compassionate Use Act and Medical Marijuana Program Act.

Further, the presence of marijuana dispensing businesses contributes substantially to the existence of a secondary market for illegal, street-level distribution of marijuana. This fact was even recognized by the United States Supreme Court: "The exemption for cultivation by patients and caregivers can only increase the supply of marijuana in the California market. The likelihood that all such production will promptly terminate when patients recover or will precisely match the patients' medical needs during their convalescence seems remote; whereas the danger that excesses will satisfy some of the admittedly enormous demand for recreational use seems obvious." (*Gonzales v. Raich, supra*, 125 S.Ct. at p. 2214.)

As outlined below, clear evidence has emerged of such a secondary market in Contra Costa County.

- In September of 2004, police responded to reports of two men pointing a gun at cars in the parking lot at Monte Vista High School during an evening football game/dance. Two 19-year-old Danville residents were located in the parking lot (which was full of vehicles and pedestrians) and in possession of a silver Airsoft pellet pistol designed to replicate a

real Walther semi-automatic handgun. Marijuana, hash, and hash oil with typical dispensary packaging and labeling were also located in the car, along with a gallon bottle of tequila (1/4 full), a bong with burned residue, and rolling papers. The young men admitted to having consumed an unknown amount of tequila at the park next to the school and that they both pointed the gun at passing cars “as a joke.” They fired several BBs at a wooden fence in the park when there were people in the area. The owner of the vehicle admitted that the marijuana was his and that he was **not** a medicinal marijuana user. He was able to buy marijuana from his friend “Brandon,” who used a Proposition 215 card to purchase from a cannabis club in Hayward.

- In February of 2006, Concord police officers responded to a report of a possible drug sale in progress. They arrested a high school senior for two outstanding warrants as he came to buy marijuana from the cannabis club located on Contra Costa Boulevard. The young man explained that he had a cannabis club card that allowed him to purchase marijuana, and admitted that he planned to re-sell some of the marijuana to friends. He also admitted to possession of nearly 7 grams of cocaine which was recovered. A 21-year-old man was also arrested on an outstanding warrant. In his car was a marijuana grinder, a baggie of marijuana, rolling papers, cigars, and a “blunt” (hollowed out cigar filled with marijuana for smoking) with one end burned. The 21-year-old admitted that he did **not** have a physician’s recommendation for marijuana.
- Also in February of 2006, a 17-year-old Monte Vista High School senior was charged with felony furnishing of marijuana to a child, after giving a 4-year-old boy a marijuana-laced cookie. The furnishing occurred on campus, during a child development class.
- In March of 2006, police and fire responded to an explosion at a San Ramon townhouse and found three young men engaged in cultivating and manufacturing “honey oil” for local pot clubs. Marijuana was also being sold from the residence. Honey oil is a concentrated form of cannabis chemically extracted from ground up marijuana with extremely volatile **butane** and a special “honey oil” extractor tube. The butane extraction operation **exploded** with such force that it blew the garage door partially off its hinges. Sprinklers in the residence kept the fire from spreading to the other homes in the densely packed residential neighborhood. At least one of the men was employed by Ken Estes, owner of the Dragonfly Holistic Solutions pot clubs in Richmond, San Francisco, and Lake County. They were making the “honey oil” with marijuana and butane that they brought up from one of Estes’ San Diego pot clubs after it was shut down by federal agents.
- Also in March of 2006, a 16-year-old El Cerrito High School student was arrested after selling pot cookies to fellow students on campus, many of whom became ill. At least four required hospitalization. The investigation revealed that the cookies were made with a butter obtained outside a marijuana dispensary (a secondary sale). Between March of 2004 and May of 2006, the El Cerrito Police Department conducted seven investigations at the 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.
- In June of 2006, Moraga police officers made a traffic stop for suspected driving under the influence of alcohol. The car was seen drifting over the double yellow line separating north and southbound traffic lanes and driving in the bike lane. The 20-year-old driver denied having consumed any alcohol, as he was the “designated driver.” When asked about his bloodshot, watery, and droopy eyes, the college junior explained that he had

smoked marijuana earlier (confirmed by blood tests). The young man had difficulty performing field sobriety tests, slurred his speech, and was ultimately arrested for driving under the influence. He was in possession of a falsified California Driver's License, marijuana, hash, a marijuana pipe, a scale, and \$12,288. The marijuana was in packaging from the Compassionate Collective of Alameda County, a Hayward dispensary. He explained that he buys the marijuana at "Pot Clubs," sells some, and keeps the rest. He only sells to close friends. About \$3,000 to \$4,000 of the cash was from playing high-stakes poker, but the rest was earned selling marijuana while a freshman at Arizona State University. The 18-year-old passenger had half an ounce of marijuana in her purse and produced a doctor's recommendation to a marijuana club in Oakland, the authenticity of which could not be confirmed.

Another significant concern is the proliferation of marijuana usage at community schools. In February of 2007, the Healthy Kids Survey for Alameda and Contra Costa Counties found that youthful substance abuse is more common in the East Bay's more affluent areas. These areas had higher rates of high school juniors who admitted having been high from drugs. The regional manager of the study found that the affluent areas had higher alcohol and marijuana use rates. *USA Today* recently reported that the percentage of 12th Grade students who said they had used marijuana has increased since 2002 (from 33.6% to 36.2% in 2005), and that marijuana was the most-used illicit drug among that age group in 2006. KSDK News Channel 5 reported that high school students are finding easy access to medical marijuana cards and presenting them to school authorities as a legitimate excuse for getting high. School Resource Officers for Monte Vista and San Ramon Valley High Schools in Danville have reported finding marijuana in prescription bottles and other packaging from Alameda County dispensaries. Marijuana has also been linked to psychotic illnesses.¹⁰¹ A risk factor was found to be starting marijuana use in adolescence.

For all of the above reasons, it is advocated by District Attorney Kochly that a ban on land uses which violate state or federal law is the most appropriate solution for the County of Contra Costa.

4. SANTA BARBARA COUNTY

According to Santa Barbara County Deputy District Attorney Brian Cota, ten marijuana dispensaries are currently operating within Santa Barbara County. The mayor of the City of Santa Barbara, who is an outspoken medical marijuana supporter, has stated that the police must place marijuana **behind** every other police priority. This has made it difficult for the local District Attorney's Office. Not many marijuana cases come to it for filing. The District Attorney's Office would like more regulations placed on the dispensaries. However, the majority of Santa Barbara County political leaders and residents are very liberal and do not want anyone to be denied access to medical marijuana if they say they need it. Partly as a result, no dispensaries have been prosecuted to date.

5. SONOMA COUNTY

Stephan R. Passalocqua, District Attorney for the County of Sonoma, has recently reported the following information related to distribution of medical marijuana in Sonoma County. In 1997, the Sonoma County Law Enforcement Chiefs Association enacted the following medical marijuana guidelines: a qualified patient is permitted to possess three pounds of marijuana and grow 99 plants in a 100-square-foot canopy. A qualified caregiver could possess or grow the above-mentioned amounts for each qualified patient. These guidelines were enacted after Proposition 215 was overwhelmingly passed by the voters of California, and after two separate unsuccessful prosecutions in Sonoma County. Two Sonoma County juries returned "not guilty" verdicts for three defendants

who possessed substantially large quantities of marijuana (60 plants in one case and over 900 plants in the other) where they asserted a medical marijuana defense. These verdicts, and the attendant publicity, demonstrated that the community standards are vastly different in Sonoma County compared to other jurisdictions.

On November 6, 2006, and authorized by Senate Bill 420, the Sonoma County Board of Supervisors specifically enacted regulations that allow a qualified person holding a valid identification card to possess up to three pounds of dried cannabis a year and cultivate 30 plants per qualified patient. No individual from any law enforcement agency in Sonoma County appeared at the hearing, nor did any representative publicly oppose this resolution.

With respect to the *People v. Sashon Jenkins* case, the defendant provided verified medical recommendations for five qualified patients prior to trial. At the time of arrest, Jenkins said that he had a medical marijuana card and was a care provider for multiple people, but was unable to provide specific documentation. Mr. Jenkins had approximately 10 pounds of dried marijuana and was growing 14 plants, which number of plants is consistent with the 2006 Sonoma County Board of Supervisors' resolution.

At a preliminary hearing held In January of 2007, the defense called five witnesses who were proffered as Jenkins' "patients" and who came to court with medical recommendations. Jenkins also testified that he was their caregiver. After the preliminary hearing, the assigned prosecutor conducted a thorough review of the facts and the law, and concluded that a Sonoma County jury would not return a "guilty" verdict in this case. Hence, no felony information was filed. With respect to the return of property issue, the prosecuting deputy district attorney never agreed to release the marijuana despite dismissing the case.

Other trial dates are pending in cases where medical marijuana defenses are being alleged. District Attorney Passalacqua has noted that, given the overwhelming passage of proposition 215, coupled with at least one United States Supreme Court decision that has not struck it down to date, these factors present current challenges for law enforcement, but that he and other prosecutors will continue to vigorously prosecute drug dealers within the boundaries of the law.

6. ORANGE COUNTY

There are 15 marijuana dispensaries in Orange County, and several delivery services. Many of the delivery services operate out of the City of Long Beach in Los Angeles County. Orange County served a search warrant on one dispensary, and closed it down. A decision is being made whether or not to file criminal charges in that case. It is possible that the United States Attorney will file on that dispensary since it is a branch of a dispensary that the federal authorities raided in San Diego County.

The Orange County Board of Supervisors has ordered a study by the county's Health Care Department on how to comply with the Medical Marijuana Program Act. The District Attorney's Office's position is that any activity under the Medical Marijuana Program Act beyond the mere issuance of identification cards violates federal law. The District Attorney's Office has made it clear to County Counsel that if any medical marijuana provider does not meet a strict definition of "primary caregiver" that person will be prosecuted.

PENDING LEGAL QUESTIONS

Law enforcement agencies throughout the state, as well as their legislative bodies, have been struggling with how to reconcile the Compassionate Use Act ("CUA"), Cal. Health & Safety Code secs. 11362.5, et seq., with the federal Controlled Substances Act ("CSA"), 21 U.S.C. sec. 801, et seq., for some time. Pertinent questions follow.

QUESTION

1. **Is it possible for a storefront marijuana dispensary to be legally operated under the Compassionate Use Act of 1996 (Health & Saf. Code sec. 11362.5) and the Medical Marijuana Program Act (Health & Saf. Code secs. 11362.7-11362.83)?**

ANSWER

1. **Storefront marijuana dispensaries may be legally operated under the CUA and the Medical Marijuana Program Act ("MMPA"), Cal. Health & Safety Code secs. 11362.7-11362.83, as long as they are "cooperatives" under the MMPA.**

ANALYSIS

The question posed does not specify what services or products are available at a "storefront" marijuana dispensary. The question also does not specify the business structure of a "dispensary." A "dispensary" is often commonly used nowadays as a generic term for a facility that distributes medical marijuana.

The term "dispensary" is also used specifically to refer to marijuana facilities that are operated more like a retail establishment, that are open to the public and often "sell" medical marijuana to qualified patients or caregivers. By use of the term "store front dispensary," the question may be presuming that this type of facility is being operated. For purposes of this analysis, we will assume that a "dispensary" is a generic term that does not contemplate any particular business structure.¹ Based on that assumption, a "dispensary" might provide "assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in administering medical marijuana to the qualified patient or person or acquiring the skills necessary to cultivate or administer marijuana for medical purposes to the qualified patient or person" and be within the permissible limits of the CUA and the MMPA. (Cal. Health & Safety Code sec. 11362.765 (b)(3).)

¹ As the term "dispensary" is commonly used and understood, marijuana dispensaries would *not* be permitted under the CUA or the MMPA, since they "sell" medical marijuana and are not operated as true "cooperatives."

The CUA permits a "patient" or a "patient's primary caregiver" to possess or cultivate marijuana for personal medical purposes with the recommendation of a physician. (Cal. Health & Safety Code sec. 11362.5 (d).) Similarly, the MMPA provides that "patients" or designated "primary caregivers" who have voluntarily obtained a valid medical marijuana identification card shall not be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana in specified quantities. (Cal. Health & Safety Code sec. 11362.71 (d) & (e).) A "storefront dispensary" would not fit within either of these categories.

However, the MMPA also provides that "[q]ualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who *associate* within the State of California in order collectively or *cooperatively* to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under section 11357 [possession], 11358 [planting, harvesting or processing], 11359 [possession for sale], 11360 [unlawful transportation, importation, sale or gift], 11366 [opening or maintaining place for trafficking in controlled substances], 11366.5 [providing place for manufacture or distribution of controlled substance; Fortifying building to suppress law enforcement entry], or 11570 [Buildings or places deemed nuisances subject to abatement]." (Cal. Health & Safety Code sec. 11362.775.) (Emphasis added.)

Since medical marijuana cooperatives are permitted pursuant to the MMPA, a "storefront dispensary" that would qualify as a cooperative *would* be permissible under the MMPA. (Cal. Health & Safety Code sec. 11362.775. See also *People v. Urziceanu* (2005) 132 Cal. App. 4th 747 (finding criminal defendant was entitled to present defense relating to operation of medical marijuana cooperative).) In granting a re-trial, the appellate court in *Urziceanu* found that the defendant could present evidence which might entitle him to a defense under the MMPA as to the operation of a medical marijuana cooperative, including the fact that the "cooperative" verified physician recommendations and identities of individuals seeking medical marijuana and individuals obtaining medical marijuana paid membership fees, reimbursed defendant for his costs in cultivating the medical marijuana by way of donations, and volunteered at the "cooperative." (*Id.* at p. 785.)

Whether or not "sales" are permitted under *Urziceanu* and the MMPA is unclear. The *Urziceanu* Court did note that the incorporation of section 11359, relating to marijuana "sales," in section 11362.775, allowing the operation of cooperatives, "contemplates the formation and operation of medicinal marijuana cooperatives that would receive reimbursement for marijuana and the services provided in conjunction with the provision of that marijuana." Whether "reimbursement" may be in the form only of donations, as were the facts presented in *Urziceanu*, or whether "purchases" could be made for medical marijuana, it does seem clear that a medical marijuana "cooperative" may not make a "profit," but may be restricted to being reimbursed for actual costs in providing the marijuana to its members and, if there are any "profits," these may have to be reinvested in the "cooperative" or shared by its members in order for a dispensary to

be truly considered to be operating as a "cooperative."² If these requirements are satisfied as to a "storefront" dispensary, then it will be permissible under the MMPA. Otherwise, it will be a violation of both the CUA and the MMPA.

QUESTION

2. If the governing body of a city, county, or city and county approves an ordinance authorizing and regulating marijuana dispensaries to implement the Compassionate Use Act of 1996 and the Medical Marijuana Program Act, can an individual board or council member be found to be acting illegally and be subject to federal criminal charges, including aiding and abetting, or state criminal charges?

ANSWER

2. If a city, county, or city and county authorizes and regulates marijuana dispensaries, individual members of the legislative bodies may be held criminally liable under state or federal law.³

ANALYSIS

A. *Federal Law*

Generally, legislators of federal, state, and local legislative bodies are absolutely immune from liability for legislative acts. (U.S. Const., art. I, sec. 6 (Speech and Debate Clause, applicable to members of Congress); Fed. Rules Evid., Rule 501 (evidentiary privilege against admission of legislative acts); *Tenney v. Brandhove* (1951) 341 U.S. 367 (legislative immunity applicable to state legislators); *Bogan v. Scott-Harris* (1998) 523 U.S. 44 (legislative immunity applicable to local legislators).) However, while federal legislators are absolutely immune from *both* criminal *and* civil liability for purely legislative acts, local legislators are *only* immune from *civil* liability under federal law. (*United States v. Gillock* (1980) 445 U.S. 360.)

Where the United States Supreme Court has held that federal regulation of marijuana by way of the CSA, including any "medical" use of marijuana, is within Congress' Commerce Clause power, federal law stands as a bar to local action in direct violation of the CSA. (*Gonzales v. Raich* (2005) 545 U.S. 1.) In fact, the CSA itself provides that federal regulations do not

² A "cooperative" is defined as follows: An enterprise or organization that is owned or managed jointly by those who use its facilities or services. THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE, by Houghton Mifflin Company (4th Ed. 2000).

³ Indeed, the same conclusion would seem to result from the adoption by state legislators of the MMPA itself, in authorizing the issuance of medical marijuana identification cards. (Cal. Health & Safety Code secs. 11362.71, et seq.)

exclusively occupy the field of drug regulation "unless there is a positive conflict between that provision of this title [the CSA] and that state law so that the two cannot consistently stand together." (21 U.S.C. sec. 903.)

Based on the above provisions, then, legislative action by local legislators *could* subject the individual legislators to federal criminal liability. Most likely, the only violation of the CSA that could occur as a result of an ordinance approved by local legislators authorizing and regulating medical marijuana would be aiding and abetting a violation of the CSA.

The elements of the offense of aiding and abetting a criminal offense are: (1) specific intent to facilitate commission of a crime by another; (2) guilty knowledge on the part of the accused; (3) that an offense was being committed by someone; and (4) that the accused assisted or participated in the commission of an offense. (*United States v. Raper* (1982) 676 F.2d 841; *United States v. Staten* (1978) 581 F.2d 878.)

Criminal aiding and abetting liability, under 18 U.S.C. section 2, requires proof that the defendants in some way associated themselves with the illegal venture; that they participated in the venture as something that they wished to bring about; and that they sought by their actions to make the venture succeed. (*Central Bank, N.A. v. First Interstate Bank, N.A.* (1994) 511 U.S. 164.) Mere furnishing of company to a person engaged in a crime does not render a companion an aider or abettor. (*United States v. Garguilo* (2d Cir. 1962) 310 F.2d 249.) In order for a defendant to be an aider and abettor he must know that the activity condemned by law is actually occurring and must intend to help the perpetrator. (*United States v. McDaniel* (9th Cir. 1976) 545 F.2d 642.) To be guilty of aiding and abetting, the defendant must willfully seek, by some action of his own, to make a criminal venture succeed. (*United States v. Ehrenberg* (E.D. Pa. 1973) 354 F. Supp. 460 *cert. denied* (1974) 94 S. Ct. 1612.)

The question, as posed, may presume that the local legislative body has acted in a manner that affirmatively supports marijuana dispensaries. As phrased by Senator Kuehl, the question to be answered by the Attorney General's Office assumes that a local legislative body has adopted an ordinance that "authorizes" medical marijuana facilities. What if a local public entity adopts an ordinance that explicitly indicates that it does *not* authorize, legalize, or permit any dispensary that is in violation of federal law regarding controlled substances? If the local public entity grants a permit, regulates, or imposes locational requirements on marijuana dispensaries with the announced understanding that it does not thereby allow any *illegal* activity and that dispensaries are required to comply with all applicable laws, including federal laws, then the public entity should be entitled to expect that all laws will be obeyed.

It would seem that a public entity is not intentionally acting to encourage or aid acts in violation of the CSA merely because it has adopted an ordinance which regulates dispensaries; even the issuance of a "permit," if it is expressly *not* allowing violations of federal law, cannot necessarily support a charge or conviction of aiding and abetting violation of the CSA. A public entity should be entitled to presume that dispensaries will obey all applicable laws and that lawful business will be conducted at dispensaries. For instance, dispensaries could very well *not* engage in actual medical marijuana distribution, but instead engage in education and awareness activities as to the medical effects of marijuana; the sale of other, legal products that aid in the suffering of

ailing patients; or even activities directed at effecting a change in the federal laws relating to regulation of marijuana as a Schedule I substance under the CSA.

These are examples of legitimate business activities, and First Amendment protected activities at that, in which dispensaries could engage relating to medical marijuana, but *not* apparently in violation of the CSA. Public entities should be entitled to presume that legitimate activities can and will be engaged in by dispensaries that are permitted and/or regulated by local regulations. In fact, it seems counterintuitive that local public entities within the state should be expected to be the watchdogs of federal law; in the area of controlled substances, at least, local public entities do not have an affirmative obligation to discern whether businesses are violating federal law.

The California Attorney General's Office will note that the State Board of Equalization ("BOE") has already done precisely what has been suggested in the preceding paragraph. In a special notice issued by the BOE this year, it has indicated that sellers of medical marijuana must obtain a seller's permit. (See <http://www.boe.ca.gov/news/pdf/medseller2007.pdf> (Special Notice: Important Information for Sellers of Medical Marijuana).) As the Special Notice explicitly indicates to medical marijuana facilities, "[h]aving a seller's permit does not mean you have authority to make unlawful sales. The permit only provides a way to remit any sales and use taxes due. The permit states, 'NOTICE TO PERMITTEE: You are required to obey all federal and state laws that regulate or control your business. This permit does not allow you to do otherwise.'"

The above being said, however, there is no guarantee that criminal charges would not actually be brought by the federal government or that persons so charged could not be successfully prosecuted. It does seem that arguments contrary to the above conclusions could be persuasive in convicting local legislators. By permitting and/or regulating marijuana dispensaries by local ordinance, some legitimacy and credibility may be granted by governmental issuance of permits or authorizing and allowing dispensaries to exist or locate within a jurisdiction.⁴

All of this discussion, then, simply demonstrates that individual board or council members can, indeed, be found criminally liable under federal law for the adoption of an ordinance authorizing and regulating marijuana dispensaries that promote the use of marijuana as medicine. The actual likelihood of prosecution, and its potential success, may depend on the particular facts of the regulation that is adopted.

⁴ Of course, the question arises as to how far any such liability be taken. Where can the line be drawn between any permit or regulation adopted specifically with respect to marijuana dispensaries and other permits or approvals routinely, and often *ministerially*, granted by local public entities, such as building permits or business licenses, which are discussed *infra*? If local public entities are held responsible for adopting an ordinance authorizing and/or regulating marijuana dispensaries, cannot local public entities also be subject to liability for providing general public services for the illegal distribution of "medical" marijuana? Could a local public entity that knew a dispensary was distributing "medical" marijuana in compliance with state law be criminally liable if it provided electricity, water, and trash services to that dispensary? How can such actions really be distinguished from the adoption of an ordinance that authorizes and/or regulates marijuana dispensaries?

B. *State Law*

Similarly, under California law, aside from the person who directly commits a criminal offense, no other person is guilty as a principal unless he aids and abets. (*People v. Dole* (1898) 122 Cal. 486; *People v. Stein* (1942) 55 Cal. App. 2d 417.) A person who innocently aids in the commission of the crime cannot be found guilty. (*People v. Fredoni* (1910) 12 Cal. App. 685.)

To authorize a conviction as an aider and abettor of crime, it must be shown not only that the person so charged aided and assisted in the commission of the offense, but also that he abetted the act— that is, that he criminally or with guilty knowledge and intent aided the actual perpetrator in the commission of the act. (*People v. Terman* (1935) 4 Cal. App. 2d 345.) To "abet" another in commission of a crime implies a consciousness of guilt in instigating, encouraging, promoting, or aiding the commission of the offense. (*People v. Best* (1941) 43 Cal. App. 2d 100.) "Abet" implies knowledge of the wrongful purpose of the perpetrator of the crime. (*People v. Stein, supra.*)

To be guilty of an offense committed by another person, the accused must not only aid such perpetrator by assisting or supplementing his efforts, but must, with knowledge of the wrongful purpose of the perpetrator, abet by inciting or encouraging him. (*People v. Le Grant* (1946) 76 Cal. App. 2d 148, 172; *People v. Carlson* (1960) 177 Cal. App. 2d 201.)

The conclusion under state law aiding and abetting would be similar to the analysis above under federal law. Similar to federal law immunities available to local legislators, discussed above, state law immunities provide some protection for local legislators. Local legislators are certainly immune from civil liability relating to legislative acts; it is unclear, however, whether they would also be immune from criminal liability. (*Steiner v. Superior Court*, 50 Cal.App.4th 1771 (assuming, but finding no California authority relating to a "criminal" exception to absolute immunity for legislators under state law).)⁵ Given the apparent state of the law, local legislators could only be certain that they would be immune from civil liability and could not be certain that

⁵ Although the *Steiner* Court notes that "well-established federal law supports the exception," when federal case authority is applied in a state law context, there may be a different outcome. Federal authorities note that one purpose supporting criminal immunity as to federal legislators from federal prosecution is the separation of powers doctrine, which does not apply in the context of *federal* criminal prosecution of *local* legislators. However, if a state or county prosecutor brought criminal charges against a local legislator, the separation of powers doctrine may bar such prosecution. (Cal. Const., art. III, sec. 3.) As federal authorities note, bribery, or other criminal charges that do not depend upon evidence of, and cannot be said to further, any legislative acts, can still be prosecuted against legislators. (See *Bruce v. Riddle* (4th Cir. 1980) 631 F.2d 272, 279 ["Illegal acts such as bribery are obviously not in aid of legislative activity and legislators can claim no immunity for illegal acts."]; *United States v. Brewster*, 408 U.S. 501 [indictment for bribery not dependent upon how legislator debated, voted, or did anything in chamber or committee; prosecution need only show acceptance of money for promise to vote, not carrying through of vote by legislator]; *United States v. Swindall* (11th Cir. 1992) 971 F.2d

they would be at all immune from criminal liability under state law. However, there would not be any criminal violation if an ordinance adopted by a local public entity were in compliance with the CUA and the MMPA. An ordinance authorizing and regulating medical marijuana would not, by virtue solely of its subject matter, be a violation of state law; only if the ordinance itself permitted some activity inconsistent with state law relating to medical marijuana would there be a violation of state law that could subject local legislators to criminal liability under state law.

QUESTION

3. If the governing body of a city, city and county, or county approves an ordinance authorizing and regulating marijuana dispensaries to implement the Compassionate Use Act of 1996 and the Medical Marijuana Program Act, and subsequently a particular dispensary is found to be violating state law regarding sales and trafficking of marijuana, could an elected official on the governing body be guilty of state criminal charges?

ANSWER

3. After adoption of an ordinance authorizing or regulating marijuana dispensaries, elected officials could not be found criminally liable under state law for the subsequent violation of state law by a particular dispensary.

ANALYSIS

Based on the state law provisions referenced above relating to aiding and abetting, it does not seem that a local public entity would be liable for any actions of a marijuana dispensary in violation of state law. Since an ordinance authorizing and/or regulating marijuana dispensaries would necessarily only be authorizing and/or regulating to the extent already *permitted* by state law, local elected officials could not be found to be aiding and abetting a *violation* of state law. In fact, the MMPA clearly contemplates local regulation of dispensaries. (Cal. Health & Safety Code sec. 11362.83 ("Nothing in this article shall prevent a city or other local governing body from adopting and enforcing laws consistent with this article.")) Moreover, as discussed above, there may be legislative immunity applicable to the legislative acts of individual elected officials in adopting an ordinance, especially where it is consistent with state law regarding marijuana dispensaries that dispense crude marijuana as medicine.

1531, 1549 [evidence of legislative acts was essential element of proof and thus immunity applies].) Therefore, a criminal prosecution that relates *solely* to legislative acts cannot be maintained under the separation of powers rationale for legislative immunity.

QUESTION

4. Does approval of such an ordinance open the jurisdictions themselves to civil or criminal liability?

ANSWER

4. Approving an ordinance authorizing or regulating marijuana dispensaries may subject the jurisdictions to civil or criminal liability.

ANALYSIS

Under federal law, criminal liability is created solely by statute. (*Dowling v. United States* (1985) 473 U.S. 207, 213.) Although becoming more rare, municipalities have been, and still may be, criminally prosecuted for violations of federal law, where the federal law provides not just a penalty for imprisonment, but a penalty for monetary sanctions. (See Green, Stuart P., *The Criminal Prosecution of Local Governments*, 72 N.C. L. Rev. 1197 (1994) (discussion of history of municipal criminal prosecution).)

The CSA prohibits persons from engaging in certain acts, including the distribution and possession of Schedule I substances, of which marijuana is one. (21 U.S.C. sec. 841.) A person, for purposes of the CSA, includes "any individual, corporation, government or governmental subdivision or agency, business trust, partnership, association, or other legal entity." (21 C.F.R. sec. 1300.01 (34). See also 21 C.F.R. sec. 1301.02 ("Any term used in this part shall have the definition set forth in section 102 of the Act (21 U.S.C. 802) or part 1300 of this chapter.")) By its very terms, then, the CSA may be violated by a local public entity. If the actions of a local public entity otherwise satisfy the requirements of aiding and abetting a violation of the CSA, as discussed above, then local public entities may, indeed, be subject to criminal prosecution for a violation of federal law.

Under either federal or state law, local public entities would not be subject to civil liability for the mere adoption of an ordinance, a legislative act. As discussed above, local legislators are absolutely immune from civil liability for legislative acts under both federal and state law. In addition, there is specific immunity under state law relating to any issuance or denial of permits.

QUESTION

5. Does the issuance of a business license to a marijuana dispensary involve any additional civil or criminal liability for a city or county and its elected governing body?

ANSWER

5. Local public entities will likely *not* be liable for the issuance of business licenses to marijuana dispensaries that plan to dispense crude marijuana as medicine.

ANALYSIS

Business licenses are imposed by cities within the State of California oftentimes solely for revenue purposes, but are permitted by state law to be imposed for revenue, regulatory, or for both revenue and regulatory purposes. (Cal. Gov. Code sec. 37101.) Assuming a business license ordinance is for revenue purposes only, it seems that a local public entity would not have any liability for the mere collection of a tax, whether on legal or illegal activities. However, any liability that would attach would be analyzed the same as discussed above. In the end, a local public entity could hardly be said to have aided and abetted the distribution or possession of marijuana in violation of the CSA by its mere collection of a generally applicable tax on all business conducted within the entity's jurisdiction.

OVERALL FINDINGS

All of the above further exemplifies the catch-22 in which local public entities are caught, in trying to reconcile the CUA and MMPA, on the one hand, and the CSA on the other. In light of the existence of the CUA and the MMPA, and the resulting fact that medical marijuana *is* being used by individuals in California, local public entities have a need and desire to regulate the location and operation of medical marijuana facilities within their jurisdiction.^{6 102}

However, because of the divergent views of the CSA and California law regarding whether there is any accepted "medical" use of marijuana, state and local legislators, as well as local public entities themselves, could be subject to criminal liability for the adoption of statutes or ordinances furthering the possession, cultivation, distribution, transportation (and other act prohibited under the CSA) as to marijuana. Whether federal prosecutors would pursue federal criminal charges against state and/or local legislators or local public entities remains to be seen. But, based on past practices of locally based U.S. Attorneys who have required seizures of large amounts of marijuana before federal filings have been initiated, this can probably be considered unlikely.

⁶ Several compilations of research regarding the impacts of marijuana dispensaries have been prepared by the California Police Chiefs Association and highlight some of the practical issues facing local public entities in regulating these facilities. Links provided are as follows: "Riverside County Office of the District Attorney," [White Paper, Medical Marijuana: History and Current Complications, September 2006]; "Recent Information Regarding Marijuana and Dispensaries [El Cerrito Police Department Memorandum, dated January 12, 2007, from Commander M. Regan, to Scott C. Kirkland, Chief of Police]; "Marijuana Memorandum" [El Cerrito Police Department Memorandum, dated April 18, 2007, from Commander M. Regan, to Scott C. Kirkland, Chief of Police]; "Law Enforcement Concerns to Medical Marijuana Dispensaries" [Impacts of Medical Marijuana Dispensaries on communities between 75,000 and 100,000 population: Survey and council agenda report, City of Livermore].

CONCLUSIONS

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 suspect. 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. The authors of this White Paper conclude that medical marijuana is not legal under federal law, despite the current California scheme, and wait for the United States Supreme Court to ultimately rule on this issue.

Furthermore, storefront marijuana businesses are prey for criminals and create easily identifiable victims. The people growing marijuana are employing illegal means to protect their valuable cash crops. Many distributing marijuana are hardened criminals.¹⁰³ Several are members of stepped criminal street gangs and recognized organized crime syndicates, while 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 so-called "medical marijuana dispensaries" have the potential for creating liability issues for counties and cities. All marijuana dispensaries should generally be considered illegal and should not be permitted to exist and engage in business within a county's or city's borders. Their presence poses a clear violation of federal and state law; they invite more crime; and they compromise the health and welfare of law-abiding citizens.

ENDNOTES

- ¹ U.S. Const., art. VI, cl. 2.
- ² U.S. Const., art. I, sec. 8, cl. 3.
- ³ *Gonzales v. Raich* (2005) 125 S.Ct. 2195 at p. 2204.
- ⁴ *Gonzales v. Raich*. See also *United States v. Oakland Cannabis Buyers' Cooperative* (2001) 121 S.Ct. 1711, 1718.
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- ⁶ Josh Meyer & Scott Glover, "U.S. won't prosecute medical pot sales," *Los Angeles Times*, 19 March 2009, available at <http://www.latimes.com/news/local/la-me-medpot19-2009mar19,0,4987571.story>
- ⁷ See *People v. Mower* (2002) 28 Cal.4th 457, 463.
- ⁸ Health and Safety Code section 11362.5(b) (1) (A). All references hereafter to the Health and Safety Code are by section number only.
- ⁹ H&S Code sec. 11362.5(a).
- ¹⁰ H&S Code sec. 11362.7 *et. seq.*
- ¹¹ H&S Code sec. 11362.7.
- ¹² H&S Code secs. 11362.71–11362.76.
- ¹³ H&S Code sec. 11362.77.
- ¹⁴ H&S Code secs. 11362.765 and 11362.775; *People v. Urziceanu* (2005) 132 Cal.App.4th 747 at p. 786.
- ¹⁵ H&S Code sec. 11362.77; whether or not this section violates the California Constitution is currently under review by the California Supreme Court. See *People v. Kelly* (2008) 82 Cal.Rptr.3d 167 and *People v. Phomphakdy* (2008) 85 Cal.Rptr. 3d 693.
- ¹⁶ H&S Code secs. 11357, 11358, 11359, 11360, 11366, 11366.5, and 11570.
- ¹⁷ H&S Code sec. 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.
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- ¹⁹ *Id.* Emphasis added.
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- ²³ Laura McClure, "Fuming Over the Pot Clubs," *California Lawyer Magazine*, June 2006.
- ²⁴ H&S Code sec. 11362.765(c); see, e.g., *People v. Urziceanu*, 132 Cal.App.4th 747 at p. 764.
- ²⁵ *Gonzales v. Raich*, *supra*, 125 S.Ct. at page 2195.
- ²⁶ *People v. Urziceanu* (2005) 132 Cal.App.4th 747; see also H&S Code sec. 11362.765.
- ²⁷ Israel Packel, 4-5. Italics added.
- ²⁸ H&S Code sec. 11362.7(d)(1).
- ²⁹ See, e.g., McClure, "Fuming Over Pot Clubs," *California Lawyer Magazine*, June 2006.
- ³⁰ H&S Code secs. 11362.5(e) and 11362.7(d)(1), (2),(3), and (e); see also *People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1395.
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July 2009 - June 2010

500 Ft Radius Around Marijuana Dispensaries

Violent Crime Type	Number of Crimes
Aggravated Assault	268
Commercial Robbery	42
Rape	19
Residential Robbery	7
Homicide	2
Street Robbery	107
Unclassified Robbery	2
Grand Total	447

July 2006 - July 2007

500 Ft Radius Around Marijuana Dispensaries

Violent Crime Type	Number of Crimes
Aggravated Assault	203
Commercial Robbery	60
Rape	18
Residential Robbery	6
Homicide	2
Street Robbery	106
Unclassified Robbery	9
Grand Total	404

a. 1

12/15/10 Item No. 6.4
LAF Minute Agenda
Info

July 2009 - June 2010

0.25 Mile Radius Around Marijuana Dispensaries

Violent Crime Type	Number of Crimes
Aggravated Assault	703
Commercial Robbery	113
Rape	65
Residential Robbery	27
Homicide	6
Street Robbery	314
Unclassified Robbery	7
Grand Total	1235

July 2006 - July 2007

0.25 Mile Radius Around Marijuana Dispensaries

Violent Crime Type	Number of Crimes
Aggravated Assault	607
Commercial Robbery	158
Rape	65
Residential Robbery	29
Homicide	5
Street Robbery	286
Unclassified Robbery	29
Grand Total	1179

b.1

12/15/10 Item No. 6-4
LAW Minute Agenda
Info

Greg Wade

From: Tom Clark
Sent: Tuesday, December 14, 2010 3:19 PM
To: Greg Wade; Jacque Hald
Subject: FW: 12/15/10 City Council Meeting Agenda

FYI

From: Myers, David
Sent: Tuesday, December 14, 2010 8:08 AM
To: Tom Clark; Gary Brown
Subject: FW: 12/15/10 City Council Meeting Agenda

Trio robs Kearny Mesa pot bakery

By Debbi Baker

Tuesday, December 14, 2010 at 7:32 a.m.

SAN DIEGO — A marijuana dispensary in Kearny Mesa was robbed at gunpoint Monday night.

Two men armed with handguns and another man went into Baked, Inc. on Dagget Street off of Convoy Street about 9:10 p.m. and told the clerk to hand over money, San Diego police said.

The thieves were described as black and between 20 and 20 years old with bandanas or sweatshirts covering their faces, police said.

According to the company's Facebook page the business sells a variety of baked goods that contain marijuana.

debbi.baker@uniontrib.com • (619) 293-1710 Twitter@debbi_baker

*Capt. Dave Myers
Imperial Beach Sheriff's Station
San Diego Sheriff's Department*

c.1

12/15/10 Item No. 6.4
LAP Minute Agenda
Info

Dispensary	Address	City	ZIP
San Diego Organic	2854 Main St	San Diego	92113
New Age Wellness Group	343 04th Ave #204	San Diego	92101
Downtown Kush Lounge	789 06th Avenue #127	San Diego	92101
California's Finest	1133 Broadway	San Diego	92101
Beneficial Care Collective (BCC)	740 Broadway	San Diego	92101
San Diego Organic Collective B	2731 Shelter Island Dr	San Diego	92106
Front St. Herbal Health	1602 Front Street	San Diego	92101
Rosecrans Herbal Care	1337 Rosecrans St	San Diego	92106
West Coast Wellness/SoCal Premiere Collective	2215 Kettner	San Diego	92101
California Sun Collective	2230 05th Avenue	San Diego	92101
Victory 215	1025 West Laurel #105	San Diego	92101
Absolute Collective	2801 04th Avenue	San Diego	92103
Cannabis Center	3235 04th Ave	San Diego	92103
Therapy Herbal Center	3251 04th Avenue #420	San Diego	92103
Soul Provider	2160 Las Lomas	San Diego	92107
Green Leaf Wellness	1747 Hancock St #B	San Diego	92110
Relief Cooperative	4051 Voltaire	San Diego	92107
Green Pharm	2110 Hancock #201	San Diego	92110
Point Loma Patient Association	3045 Rosecrans St #214	San Diego	92110
Ocean Beach Wellness	4851 Newport Ave	San Diego	92107
Allgreen	3750 05th Avenue	San Diego	92103
Members Only Collective (MOC)/The Patient Coll	3795-A 30th Street	San Diego	92104
Green Light	4967 Newport Ave	San Diego	92107
Ocean Beach Mendica Caregivers	4976 Newport Ave	San Diego	92107
Holistic CaT	415 University Ave	San Diego	92103
Hillcrest Compassion Care B	1295 University Avenue upstairs	San Diego	92103
SD Discount Caregiver	3152 University Avenue	San Diego	92104
The Star of San Diego	3918 30th	San Diego	92104
Alternative Care Group	3930 Oregon St	San Diego	92104
Horizon Collective	3405 Kenyon St. #111	San Diego	92110
Oasis Herbal Cooperative (HOCC)	3441 University Ave	San Diego	92104
Alternative Healing Arts Coop	4009 Park #23	San Diego	92103
The Glass Jar Collective	4015 Park #203	San Diego	92103
Botanicure Sports Arena	3445 Midway Dr #1	San Diego	92110
Green Stream Cooperative B	3434 Midway Dr	San Diego	92110
Canna Collective	4852 Voltaire	San Diego	92107
CA Best Buds	6186 University Avenue	San Diego	92115
Nuggety SD	6334 University	San Diego	92115
Mother Nurture	5029 West Point Loma Blvd	San Diego	92107
Cloud 9 Coop	5029 West Point Loma Blvd	San Diego	92107
Wellness Center Collective	4111 El Cajon Bl	San Diego	92115
Cannabis Creation Wellness Coop	2505 El Cajon Blvd	San Diego	92105
California Green Room Cannabis Collective	5234 El Cajon Bl	San Diego	92115
Sports Arena Pharmacy	3780 Hancock #G	San Diego	92110
Tree House Club	3780 Hancock #F	San Diego	92110
30th St Patient Collective	4494 30th St #B	San Diego	92104

d. 1

12/15/10 Item No. 6.4
last minute Agenda
Info

SD Holistic Collective	4535 30th #114	San Diego	92104
The Greenery Caregiver	4672 Park Blvd	San Diego	92103
Green Door Collective	3021 Adams Avenue	San Diego	92116
The Peoples Collective	2869 Adams Avenue	San Diego	92116
First Choice Collective	3439 Adams Ave	San Diego	92116
Gift of Green	3200 Adams # 208	San Diego	92116
SD Medical Collective	1233 Camino del Rio South #201B	San Diego	92108
Green Crop Coop	6957 El Cajon Bl #109	San Diego	92115
Wisdom Organics/Medi Mary B	5423 Linda Vista Road	San Diego	92111
West Coast Wellness/SoCal Premiere Collective	6956 El Cajon Bl	San Diego	92115
We the People	7200 El Cajon Blvd	San Diego	92115
CMC/Millies Collective/Cannabis La Mesa B	7364 El Cajon Blvd # 203	San Diego	92115
Integrity Workers Coop	2801 Camino del Rio South #201	San Diego	92108
Unified Collective B	2815 Camino del Rio South #2A	San Diego	92108
New Earth Beginning	4905 Savannah St	San Diego	92110
Green Kross Collective	3415 Mission Blvd	San Diego	92109
Southern Lites Collective B	5945 Mission Gorge Rd #6	San Diego	92120
Medicinal Solution Patients Collective	861 Hornblend	San Diego	92109
Medi cann/AAA Greens	945 Hornblend #F	San Diego	92109
Green Earth	936 Garnet	San Diego	92109
Grand Organics Coop	4502 Cass St	San Diego	92109
San Diego Organic Wellness Association	1150 Garnet	San Diego	92109
Doc Green's Cooperative	4655 Mission Blvd	San Diego	92109
Agape Collective	1421 Garnet	San Diego	92109
Total Herbal Care	4667 1/2 Cass	San Diego	92109
SCHN	4676 Cass	San Diego	92109
PB 420 Care Center B	2705 Garnet	San Diego	92109
Nature Medicine	3528 Ashford #E	San Diego	92111
The Helping Cloud	3690 Murphy Canyon Rd	San Diego	92108
Pacific Beach Collective	929A Turquoise Street	San Diego	92109
San Diego Holistic Healing	5544 La Jolla Blvd Suite A	San Diego	92037
Bud's N Roses	5560 La Jolla Blvd 2nd floor	San Diego	92037
Bird Rock Coop	5640 La Jolla Blvd	San Diego	92037
Farm A/C - Farm Associated Caregivers	6070 Mt. Alifan #202	San Diego	92111
SD Green Care Collective	4488 Convoy #D	San Diego	92111
Earth Medical Collective ECM/formerly Top Quali	7933 Balboa	San Diego	92111
The Green Dove	4540 Kearny Villa Rd #213	San Diego	92123
Top Quality Collective	7990 Dagget Street	San Diego	92111
San Diego Sincere SDS	7750 Dagget Street #203	San Diego	92111
Green Joy	4633 Convoy	San Diego	92111
Good Karma Collective	2629 Ariane	San Diego	92117
Wisdom Organics	8849 Complex #C	San Diego	92123
Spectrum of Kindness B	8878 Clairemont Mesa #1	San Diego	92123
LaJolla Alternative Health (LAH)	6830 La Jolla Blvd #203	San Diego	92037
Green Tree Solutions B	8055 Clairemont Mesa Blvd #107	San Diego	92111
High Tide Collective	6902 #B La Jolla Blvd	San Diego	92037
Answerdam	6645 Convoy	San Diego	92111

La Jolla Medicinal Cooperative	737 Pearl St, #202	San Diego	92037
La Jolla Cooperative	909 Prospect #130-B	San Diego	92037
Horizon Collective	1012 Prospect #300	San Diego	92037
Cali Green Meds	7128 Miramar Rd #12	San Diego	92126
Light The Way	6330 Nancy Ridge Dr #108	San Diego	92121
Delta Nine Healing Coop	8400 Miramar Rd #150	San Diego	92126
The Happy Coop	5703 Oberlin #201	San Diego	92121
San Diego Herbal Alternatives	5830 Oberlin #304	San Diego	92121
Peoples Nursery Care	10459 Roselle St #H	San Diego	92121
Cali Green Meds	9625 Black Mtn Rd, #309	San Diego	92126

6.4 CONSIDERATION OF MEDICAL MARIJUANA REGULATIONS. (0610-95)

ACTING CITY MANAGER WADE introduced the item.

CITY ATTORNEY LYON reviewed the potential options that City Council may wish to consider for regulating medical marijuana.

ACTING CITY MANAGER WADE reported on the item and noted the following were submitted as last minute agenda information: Crime Activity – 500 ft Radius Around Marijuana Dispensaries, Crime Activity – .25 Mile Radius Around Marijuana Dispensaries, Union Tribune Article by Debbi Baker (dated December 14, 2010), and a list of Marijuana Dispensaries in the City of San Diego; He stated that given the small geographical area of the City, the inability to regulate the facilities in the same way other communities can in terms of distance from sensitive uses, the potential impact to City services, and the crime statistics of other cities, the recommendation is to put a ban on medical marijuana dispensaries by ordinance or to let the existing medical marijuana dispensary moratorium expire on July 19, 2011 and allow for the existing zoning code (which does not allow for marijuana medical marijuana dispensaries) to remain in effect.

City Council expressed concern about: public safety, potential litigation, and the costs for regulation and enforcement; it was noted that those with a medical need for marijuana have access to nearby dispensaries located in the City of San Diego or have the option to go through a dispensary with delivery service; and there was an interest in looking at zoning to accommodate one dispensary.

CITY COUNCIL DIRECTED THE CITY ATTORNEY AND STAFF TO RETURN TO CITY COUNCIL WITH A DRAFT ORDINANCE TO BAN MEDICAL MARIJUANA DISPENSARIES; HOLD A 45-DAY PUBLIC REVIEW PERIOD IN MAY OR JUNE; HAVE THE FIRST READING OF THE ORDINANCE IN JUNE AND THE SECOND READING OF THE ORDINANCE IN JULY, PRIOR TO THE EXPIRATION OF THE MORATORIUM. MOTION CARRIED UNANIMOUSLY.

Assembly Bill No. 2650

CHAPTER 603

An act to add Section 11362.768 to the Health and Safety Code, relating to medical marijuana.

[Approved by Governor September 30, 2010. Filed with Secretary of State September 30, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2650, Buchanan. Medical marijuana.

Existing law added by initiative, the Compassionate Use Act of 1996, prohibits any physician from being punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes. The act prohibits the provisions of law making unlawful the possession or cultivation of marijuana from applying to a qualified patient, the qualified patient's primary caregiver, or an individual who provides assistance to the qualified patient or the qualified patient's primary caregiver, who possesses, cultivates, or distributes marijuana for the personal medical purposes of the qualified patient upon the written or oral recommendation or approval of a physician. Existing statutory law requires the State Department of Public Health to establish and maintain a voluntary program for the issuance of identification cards to qualified patients and establishes procedures under which a qualified patient with an identification card may use marijuana for medical purposes. Existing law regulates qualified patients, a qualified patient's primary caregiver, and individuals who provide assistance to the qualified patient or the qualified patient's primary caregiver, as specified. A violation of these provisions is generally a misdemeanor.

This bill would provide that no medical marijuana cooperative, collective, dispensary, operator, establishment, or provider authorized by law to possess, cultivate, or distribute medical marijuana that has a storefront or mobile retail outlet which ordinarily requires a local business license shall be located within a 600-foot radius of any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, except as specified. The bill also would provide that local ordinances, adopted prior to January 1, 2011, that regulate the location or establishment of these medical marijuana establishments would not be preempted by its provisions; and that nothing in the bill shall prohibit a city, county, or city and county from adopting ordinances that further restrict the location or establishment of these medical marijuana establishments. The bill would express a legislative finding and declaration that establishing a uniform standard regulating the proximity of these medical marijuana establishments to schools is a matter of statewide concern and not a municipal

affair and that, therefore, all cities and counties, including charter cities and charter counties, shall be subject to the provisions 92 of the bill. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 11362.768 is added to the Health and Safety Code, to read: **11362.768.** (a) This section shall apply to individuals specified in subdivision (b) of Section 11362.765.

(b) No medical marijuana cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medical marijuana pursuant to this article shall be located within a 600-foot radius of a school.

(c) The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the medical marijuana cooperative, collective, dispensary, operator, establishment, or provider is to be located without regard to intervening structures.

(d) This section shall not apply to a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider that is also a licensed residential medical or elder care facility.

(e) This section shall apply only to a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider that is authorized by law to possess, cultivate, or distribute medical marijuana and that has a storefront or mobile retail outlet which ordinarily requires a local business license.

(f) Nothing in this section shall prohibit a city, county, or city and county from adopting ordinances or policies that further restrict the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider.

(g) Nothing in this section shall preempt local ordinances, adopted prior to January 1, 2011, that regulate the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider.

(h) For the purposes of this section, "school" means any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

SEC. 2. The Legislature finds and declares that establishing a uniform standard regulating the proximity of medical marijuana cooperatives, collectives, dispensaries, operators, establishments, or providers to schools is a matter of statewide concern and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act shall apply to all cities and counties, including charter cities and charter counties.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

From: Roy Gage

Sent: Tuesday, May 31, 2011 3:19 PM

To: jjanney@cityofib.org; loriebraggib@aol.com; pbilbray@gmail.com; ejspriggs@yahoo.com; jimkingforib@gmail.com

Cc: ibcmanager@cityofib.org; jlyon

Subject: Any local government regulation of marijuana use is in direct violation of federal law regardless of what state law permits

May 31, 2011

City of Imperial Beach
825 Imperial Beach Blvd.
Imperial Beach, CA 91932

Dear Imperial Beach City Councilmembers:

Please support a permanent ban on marijuana dispensaries.

Attached for your review is a letter written by the Governor of Washington on 4.13.11 to the Department of Justice asking for guidance on the Department of Justice's position on enforcement of the Controlled Substance Act, if state law regulates marijuana use for medical purposes. Also attached in the same PDF is the Department of Justice's response to the Governor's letter.

The Department of Justice responds quite clearly in the first page saying, "As the Department has stated on many occasions, Congress has determine marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substance Act (CSA) and, as such, growing, distributing, and processing marijuana in any capacity, other than as part a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities." The Department of Justice goes on to say, "we maintain the authority to enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law."

Last month's DEA raids of illegal marijuana dispensaries in North San Diego County and Temecula are recent examples of the federal government doing just that.

Any local government regulation of marijuana use is in direct violation of federal law regardless of what state law permits. Please support a permanent ban on marijuana to protect us from the illegal and dangerous pot shop storefronts in our retail centers.

Respectfully submitted,

Roy Gage

From: Jon Sullivan

Sent: Wednesday, June 01, 2011 11:35 AM

To: jjanney@cityofib.org; loriebraggib@aol.com; pbilbray@gmail.com; ejspriggs@yahoo.com; jimkingforib@gmail.com

Cc: ibcmanager@cityofib.org; jlyon

Subject: Please ban all pot shops in Imperial Beach

Dear Imperial Beach City Councilmembers:

Subject: Please ban all pot shops in Imperial Beach

A few weeks ago the City of Menifee in southwest Riverside County voted to permanently ban pot shops in their city. Menifee previously had a moratorium. Menifee adds to a list of more than 200 other California cities which have bans against pot shops (see attached list of cities and counties in California with bans or moratoriums against pot shops). These 200+ cities and 14 counties have successfully banned pot shops because of support from their constituency, they operate illegally and the dangerous aspects they bring to neighborhoods.

It is quite clear that pot shops are just a front to sell an illegal drug under the guise of assisting the seriously ill.

Don't just take my word for it:

- 1) The marijuana guidelines written by then **State Attorney General Jerry Brown** states: "Although marijuana dispensaries have been operating in California for years, dispensaries, as such, are not recognized under the law."
- 2) **Reverend Scott T. Imler**, co-author of Proposition 215, the 1996 ballot initiative that legalized medical marijuana in California said, "We created Prop. 215 so patients would not have to deal with the black market profiteers. But today it is all about the money. Most of the dispensaries operating in California are a little more than dope dealers with store fronts." - Alternatives Magazine, Fall 2006, issue 39.

In San Diego County, not one City allows pot shops to operate. Although we do see pot shops operating, they are doing so illegally and the cities are working on shut down each of the illegally operations.

Please help protect Imperial Beach and do what other cities up and down California are doing and BAN POT SHOPS.

Thank you for your consideration.

Sincerely,

Jon Sullivan



www.drugfreecalifornia.org

United to Protect our Youth

youth • parents • schools • law enforcement • health care • media • businesses • government •
non profits • community groups • religious entities • fraternal and service organizations

California City and County Listing of Illegal Store Front Ordinances

Effective Date: February 09, 2011

Cities With Moratoria (90)

Adelanto
Alameda
Alisa Viejo
Alturas
Anderson
Barstow
Baldwin Park
Bell Gardens
Benicia
Calimesa
Calistoga
Camarillo
Canyon Lake
Carpinteria
Chula Vista
El Centro
Elk Grove
Ferndale
Fillmore
Fountain Valley
Galt
Grass Valley
Greenfield
Guadalupe
Half Moon Bay
Hemet
Hughson
Huntington Park
Imperial
Imperial Beach
Ione
La Canada Flintridge
Laguna Niguel
Lancaster
Livingston
Lodi
Loma Linda
Los Gatos
Maywood
Menifee
Montague
Moraga
Morgan Hill
Mount Shasta
National City

Needles
Nevada City
Newport Beach
Oceanside
Orange
Orinda
Oroville
Pacific Grove
Perris
Pomona
Rancho Cordova
Rancho Palos Verdes
Redwood City
Richmond
Rio Dell
Rio Vista
Rosamond
Rosemead
Sacramento
San Bruno
San Juan Bautista
San Leandro
San Luis Obispo
San Marino
San Ramon
Sand City
Santa Clara
Santa Clarita
Santa Ynez
Scotts Valley
Shasta Lake
Soledad
South Gate
South Lake Tahoe
Taft
Tahoe City
Tehama
Temple City
Vacaville
Ventura
West Sacramento
Westlake Village
Winters
Woodland
Yreka
Yucca Valley

Counties With Moratoria (7)

Colusa
Glen
Lake
Nevada
Placer
San Miguel
Tulare

Cities With Bans (214)

Agoura Hills
Anaheim
Antioch
Apple Valley
Arcadia
American Canyon
Arroyo Grande
Atascadero
Auburn
Azusa
Banning
Beaumont
Bellflower
Beverly Hills
Big Bear Lake
Biggs
Bishop
Blythe
Brea
Brentwood
Buellton
Buena Park
Calabasas
Capitola
Carlsbad
Carson
Cathedral City
Ceres
Chico
Chino
Chino Hills
Chowchilla
Claremont
Clearlake

Cloverdale
Clovis
Coachella
Cocoran
Colma
Colton
Concord
Corning
Corona
Corte Madera
Costa Mesa
Covina
Cypress
Davis
Desert Hot Springs
Dixon
Dublin
El Cajon
El Cerrito
El Monte
Emeryville
Encinitas
Escalon
Escondido
Fairfield
Firebaugh
Folsom
Fontana
Fortuna
Fowler
Fremont
Fresno
Fullerton
Garden Grove
Gardena
Gilroy
Glendale
Glendora
Goleta
Grand Terrace
Gridley
Grover Beach
Hawaiian Gardens
Hawthorne
Healdsburg
Hercules
Hermosa Beach



Hesperia
 Hollister
 Huntington Beach
 Indian Wells
 Indio
 Inglewood
 Irwindale
 King City
 Laguna Hills
 La Mirada
 La Palma
 La Quinta
 La Verne
 Laguna Beach
 Lake Elsinore
 Lake Forest
 Larkspur
 La Mesa
 Lawndale
 Lemon Grove
 Lemoore
 Live Oak
 Livermore
 Lincoln
 Lodi
 Lomita
 Lompoc
 Loomis
 Los Altos
 Los Banos
 Manhattan Beach
 Marina
 Marysville (R)
 Manteca
 Merced
 Mill Valley
 Millbrae
 Milpitas
 Mission Viejo
 Modesto
 Monrovia
 Montague
 Montclair
 Montebello
 Monterey
 Monterey Park
 Moorpark
 Moreno Valley
 Moro Bay
 Murrieta
 Newark
 Norco
 Norwalk

Oakdale
 Oakley
 Ontario
 Orland
 Oxnard
 Palm Dale
 Palm Desert
 Palo Alto
 Palos Verdes Estate
 Parlier
 Pasadena
 Paso Robles
 Patterson
 Petaluma
 Pico Rivera
 Porterville
 Pinole
 Pismo Beach
 Pittsburg
 Placentia
 Pleasant Hill
 Pleasanton
 Rancho Mirage (DS)
 Red Bluff
 Redlands
 Redondo Beach
 Ridgecrest
 Riverbank
 Riverside
 Rocklin
 Rohnert Park
 Rolling Hills Estates
 Roseville
 Salinas
 San Bernardino
 San Clemente
 San Dimas
 San Gabriel
 San Jacinto
 San Juan Capistrano
 San Leandro
 San Marcos
 San Pablo
 San Rafael
 Santa Ana
 Santa Maria
 Santee
 Sausalito
 Seal Beach
 Seaside
 Selma (R)
 Sierra Madre
 Simi Valley
 Solvang
 Sonoma
 South El Monte
 South San Francisco
 Stanton
 Suisun City
 Sunnyvale
 Susanville
 Temecula

Torrance
 Truckee
 Turlock
 Tustin
 Twentynine Palms
 Ukiah
 Union City
 Upland
 Victorville
 Villa Park
 Vista
 Walnut
 Walnut Creek
 Watsonville
 Williams
 Willits
 Windsor
 Yuba City
 Yucaipa
 Yountville

(R) = Cities who repealed
 allowable use
 (DS) = Specific Wording
 Delivery Service
 Allowed

Counties with Bans (14)

Amador
 Butte
 Contra Costa
 El Dorado
 Lassen
 Los Angeles
 Madera
 Merced
 Orange
 Placer
 Riverside
 San Bernardino
 Stanislaus
 Sutter

Cities with Established Ordinances (with land use restrictions) (42)

Albany
 Arcata (3)
 Berkley (S)
 Citrus Heights (2)
 Colfax
 Corde Madera (2)
 Cotati (1)
 Diamond Bar (1)
 Fairfax
 Fort Bragg
 Hayward (3)
 Hollywood
 Jackson (1 permit per year)
 Laguna Woods
 La Puente (6)

Long Beach
 Los Angeles (70)
 Malibu (2)
 Mammoth Lakes (2)
 Martinez
 Napa (2)
 Oakland
 Palm Springs (2)
 Placerville
 Plymouth
 Redding
 Ripon
 San Diego
 San Francisco (S)
 San Jose
 San Mateo
 Santa Barbara (MN)
 Santa Cruz (S)
 Santa Fe Springs
 Santa Rosa (S)
 Sebastopol
 Sutter Creek
 Tulare (1 per each 25,000 residents)
 Visalia
 West Hollywood (4) (S)
 Whittier
 Williams

****MN= Moratorium
 against new shops

(S) =Marijuana Sanctuary
 City

Counties With Established Ordinances (with land use restrictions) (11)

Alameda
 Calveras
 Kern
 Marin
 San Luis Obispo
 Santa Barbara
 Santa Clara
 San Diego
 San Mateo
 Sonoma
 Tehama

****Number in () is the
 capped amount of
 allowable shops

CHRISTINE O. GREGOIRE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 753-6780 • www.governor.wa.gov

April 13, 2011

The Honorable Eric Holder
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Holder:

This letter requests written guidance on the Department of Justice's position on enforcement of the Controlled Substances Act if state law were to establish a regulatory system wherein state officials license persons to dispense, produce, and process marijuana for medical use by qualifying patients.

By way of background, in 1998 the voters of the state of Washington determined that patients with terminal or debilitating illnesses, under their physician's care, who may benefit from the use of medical marijuana, would not be guilty of a crime under state law for their possession and limited use of marijuana. It is our understanding that the Department of Justice does not focus its resources on individuals who use marijuana as part of a recommended treatment regimen in compliance with state law, as outlined in an October 2009 Memorandum from Deputy Attorney General Ogden.

The Washington Legislature, concerned with a lack of sufficient and safe supply of medical marijuana, has under consideration Engrossed Second Substitute Senate Bill 5073. This legislation would provide for the Departments of Health and Agriculture to license persons to dispense, produce, and process cannabis for medical use. Licensed dispensers would select, measure, package, and label cannabis for delivery or retail sale to a qualifying patient or designated provider. Licensed processors would manufacture, process, handle, and label cannabis products for wholesale distribution to licensed dispensers. Licensed producers would produce cannabis for medical use for wholesale distribution to licensed dispensers and licensed processors of cannabis products.

In recent days I have been in contact with the United States Attorneys for the Western and Eastern Districts of Washington regarding this legislation. They referenced a February 1, 2011, letter that the United States Attorney for the Northern District of California wrote to the Oakland City Attorney in response to a request for guidance on the City of Oakland Medical Cannabis Cultivation Ordinance. The letter indicated that the Department of Justice would enforce the Controlled Substances Act against individuals and organizations that market and sell marijuana, even if such activities are permitted under state law, consistent with the guidance set forth in the 2009 Memorandum from Deputy Attorney General Ogden.



The Honorable Eric Holder
April 13, 2011
Page 2

Within the next week lawmakers will be considering the differing versions of this legislation and determining what provisions of state law they will enact and forward to me, as Governor, for approval or disapproval. It would be very helpful to receive clear guidance on the Department of Justice enforcement position and whether the 2009 Memorandum from Deputy Attorney General Ogden should be read to encompass the activities that would be licensed under this state legislation. Also, it would be helpful if the guidance addressed whether state employees involved in inspecting the premises, auditing the records or collecting fees from the licensed dispensers, producers or processors would be immune from arrest or liability when engaged in the enforcement of this licensing law.

Thank you for your assistance as we make these important decisions.

Sincerely,



Christine O. Gregoire
Governor

cc: James Cole, Deputy Attorney General
Jenny Durkan, U.S. Attorney, Western District, Washington State
Michael Ormsby, U.S. Attorney, Eastern District, Washington State



U.S. Department of Justice

United States Attorney

Eastern District of Washington

*Suite 340 Thomas S. Foley U. S. Courthouse (509) 353-2767
P. O. Box 1494 Fax (509) 353-2766
Spokane, Washington 99210-1494*

Honorable Christine Gregoire
Washington State Governor
P.O. Box 40002
Olympia, Washington 98504-0002

April 14, 2011

Re: Medical Marijuana Legislative Proposals

Dear Honorable Governor Gregoire:

We write in response to your letter dated April 13, 2011, seeking guidance from the Attorney General and our two offices concerning the practical effect of the legislation currently being considered by the Washington State Legislature concerning medical marijuana. We understand that the proposals being considered by the Legislature would establish a licensing scheme for marijuana growers and dispensaries, and for processors of marijuana-infused foods among other provisions. We have consulted with the Attorney General and the Deputy Attorney General about the proposed legislation. This letter is written to ensure there is no confusion regarding the Department of Justice's view of such a licensing scheme.

As the Department has stated on many occasions, Congress has determined that marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substances Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully market and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law as stated in the October 2009 Ogden Memorandum, we maintain the authority to enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

Consistent with federal law, the Department maintains the authority to pursue criminal or civil actions for any CSA violations whenever the Department determines that such legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA such as:

- 21 U.S.C. § 841 (making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance including marijuana);
- 21 U.S.C. § 856 (making it unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances);
- 21 U.S.C. § 860 (making it unlawful to distribute or manufacture controlled substances within 1,000 feet of schools, colleges, playgrounds, and public housing facilities, and within 100 feet of any youth centers, public swimming pools, and video arcade facilities);
- 21 U.S.C. § 843 (making it unlawful to use any communication facility to commit felony violations of the CSA); and
- 21 U.S.C. § 846 (making it illegal to conspire to commit any of the crimes set forth in the CSA).

In addition, Federal money laundering and related statutes which prohibit a variety of different types of financial activity involving the movement of drug proceeds may likewise be utilized. The Government may also pursue civil injunctions, and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

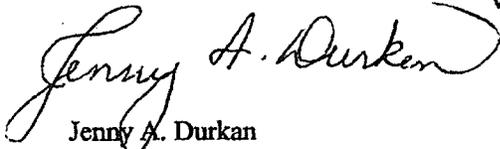
The Washington legislative proposals will create a licensing scheme that permits large-scale marijuana cultivation and distribution. This would authorize conduct contrary to federal law and thus, would undermine the federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Accordingly, the Department could consider civil and criminal legal remedies regarding those who set up marijuana growing facilities and dispensaries as they will be doing so in violation of federal law. Others who knowingly facilitate the actions of the licensees, including property owners, landlords, and financiers should also know that their conduct violates federal law. In addition, state employees who conducted activities mandated by the Washington legislative proposals would not be immune from liability under the CSA. Potential actions the Department could consider include injunctive actions to prevent cultivation and distribution of marijuana and other associated violations of the CSA; civil fines; criminal prosecution; and the forfeiture of any

Honorable Christine Gregoire
April 14, 2011
Page 3

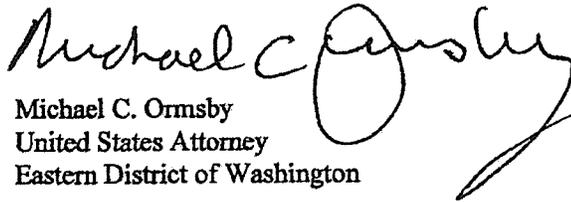
property used to facilitate a violation of the CSA. As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the CSA in all states.

We hope this letter assists the State of Washington and potential licensees in making informed decisions regarding the cultivation, manufacture, and distribution of marijuana.

Very truly yours,



Jenny A. Durkan
United States Attorney
Western District of Washington



Michael C. Ormsby
United States Attorney
Eastern District of Washington

RECEIVED APR 26 2011

Dear Imperial Beach Council Member,

As one of your constituents, I am signing this letter to inform you that I support reasonable regulations for medical cannabis facilities and safe access for patients in the city of Imperial Beach.

I am opposed to a ban on medical cannabis collectives and cooperatives in the city, as such an ordinance would lack compassion for the sick and dying and would directly go against the will of the residents of Imperial Beach and California voters both of whom passed Proposition 215 in 1996 with a majority vote. (58% in Imperial Beach)

Medical cannabis patients and providers should not be banned from the City. There are patients in Imperial Beach with no space to cultivate, those without the requisite gardening skills to cultivate their own, and, most critically, those who face the sudden onset of a serious illness or who have suffered a catastrophic injury — all tend to rely on local dispensaries as a compassionate, community-based solution that is a safe alternative to what would otherwise result in dangerous illicit market transactions.

San Diego County crime statistics and, the accounts of local officials surveyed by Americans for Safe Access (ASA) indicate that crime is actually reduced by the presence of dispensaries. When correctly regulated medical cannabis dispensing collectives across the state have shown themselves to be positive additions to neighborhoods in which they locate, bringing additional customers to neighboring businesses and reducing crime in the immediate area.

This is a priority issue for me and if you do not support a reasonable ordinance you will no longer have my vote as a public servant.

I am hopeful that you will support patients and respect the will of the voters in ensuring safe access in the city of Imperial Beach as recommended in the San Diego County Grand Jury report.

Sincerely,



Name:

Juan Padilla

Date:

4/19/11

Address:

-

-

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,


Name: Jocelyn Amaya

Date: April, 16, 11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name:

Clarkson Holloway

Date:

4-26-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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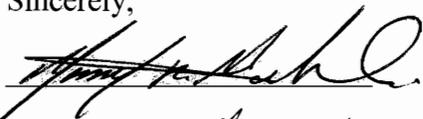
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Sincerely,



Name: Manuel R. Ballard

Date: 4.22.11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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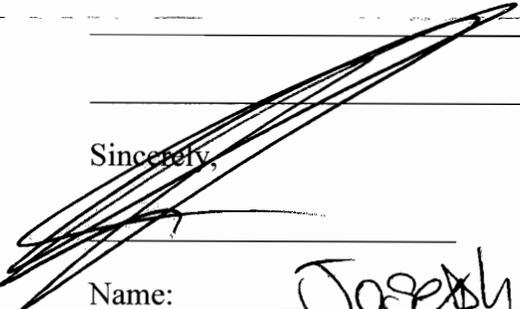
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Sincerely,

Name:


Joseph Command

Date:

4-20-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name:

Aaron Lopez

Date:

4-16-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name: _____

Date: 4-16-2011

Address: _____

cc: Imperial Beach City Manager

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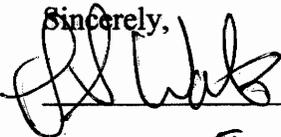
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Sincerely,



Name:

Jeremy S. Warrick

Date:

4-21-2011

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

Dear Imperial Beach Council Member,

As one of your constituents, I am signing this letter to inform you that I support reasonable regulations for medical cannabis facilities and safe access for patients in the city of Imperial Beach.

I am opposed to a ban on medical cannabis collectives and cooperatives in the city, as such an ordinance would lack compassion for the sick and dying and would directly go against the will of the residents of Imperial Beach and California voters both of whom passed Proposition 215 in 1996 with a majority vote. (58% in Imperial Beach)

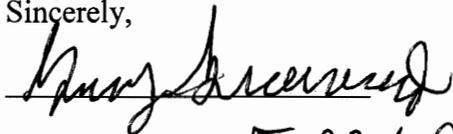
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Sincerely,



Name:

Jerry Greenwood

Date:

4/20/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name:

David A. Polliet

Date:

4/16/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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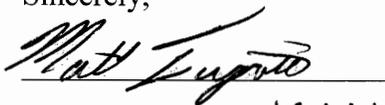
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Sincerely,



Name:

MATT Fugate

Date:

4/20

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name:

Robert K. Hughes

Date:

4-20-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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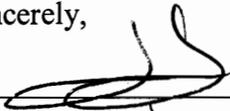
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Sincerely,


Name: Jose Juarez

Date: 4-15-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,


Name: Joseph Morales

Date: 4/16/11

Address:

cc: Imperial Beach City Manager



RECEIVED APR 26 2011

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Sincerely,

~~_____~~ Craig Bergeron

Name:

Craig Bergeron

Date:

4/20/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,

Donald Davis

Name:

Donald DAVIS

Date:

4-20-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,

Vanessa Calderon

Name:

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Date:

4/20/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name:

James Martin

Date:

4-16-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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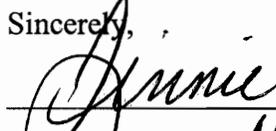
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Sincerely,


Name: N. Finnie

Date: 4/20/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,

Eric Maeva

Name:

ERIC MAEVA

Date:

4/16/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name:

Daniel Armenta

Date:

4-20-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name: MANUEL ALVAREZ

Date: 4/20/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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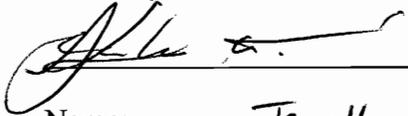
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Sincerely,



Name: Jonetha Casillas

Date: 4/16/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name:

Isabel Moreno

Date:

4-16-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name:

Brittany Williams

Date:

4/26/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name:

Tannia

Date:

04/16/11

Address

cc: Imperial Beach City Manager

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I am hopeful that you will support patients and respect the will of the voters in ensuring safe access in the city of Imperial Beach as recommended in the San Diego County Grand Jury report.

Sincerely,



Name:

Jonda Gesaman

Date:

4/20/2011

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

Dear Imperial Beach Council Member,

As one of your constituents, I am signing this letter to inform you that I support reasonable regulations for medical cannabis facilities and safe access for patients in the city of Imperial Beach.

I am opposed to a ban on medical cannabis collectives and cooperatives in the city, as such an ordinance would lack compassion for the sick and dying and would directly go against the will of the residents of Imperial Beach and California voters both of whom passed Proposition 215 in 1996 with a majority vote. (58% in Imperial Beach)

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Sincerely,

Michelle Del Real

Name: Michelle DelReal

Date: 4-16-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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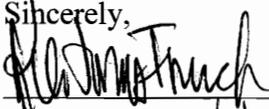
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Sincerely,



Name:

Kyle James French

Date:

April 20 - 2011

Address:

cc: Imperial Beach City Manager

Dear Imperial Beach Council Member,

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Safe Access is ALL we ask for.
What if it were your mother?!?

Sincerely,



Name:

Nigel Hatheway

Date:

4/22/11

Address:

-
-

cc: Imperial Beach City Manager

RECEIVED APR 28 2011

Dear Imperial Beach Council Member,

As one of your constituents, I am signing this letter to inform you that I support reasonable regulations for medical cannabis facilities and safe access for patients in the city of Imperial Beach.

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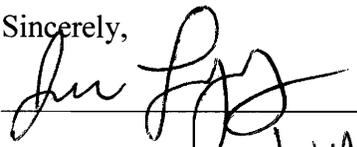
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Extreme Pain do to Broken Face Bones
meds help the pain to ease.

Sincerely,



Name: JUAN LOPEZ

Date: 4/20/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 28 2011

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Sincerely,



Name:

Adam Nevarez

Date:

4/20/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 28 2011

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Sincerely,



Name:

Jonathan Mora

Date:

4-20-11

Address:

cc: Imperial Beach City Manager

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Sincerely,



Name:

Christina Negron

Date:

4/20/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 28 2011

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Sincerely,



Name:

Kim Randazzo

Date:

4-20-11

Address:

cc: Imperial Beach City Manager

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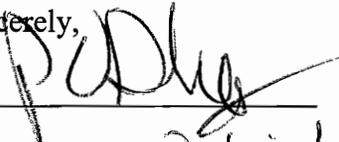
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Sincerely,



Name: Patrick Oshea

Date: 4-20-2011

Address:

cc: Imperial Beach City Manager

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Sincerely,



Name:

Patrick Sunat

Date:

4/28/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 28 2011

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Sincerely,



Name:

LUCIO MARTINEZ

Date:

4/20/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 28 2011

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Sincerely,



Name:

Allison Witz

Date:

4/20/11

Address:

cc: Imperial Beach City Manager

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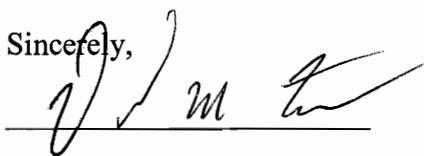
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Sincerely,



Name: DAVID LIFF

Date: 4/20/11

Address: _____

cc: Imperial Beach City Manager

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Sincerely,

Dominik Matlock

Name:

Dominik Matlock

Date:

4/28/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 28 2011

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Sincerely,



Name:

SCOTT RAFFELL

Date:

4-20-11

Address:

cc: Imperial Beach City Manager

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Sincerely,



Name: Pampy Perez

Date: 4/25/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 28 2011

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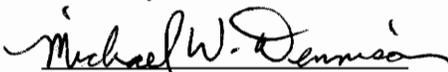
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Sincerely,



Name:

MICHAEL W. DENNISON

Date:

4/20/2011

Address:

cc: Imperial Beach City Manager

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Sincerely,



Name:

Heather Sroggin

Date:

4/20/11

Address:

cc: Imperial Beach City Manager

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Sincerely,



Name:

SHERRI PRESCOTT

Date:

4-20-11

Address:

cc: Imperial Beach City Manager

Dear Imperial Beach Council Member,

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Sincerely,



Name:

Woodrow Roberts

Date:

4-20-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 28 2011

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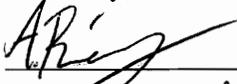
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Sincerely,



Name:

Alex Ramirez

Date:

4-20-2011

Address:

cc: Imperial

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Sincerely,

Richard C. Shirley II

Name:

Richard C. Shirley II

Date:

4/20/2011

Address:

cc: Imperial Beach City Manager

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Sincerely,



Name:

MARIA RODRIGUEZ

Date:

4/20/11

Address:

cc: Imperial Beach City Manager

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Sincerely,



Name:

Rakeem Sharpe

Date:

4.20.11

Address

cc: Imperial Beach City Manager

RECEIVED APR 28 2011

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Sincerely,



Name:

Michael Towner

Date:

4/20/11

Address: _____

cc: Imperial Beach City Manager

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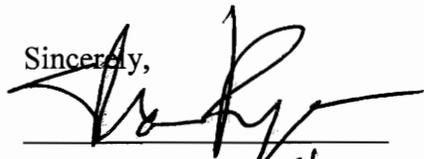
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Sincerely,



Name:

Shawn Reyes

Date:

4/20/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 28 2011

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Sincerely,



Name:

Maxwell Werner

Date:

4/20/11

Address:

cc: Imperial Beach City Manager

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Sincerely,

Greg Jones

Name: Greg. P. Jones Jr. Date: 4-20-11

Address:

cc: Imperial Beach City Manager

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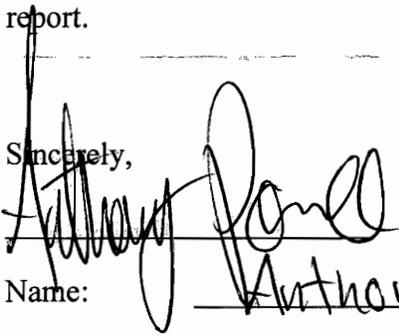
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Sincerely,

Name:

Address:



Anthony Ponce

Date:

4-20-11

cc: Imperial Beach City Manager

RECEIVED APR 28 2011

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Sincerely,



Name:

Carol L. Kaiser

Date:

4/20/11

Address:

cc: Imperial Beach City Manager

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Sincerely,



Name:

Dan Gordon

Date:

4-13-11

Address:

RECEIVED APR 26 2011

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Sincerely,

Rebeca Ayon

Name: Rebeca Ayon

Date: 04/17/2011

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,


Name: Joey Atamirano

Date: 4/16/11

Address: _____

cc: Imperial Beach City Manager

Dear Imperial Beach Council Member,

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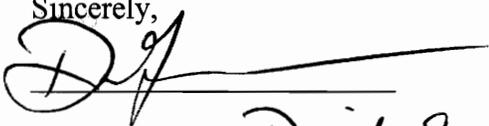
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Sincerely,



Name:

David Sundahl

Date:

4-15-11

Address:

cc: Imperial Beach City Manager

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Sincerely,

Nicole Garcia

Name: Nicole Garcia

Date: 4-16-11

Address:

cc: Imperial Beach City Manager

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Sincerely,

Dali Arriero

Name: Dali Arriero

Date: April 16, 2011

Address:

cc: Imperial Beach City Manager

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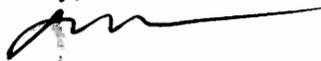
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Sincerely,



Name:

THOMAS R. ASKREN

Date:

4/16/2011

Address:

cc: Imperial Beach City Manager

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I am hopeful that you will support patients and respect the will of the voters in ensuring safe access in the city of Imperial Beach as recommended in the San Diego County Grand Jury report.

Sincerely,



Name:

Date: 4/15/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

Dear Imperial Beach Council Member,

As one of your constituents, I am signing this letter to inform you that I support reasonable regulations for medical cannabis facilities and safe access for patients in the city of Imperial Beach.

I am opposed to a ban on medical cannabis collectives and cooperatives in the city, as such an ordinance would lack compassion for the sick and dying and would directly go against the will of the residents of Imperial Beach and California voters both of whom passed Proposition 215 in 1996 with a majority vote. (58% in Imperial Beach)

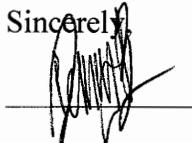
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Sincerely,


Name: _____

Date: 4-16

Address: _____

cc: Imperial Beach City Manager

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I FEEL THAT MARIJUANA IS VERY HELPFUL MEDICATION SUCH AS CALMING AND KEEPING THE PEACE

Sincerely,

MAGALLANES

Name: DANIEL

Date: 4/20/11

Address:

RECEIVED APR 26 2011

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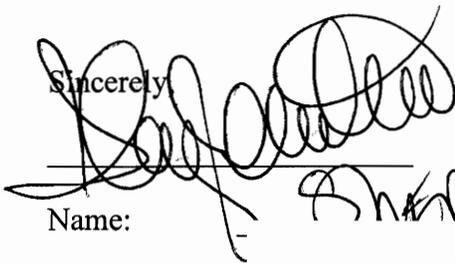
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Sincerely,



Name:

Samuel Clinton

Date:

4.20.11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,

Oscar Moreno

Name:

Oscar Moreno

Date:

4/16/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name:

Vincent Maeva

Date:

4/16/2011

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,

Enrique G.

Name:

Enrique G. GARCIA

Date:

04/16/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Abel Jimenez

Name:

Abel Jimenez

Date:

4-16-11

Address:

RECEIVED APR 26 2011

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Sincerely,



Name:

Michael Ramirez

Date:

4/16/11

Address:

cc: It

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Sincerely,



Name:

Lauren Hicks

Date:

4/20/11

Address:

cc: Imperial Bea

RECEIVED APR 26 2011

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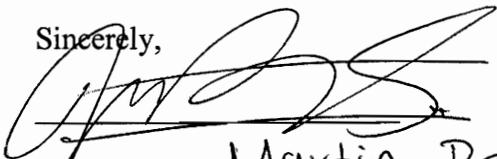
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Sincerely,



Name:

Martin Rodriguez

Date:

4/21/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,

Daniel Corona

Name:

DANIEL CORONA

Date:

04/16/11

Address:

cc: Imperial Beach City Manager

Dear Imperial Beach Council Member,

As one of your constituents, I am signing this letter to inform you that I support reasonable regulations for medical cannabis facilities and safe access for patients in the city of Imperial Beach.

2011 APR 26 P 12:15
CITY CLERK

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Sincerely,



Name: John Standaert

Date: 4/20/11

Address: _____

cc: Imperial Beach City Manager

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Sincerely,

Alec Beecham

Name: Alec Beecham

Date: 5-1-11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY 11 P 2:32
CITY OF IMPERIAL BEACH

Dear Imperial Beach Council Member,

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W

Sincerely,

Robert Maer

Name: ROBERT MAER

Date: 5/8/11

Address: _____

RECEIVED
2011 MAY 11 P 2:32
CITY MANAGER/IMPERIAL BEACH
CITY CLERK/IMPERIAL BEACH

cc: Imperial Beach City Manager

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Sincerely,

Carlos Barraza

Name:

Carlos Barraza

Date:

4/19/11

Address:

RECEIVED
2011 MAY 11 P 2:32
CITY MANAGER'S OFFICE
CITY CLERK'S OFFICE

cc: Imperial

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Sincerely,

Hector Yanetz

Name: Hector Yanetz

Date: 4-19-11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY 11 P 2:32
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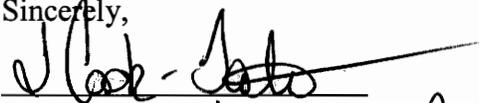
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Sincerely,



Name:

Jessamy Cook-Tate

Date:

4/19/11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY 11 P 2:32
CITY MANAGER/RESIDENTIAL
CITY CLERK OFFICE

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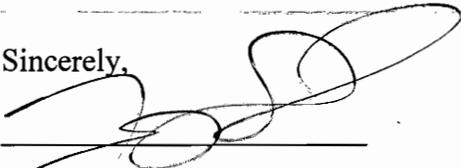
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I am hopeful that you will support patients and respect the will of the voters in ensuring safe access in the city of Imperial Beach as recommended in the San Diego County Grand Jury report.

Sincerely,



Name: Anthony Solario

Date: 5/1/11

Address: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY 11 P 2:32
CITY MANAGER'S OFFICE
CITY CLERK OFFICES

Dear Imperial Beach Council Member,

As one of your constituents, I am signing this letter to inform you that I support reasonable regulations for medical cannabis facilities and safe access for patients in the city of Imperial Beach.

I am opposed to a ban on medical cannabis collectives and cooperatives in the city, as such an ordinance would lack compassion for the sick and dying and would directly go against the will of the residents of Imperial Beach and California voters both of whom passed Proposition 215 in 1996 with a majority vote. (58% in Imperial Beach)

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Sincerely,



Name:

Webber Wilken

Date:

4-19-11

Address:

CITY MANAGER
CITY OF IMPERIAL BEACH
2011 MAY 1

RECEIVED

cc: Imperial

Dear Imperial Beach Council Member,

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Sincerely,

Justin Gamby
Name: Justin Gamby

Address:

Date: 4-19-11
RECEIVED
2011 MAY 11 P 2:32
CITY MANAGER/PERSONNEL
CITY CLERK OFFICE

cc: Imperial Beach City Manager

Dear Imperial Beach Council Member,

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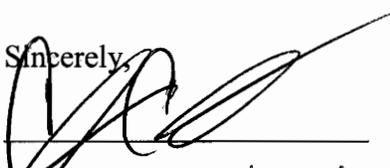
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Sincerely,

Name:


Christian Callasco

Date:

4/19/11

CITY MANAGER/PERSONAL
CITY CLERK OFFICES

2011 MAY 11 P 2:31

RECEIVED

Dear Imperial Beach Council Member,

As one of your constituents, I am signing this letter to inform you that I support reasonable regulations for medical cannabis facilities and safe access for patients in the city of Imperial Beach.

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Sincerely,

Cesar Hernandez

Name: Cesar Hernandez

Date: 04/19/2018

Address:

cc: Imperial Beach City Manager

RECEIVED
2018 MAY 11 P 2:31
CITY MANAGER/PERFORMER
CITY CLERK OFFICES

Dear Imperial Beach Council Member,

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Sincerely,

Stevie Sebring
Name: Stevie Sebring

Date: 4/19/11
CITY HALL ADMIN/RECORDS
CITY CLERK OFFICES
2011 MAY 11 P 2:31

RECEIVED

Address:

cc: Imperial Beach City Manager

Dear Imperial Beach Council Member,

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Sincerely,



Name: Fermín Boucanel

Date: 4-18-16

Address: _____

RECEIVED
2011 MAY 11 P 2:31
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

cc: Imperial Beach City Manager

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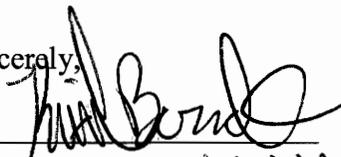
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Sincerely,


Name: Keith Barnick

Date: _____

Address: _____

2011 MAY 13 P 1:25

cc: Imperial Beach City Manager

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Sincerely,



Name: Marilyn Lopez

Date: Apr/19/17

Address:

2017 MAY 13 P 1:25
R-50

cc: Imperial Beach City Manager

Dear Imperial Beach Council Member,

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Sincerely,


Name: Terry Velazquez

Date: 4/20/15

cc: Imperial Beach City Manager

RECEIVED
2011 MAY 13 P 1:25
CITY OF IMPERIAL BEACH
CITY CLERK
2011 MAY 13

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Sincerely,



Name: Juan Breceda

Date: 4-21-2011

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY 13 P 1:25
CITY OF IMPERIAL BEACH

Dear Imperial Beach Council Member,

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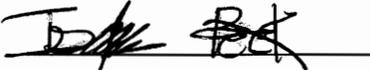
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Sincerely,



Name: Isaac Peck

Date: 4/19/11

Address: _____

RECEIVED
CITY OF IMPERIAL BEACH
2011 MAY 13 P 1:25

cc: Imperial Beach City Manager

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Sincerely,



Name:

Aniva Boone

Date:

4/25/2011

Address:

CITY OF IMPERIAL BEACH
2011 MAY 13 P 1:25
RECEIVED

cc: Imperial Beach City Manager

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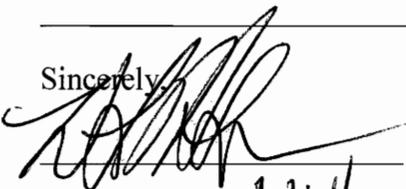
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Sincerely,



Name:

William L Hixon Jr

Date:

5/1/11

Address:

RECEIVED
2011 MAY 13 P 1:25
CITY OF IMPERIAL BEACH

cc: Imperial Beach City Manager

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Sincerely,



Name: APRIL PALANICA

Date: 4/23/11

Address: _____

cc: Imperial Beach City Manager

CITY OF IMPERIAL BEACH
2011 MAY 13 P 1:25
R 0211-090

Dear Imperial Beach Council Member,

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Sincerely,

Mike Peck

Name:

Mike Peck

Date:

4/19/11

Address:

cc: Imperial Beach City Manager

CITY MANAGER
CITY CLERK OFFICE
2011 MAY 13 P 1:25
RECORDED

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Sincerely,



Name:

Monique Zertuche

Date:

4/19/11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY 13 P 1:25
CITY CLERK OFFICE

Dear Imperial Beach Mayor and Council Members,

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I BELIEVE THAT MEDICAL MARIJUANA DISPENSARY SHOULD EXIST.

Signed: Vernon R. Everett
Name: VERNON EVERETT
Address: _____
Email/Phone: _____

Date: 5/4/11
CITY OF IMPERIAL BEACH
CITY CLERK'S OFFICE
MAY 13 P 1:25
RECEIVED

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Sincerely,



Name: Sergio ENRIQUEZ

Date: 4-19-11

Address: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY 13 P 1:25
CITY OF IMPERIAL BEACH
CITY CLERK OFFICE

Dear Imperial Beach Council Member,

As one of your constituents, I am signing this letter to inform you that I support reasonable regulations for medical cannabis facilities and safe access for patients in the city of Imperial Beach.

I am opposed to a ban on medical cannabis collectives and cooperatives in the city, as such an ordinance would lack compassion for the sick and dying and would directly go against the will of the residents of Imperial Beach and California voters both of whom passed Proposition 215 in 1996 with a majority vote. (58% in Imperial Beach)

Medical cannabis patients and providers should not be banned from the City. There are patients in Imperial Beach with no space to cultivate, those without the requisite gardening skills to cultivate their own, and, most critically, those who face the sudden onset of a serious illness or who have suffered a catastrophic injury — all tend to rely on local dispensaries as a compassionate, community-based solution that is a safe alternative to what would otherwise result in dangerous illicit market transactions.

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This is a priority issue for me and if you do not support a reasonable ordinance you will no longer have my vote as a public servant.

I am hopeful that you will support patients and respect the will of the voters in ensuring safe access in the city of Imperial Beach as recommended in the San Diego County Grand Jury report.

Sincerely,

Name:

Address:

cc: Imperial

Clemente Valverde

Clemente Valverde

Date:

11-19-11

RECEIVED
CITY OF IMPERIAL BEACH
2011 NOV 13 P 1:25

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Sincerely,

Fernando Molina

Name:

Fernando Molina

Date:

4-19-11

Address:

CITY OF IMPERIAL BEACH
CITY CLERK OFFICES

2011 MAY 13 P 1:25

RECEIVED

cc: Imperial Beach City Manager

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Sincerely,



Name: Paul Ruiz

Date: 4/19/2011

Address:

cc: Imperial B

RECEIVED
2011 MAY 13 P 1:24
CITY CLERK / CITY CLERK'S OFFICE

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Sincerely,



Name: CHARLES L SYKES Date: 5-2-11

Address:

RECEIVED
2011 MAY 13 P 1:24
CITY OF IMPERIAL BEACH
CITY CLERK'S OFFICE

cc: Imperial Beach City Manager

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Sincerely,

Name: Derrick Greene

Date: _____

Address: _____

Email/Phone: _____

cc: Imperial Beach City Manager

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Sincerely,

Name: Marisa Ramirez

Date: 4/18/11

Address:

RECEIVED
2011 MAY -9 P 3:28
CITY MANAGER/COUNCIL
CITY CLERK OFFICES

cc: Imperial F

Dear Imperial Beach Council Member,

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Sincerely,

Name: Aurora Muroz

Date: 4-30-11

Address:

RECEIVED
2011 MAY -9 P 3:28
CITY MANAGER/PERSONNEL
CLERK OFFICES

cc: Imperial Bc

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Sincerely,



Name:

Michelle Cruz

Date:

4/27/11

Address:

cc: Imperial B

RECEIVED
2011 MAY -9 P 3:22
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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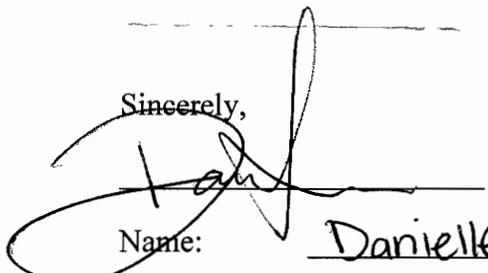
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Sincerely,

Name:


Danielle Avila

Date:

5/2/2011

Address:

CITY MANAGER/PERSONNEL
CLERK OFFICES

2011 MAY -9 P 3:22

RECEIVED

cc: Imperial Beach City Manager

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Sincerely,


Name: Bernard Liddle Date: 5-2-11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:22
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,



Name: Marlus Brown

Date: 5/2/11

Address: _____

cc: Imperial Beach City Manager

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CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,



Name:

Marty Quevedo III

Date:

5/2/11

Address:

CITY MANAGER/PT
CITY CLERK/OFF

2011 MAY -9 P

RECEIVED

cc: Imperial B

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Sincerely,

Courtney B
Name: J Courtney Brown

Address: _____

Date: 5/2/11

RECEIVED
2011 MAY -9 P 3: 22
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,



Name:

Jesus Prieto

Date:

4/22/11

Address:

RECEIVED
2011 MAY -9 P 3:22
CITY MANAGER/PERSONNEL
CLERK OFFICES

cc: Imperial Beach City Manager

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Sincerely,



Name: _____

Address: _____

Email/Phone: _____

cc: Imperial Beach City Manager

Date: 4/27

RECEIVED
MAY -9 11 3:22
CITY MANAGER PERSONNEL
CITY CLERK OFFICES

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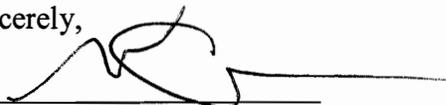
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Sincerely,



Name: Nastassia Cunniff

Date: 04/29/11

Address: _____

CITY MANAGER/PERSONNEL
CITY CLERK OFFICES
2011 MAY -9 P 3:22
RECEIVED

cc: Imperial Beach City Manager

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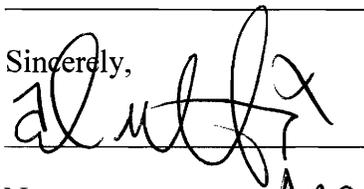
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Sincerely,



Name:

Ansel MORETTI

Date:

4-29

Address:

Email/Phone:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:22
CITY MANAGER/PERSONNEL
CITY CLERK/OFFICES

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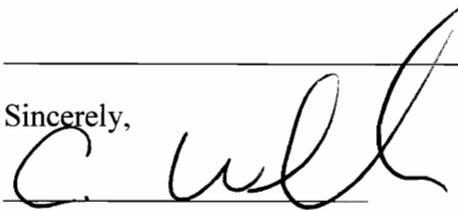
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Sincerely,



Name: Cale Wilbanks

Address: _____

Email/Phone: _____

cc: Imperial Beach City Manager

Date: 4/29/11

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2011 MAY -9 P 3:22
CITY MANAGER/PERSONNEL
CITY CLERK SERVICES

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Sincerely,

Manny Ponce

Name: JOSE PONCE

Date: 04-21

Address: _____

Email/Phone: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:22
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

Dear Imperial Beach Council Member,

As one of your constituents, I am signing this letter to inform you that I support reasonable regulations for medical cannabis facilities and safe access for patients in the city of Imperial Beach.

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Sincerely,

Mario Sosa

Name: Mario Sosa

Date: 17, 2011

Address: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:21
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,



Name:

KURT GADEL

Date:

4.27.2011

Address:

CITY MANAGER/PERSONNEL
CLERK OFFICES

2011 MAY -9 P 3:21

RECEIVED

cc: Imperial Beach City Manager

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Sincerely,



Name: Bruce LANGDON

Date: 4-29-2011

Address: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:21
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,

Name: JOSHUA JIMENEZ

Address: _____

Date: 04-17-2011

RECEIVED
2011 MAY -9 P 3:21
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

cc: Imperial Beach City Manager

Dear Imperial Beach Mayor and Council Members,

RECEIVED

As one of your constituents, I am signing this letter to inform you that I support reasonable regulations for medical cannabis facilities and safe access for patients in the city of Imperial Beach.

2011 MAY 14 10:52 AM
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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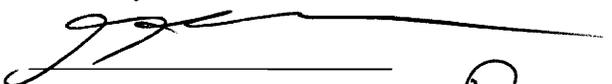
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Sincerely,



Name:

Gregory Piccone

Date:

4/27/11

Address:

Email/Phone:

cc: Imperial Beach City Manager

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Sincerely,


Name: David Rangel

Date: 4-28-2011

Address:

Email/Phone:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3: 21
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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RECEIVED
2011 MAY -9 P 3:21

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CITY MANAGER/PERSONNEL
CITY CLERK/REGISTRAR

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Sincerely,

Tyrone

Name: Tyrone

Date: 4/29/11

Address: _____

cc: Imperial Beach City Manager

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Sincerely,

Judy Creveling

Name:

JUDY CREVELING

Date:

4-27-11

Address:

RECEIVED
2011 MAY -9 P 3:23
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,

Laura A. Araiga

Name:

Laura A. Araiga

Date:

4-30-11

Address:

RECEIVED
2011 MAY -9 P 3:23
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

cc: Imperial Beach City Manager

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Sincerely,



Name: Steven Woods

Date: 4-17

Address:

RECEIVED
2011 MAY -9 P 3:23
PERSONNEL
CITY MANAGER
CITY CLERK OFFICES

cc: Imperial Beach City Manager

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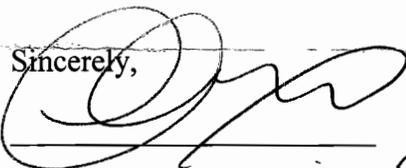
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Sincerely,

Name:


Martin Ramirez

Date:

04/17/11

Address:

CITY MANAGER/PERSONNEL
CLERK OFFICES

2011 MAY -9 P 3:23

RECEIVED

cc: Imperial Beach City Manager

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Sincerely,



Name: David Antiveros

Date: 5-2-11

Address:

RECEIVED
2011 MAY -9 P 3:22
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

cc: Imperial Beach City Manager

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Sincerely,



Name:

FRANCISCO VALENZUELA

Date:

4-21-2017

Address:

cc: Imperial Beach City Manager

RECEIVED
2017 MAY -9 P 3:22
CITY MANAGER/PENNSHIEL
CITY CLERK OFFICES

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Sincerely,



Name:

Joshua Ortega

Date:

4/17/11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:23
CITY MANAGER/PEERS INTEL
CITY CLERK OFFICES

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Sincerely,



Name:

Gilbert Felix

Date:

4/17/11

Address:

RECEIVED
2011 MAY -9 P 3:23
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

cc: Imperial F

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Sincerely,

Ismael Campos

Name:

Ismael Campos

Date:

4-18/17

Address:

RECEIVED
2017 MAY -9 P 3:23
CITY MANAGER/PERSONNEL
AND CLERK OFFICES

cc: Imperial B

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Sincerely,

GARRETT SMITH

Name:

Garrett Smith

Date:

5/2/11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:23
CITY MANAGER/PENNSHANTL
CITY CLERK OFFICES

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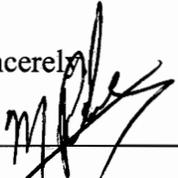
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I am hopeful that you will support patients and respect the will of the voters in ensuring safe access in the city of Imperial Beach as recommended in the San Diego County Grand Jury report.

Sincerely,


Name: MARCO RUBIO

Date: 5/2/11

Address:

RECEIVED
2011 MAY -9 P 3:23
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

cc: Imperial Beach City Manager

Dear Imperial Beach Council Member,

As one of your constituents, I am signing this letter to inform you that I support reasonable regulations for medical cannabis facilities and safe access for patients in the city of Imperial Beach.

I am opposed to a ban on medical cannabis collectives and cooperatives in the city, as such an ordinance would lack compassion for the sick and dying and would directly go against the will of the residents of Imperial Beach and California voters both of whom passed Proposition 215 in 1996 with a majority vote. (58% in Imperial Beach)

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Sincerely,

Name:

James C. Thompson

Date:

5/2/11

Address:

cc: Imperial Beach City Manager

CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

2011 MAY -9 P 3:23

RECEIVED

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Sincerely,

Kristen Carcano

Name:

KRISTEN CARCANO

Date:

4/17/11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:23
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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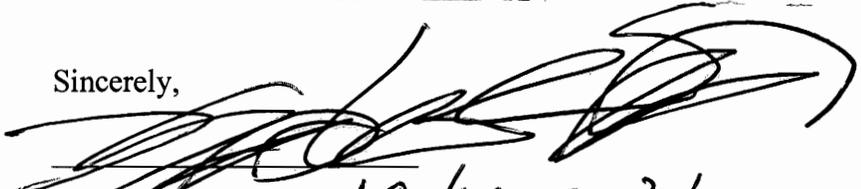
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Sincerely,



Name: KINKO RIO

Date: 4-12-11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:23
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,

Eddie Garcia

Name: Eddie Garcia

Date: 4-27-2011

Address: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:24
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

Dear Imperial Beach Mayor and Council Members,

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Sincerely,



Name:

Christopher Belormino

Date:

4-29-17

Address:

Email/Phone:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:24
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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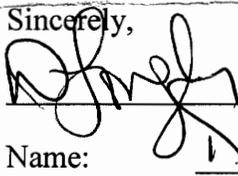
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Sincerely,


Name: Debbie London

Date: 4/29/11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:24
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,



Name: Dion Fisher

Date: 4/29

Address: _____

Email/Phone: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:24
CITY MANAGER/PERMISSIONS
CITY CLERK OFFICES

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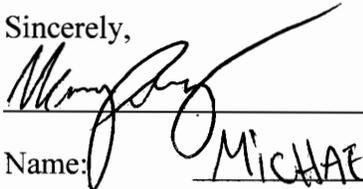
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Sincerely,



Name: MICHAEL PEREZ

Address: _____

Email/Phone: _____

cc: Imperial Beach City Manager

Date: 4/27/15

CITY MANAGER/PERSONNEL
CITY OF IMPERIAL BEACH OFFICES

MAY -9 P 3:24

RECEIVED

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Sincerely,

 CHAD

Name: CHAD ELLIOTT

Date: 4-22-11

Address: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:24
CITY MANAGER/PERSUNNEL
CITY CLERK OFFICES

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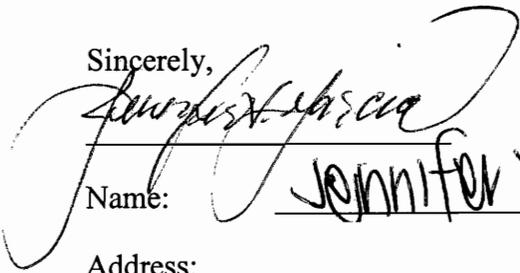
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Sincerely,


Name: JENNIFER V. GARCIA
Address:

Date: 05/17/10

RECEIVED
2011 MAY -9 P 3:24
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

cc: Imperial B

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Sincerely,

M. Clare Buckley

Name:

M. Clare Buckley

Date:

5/2/2011

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:23
CITY MANAGER'S OFFICE
CITY OF IMPERIAL BEACH

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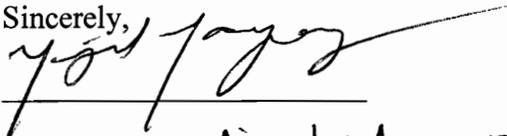
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Sincerely,



Name: Miguel Marquez

Date: 4/17/11

Address: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:23
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,

Christopher Espinosa
Name: Christopher Espinosa

Date: 4-17-11

Address: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:23
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,



Name: John Cruz

Date: 4-28-2011

Address:

cc: Imperial I

RECEIVED
2011 MAY -9 P 3:23
CITY MANAGER/PERSONNEL
CITY CLERK OFFICE

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Sincerely,


Name: Israel Lwera

Date: 4-21-11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:25
CITY MANAGER / PERSONNEL
CLERK OFFICE

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Sincerely,



Name:

Address:

Date:

4/10/19

RECEIVED
MAY -9 P 3:25
CITY MANAGER'S OFFICE
CITY CLERK OFFICES

cc: Imperial Beach City Manager

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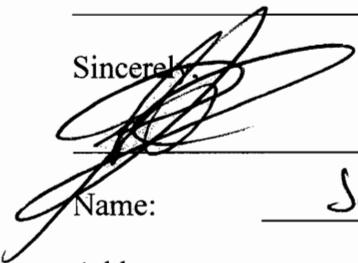
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Sincerely,



Name: Justin Jones

Date: 9/30/11

Address:

Email/Phone:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:25
CITY MANAGER / PERSCHNELL
CITY CLERK OFFICES

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I am hopeful that you will support patients and respect the will of the voters in ensuring safe access in the city of Imperial Beach as recommended in the San Diego County Grand Jury report.

Sincerely,



Name:

Michael Carroll

Date:

5-2-17

Address:

cc: Imperial Beach City Manager

RECEIVED
2017 MAY -9 P 3:25
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

Dear Imperial Beach Council Member,

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Sincerely,

x ERIC SANTIAGO

Name: ERIC SANTIAGO

Date: 4/28/11

Address:

RECEIVED
2011 MAY -9 P 3:24
CITY MANAGER/PROSAR:EL
CITY CLERK/SP:OES

cc: Imperial Beach City Manager

Dear Imperial Beach Council Member,

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Sincerely,



Name: _____

Address: _____

Date: 4-29-11

RECEIVED
2011 MAY -9 P 3:24
CITY MANAGER PERSONNEL
CITY CLERK OFFICE

cc: Imperial Beach City Manager

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Sincerely,


Name: Jaime Gutierrez

Address:

Date: 4-30-11

RECEIVED
2011 MAR -9 P 3:24
CITY MANAGER/PEP/COUNCIL
CITY CLERK OFFICES

cc: Imperial Be

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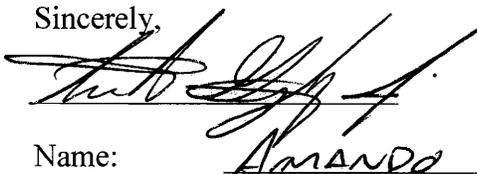
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Sincerely,



Name: Armando Gonzalez

Date: 4-29-11

Address: _____

Email/Phone: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:24
CITY MANAGER/PERSONNEL
CITY CLERK OFFICE

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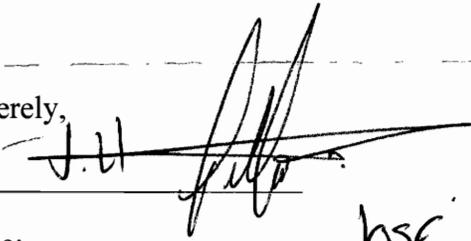
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Sincerely,

Name:

Address:

c: Imperial Beach City Manager



Jose NAMIAS

Date:

RECEIVED
2011 MAY -9 P 3:24
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,

Sham Saunders

Name: _____

Address: _____

cc: Imperial Beach City Manager

Date: 04-29

RECEIVED
2011 MAY -9 P 3:24
CITY MANAGER/COUNCIL
CITY CLERK OFFICES

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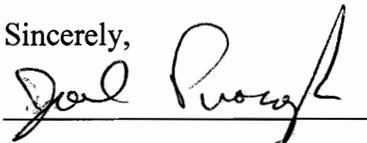
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Sincerely,



Name:

Joel Procopio

Date:

4.26.14

Address:

RECEIVED
2014 MAY -9 P 3:24
CITY MANAGER/PEIS CHANNEL
CITY CLERK OFFICE

cc: Imperial Beach City Manager

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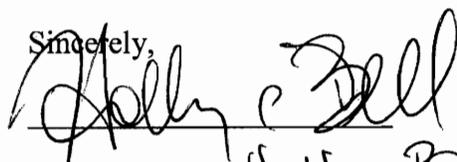
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Sincerely,


Name: Holly Bell

Date: 5/2/11

Address:

RECEIVED
2011 MAY -9 P 3:25
CITY MANAGER/REG. CLERK
CITY CLERK OFFICES

cc: Imperial Beach City Manager

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Sincerely,



Name:

Address:

Date:

4.17.11

CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

2011 MAY -9 P 3:25

RECEIVED

cc: Imperial Beach City Manager

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Sincerely,



Name: Randy R Garcia

Date: 5-25-11

Address: _____

CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

2011 MAY -9 P 3:25

RECEIVED

cc: Imperial Beach City Manager

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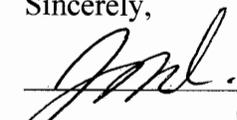
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Sincerely,


Name: MANUEL Saldana

Date: 4-29-11

Address: _____

Email/Phone: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3 25
CITY MANAGER / PRESIDENT
CITY CLERK OFFICES

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Sincerely,



Name:

Quinita Floyd

Date:

4/30

Address:

Email/Phone:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:25
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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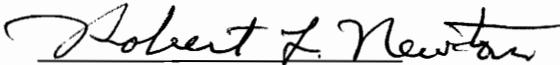
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Sincerely,



Name: ROBERT L. NEWTON Date: 4-27-11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:25
CITY MANAGER/REGISTRAR
CITY CLERK OFFICES

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Sincerely,



Name: David Castillo

Date: 4/29/11

Address:

Email/Phone

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:25
CITY MANAGER/PERS/HR/CL
CITY CLERK OFFICES

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Sincerely,



Name:

Hector Rodriguez

Date:

4/21/11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3 25
CITY CLERK OFFICE

RECEIVED APR 26 2011

Dear Imperial Beach Council Member,

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Please DO NOT DO without Medication
could not imagine. Please Don't Do
I need my meds please!

Sincerely,

McCall Wall

Name: McCall Wall

Date: 4-21-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name:

Garric A. Cochran

Date:

4-20-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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I am opposed to a ban on medical cannabis collectives and cooperatives in the city, as such an ordinance would lack compassion for the sick and dying and would directly go against the will of the residents of Imperial Beach and California voters both of whom passed Proposition 215 in 1996 with a majority vote. (58% in Imperial Beach)

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I am hopeful that you will support patients and respect the will of the voters in ensuring safe access in the city of Imperial Beach as recommended in the San Diego County Grand Jury report.

Sincerely,



Name:

Andrew Moreno

Date:

4/16/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,

Name:

Michael Moore

Date:

4-16-10

Address:

cc: Imj

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Sincerely,

Elora Hubbard 

Name:

Elora Hubbard

Date:

4/20/11

Address:

cc: Imperial Beach City Manager

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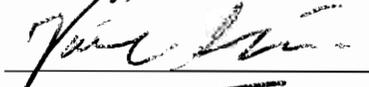
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Sincerely,



Name:

Jaime Smith

Date:

4-15-11

Address:

cc: In

RECEIVED APR 26 2011

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Sincerely,



Name:

Marcus Valdez

Date:

4/22/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name:

Kenneth Ray Jr.

Date:

4/16/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name:

Marissa Brown

Date:

4/15/11

Address:

cc: Imperial Beach City Manager

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Sincerely,

Name:

FRANCISCA MERVINO

Date:

4/14/11

Address:

cc: Imp

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Sincerely,

Monica Maeva

Name:

Monica Maeva

Date:

4/16/11

Address:

CC: Imperial Beach City Council

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Sincerely,

Estela C. Rojas

Name:

Estela Rojas

Date:

4-16-11

Address:

cc: Imperial Beach City Manager

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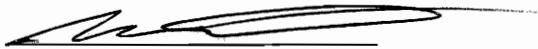
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Sincerely,



Name: Michael Barton

Date: 4-20-11

Address: _____

cc: Imperial Beach City Manager

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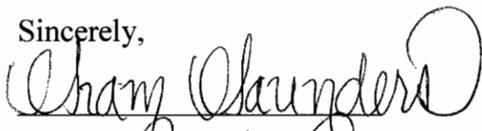
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Sincerely,



Name:

Siam S. SAUNDERS

Date:

04-16-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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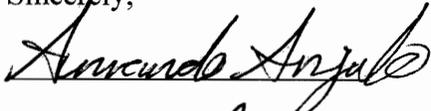
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Sincerely,



Name:

Armando Angulo

Date:

4/14/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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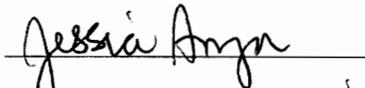
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Sincerely,



Name:

Jessica Amaya

Date:

4/16/11

Address:

cc: Ir

RECEIVED APR 26 2011

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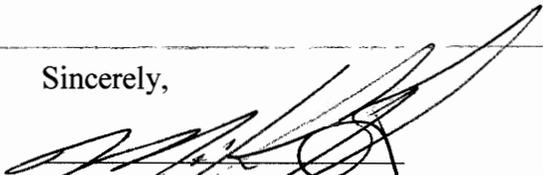
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Sincerely,



Name: Mark Roberts

Date: 4/19/11

Address: _____

cc: Imperial Beach City Manager

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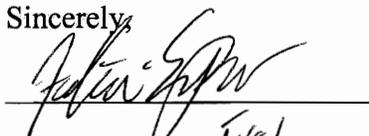
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Sincerely,



Name: FELICIA EMPSON

Date: 4/20/11

Address: _____

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,


Name: Marilyn Robles

Date: 4-16-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,

Alonso Jaimez

Name:

ALONSO JAIMEZ

Date:

4-16-2011

Address:

cc: Imperial Beach City Manager

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Sincerely,

Larry Garcia

Name: Larry Garcia

Date: 4/26/11

Address:

cc: Imperial Beach City Manager

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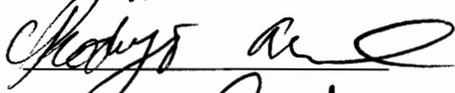
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Sincerely,



Name:

Rodrigo Arce

Date:

4/16/11

Address:

cc: In

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Sincerely,



Name:

Eric Castillo

Date:

4/16/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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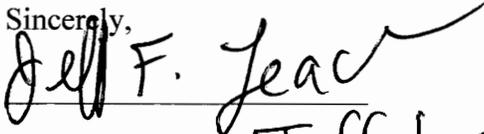
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Sincerely,



Name:

Jeff Leach

Date:

04-16-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Address:

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Sincerely,



Name:

RON JOHNSON

Date:

4-20-11

Address:

cc: Imperial Beach City Manager

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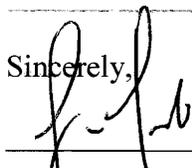
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Sincerely,


Name: LUIS TIRADO

Date: 4-16-11

Address:

cc: Imperial Beach City Manager

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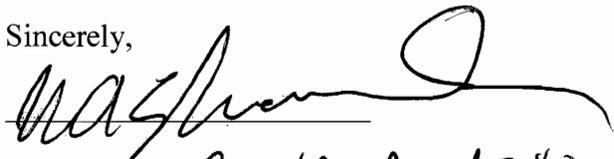
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Sincerely,



Name:

RICHARD AZOCAR SR Date: 4/20/11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,

Pablo Aguirrez

Name:

Pablo Aguirrez

Date:

4-16-11

Address:

cc: Imperial Beach City Manager

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Sincerely,

Devon Bradford

Name: Devon Bradford

Date: 4-16-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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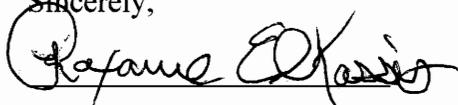
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Sincerely,



Name:

Roxanne Elkassis

Date:

4/16/2011

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,

Ariel Lopez

Name:

Ariel Lopez

Date:

4-16-11

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name:

Diane Haggerty

Date:

4-20-2011

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,


Erick Moreno

Name:

Erick Moreno

Date:

4-16-11

Address:

cc: Imj

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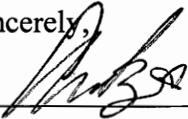
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Sincerely,



Name:

AMANDA BARELLA

Date:

4-17-11

Address:

cc: Imperial Beach City Manager

CITY MANAGER/PERSONNEL
CLERK OFFICES

2011 MAY -9 P 3:24

RECEIVED

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*You can't stop us! It's about the people
keeping us safe.*

Sincerely,



Name:

Michael Ganey

Date:

4-28-11

Address:

cc: Imperial Beach City Manager

Dear Imperial Beach Mayor and Council Members,

As one of your constituents, I am signing this letter to inform you that I support reasonable regulations for medical cannabis facilities and safe access for patients in the city of Imperial Beach.

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Signed:

Name:

Address:

Juanita Hernandez 5-3-11
Catherine McCay (care provider)

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Sincerely,

Name:


Suzi Locke

Date:

5/3/2011

Address:

cc: Imperial Be

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ALSO CONSIDER THE TAX REVENUE THAT WOULD BE
MADE & WE ALL KNOW IB NEEDS SOME FORM OF REVENUE
COMING IN. (GAS STATIONS & FAST FOOD PLACES COME ON!) THAT IS THE
BULK OF IB TAX!

Signed:

Margaret J. Osteen Date: 5-2-11

Name:

MARGARET OSTEEN

Address:

Email/Phone:

cc: Imperial Beach City Manager

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Sincerely,

Name:

Address:



Date:

5/21/

cc: Imperial Beach City Manager

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I am opposed to a ban on medical cannabis collectives and cooperatives in the city, as such an ordinance would lack compassion for the sick and dying and would directly go against the will of the residents of Imperial Beach and California voters both of whom passed Proposition 215 in 1996 with a majority vote. (58% in Imperial Beach)

Medical cannabis patients and providers should not be banned from the City. There are patients in Imperial Beach with no space to cultivate, those without the requisite gardening skills to cultivate their own, and, most critically, those who face the sudden onset of a serious illness or who have suffered a catastrophic injury — all tend to rely on local dispensaries as a compassionate, community-based solution that is a safe alternative to what would otherwise result in dangerous illicit market transactions.

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This is a priority issue for me and if you do not support a reasonable ordinance you will no longer have my vote as a public servant.

I am hopeful that you will support patients and respect the will of the voters in ensuring safe access in the city of Imperial Beach as recommended in the San Diego County Grand Jury report.

Sincerely,



Name: Katie Haugen Date: 5-4-11

Address: _____

cc: Imperial Beach City Manager

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Please have mercy, not objections.

Signed:



Date:

5/10/11

Name:

Suzanne Birdsona

Address:

Email/Phone:

cc: Imperial Beach City Manager

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Signed:



Date: 5/2/11

Name:

Lindsey Osteen

Address:

Email/Phone:

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Signed:



Date:

5-2-11

Name:

VINCENT DAVID

Address:

Email/Phone:

cc: Imperial Beach City Manager

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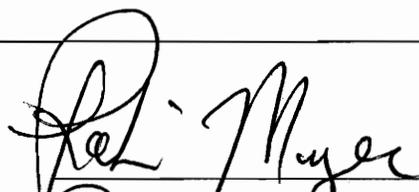
Signed:

Name:

Address:

Email/Phc

cc: Imperial Beach City Manager


Robin Meyer

Date:

5/2/11

Dear Imperial Beach Council Member,

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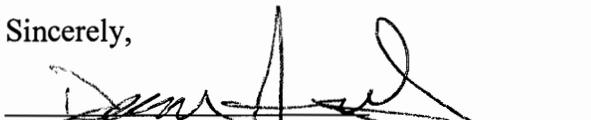
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Sincerely,


Name: DEAN AVILA

Date: 5-4-11

Address:

cc: Imperial Beach City Manager

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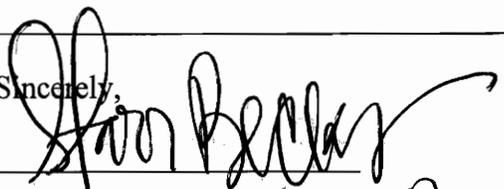
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Sincerely,



Name:

Stan Beck

Date:

4-29-11

Address:

cc: Imperial Beach City Manager

Dear Imperial Beach Council Member,

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Ivan Alarid

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Date: 4-29-11

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Please stop discriminating !!

Signed: Chris Haugen Date: 5/4/11
Name: Christopher Haugen
Address:

Email/Phc

cc: Imperial Beach City I

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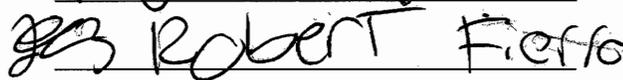
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Signed:



Date: _____

Name:



Address:

Email/Phone:

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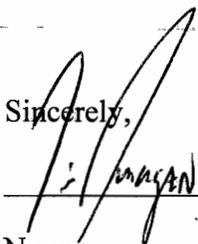
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Sincerely,

Name:



Timothy P. Duragan

Date:

5/2/11

Address:

cc: Imperial I

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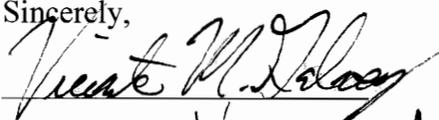
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Sincerely,



Name: Vicente M. Galvez

Date: 5-2-11

Address:

cc: Imperial Beach City Manager

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Sincerely,

Name:


J. J. CORTÉZ

Date:

5/1/11

Address:

cc: Imperial Beach City Manager

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Signed:

Name:

Address:

Email/Phone:

cc: Imperial Beach City Manager

Catherine McCall Date: 5-3-11
Catherine McCall

Dear Imperial Beach Mayor and Council Members,

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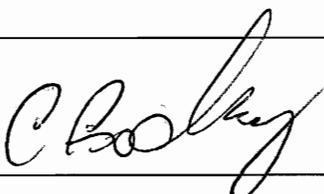
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Signed:



Date:

5-3-2011

Name:

Courtney R Godfrey

Address:

Email/Phone:

cc: Imperial Beach City Manager

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Signed: Tracy R Date: _____

Name: Tracy R

Address: _____

Email/Phone: _____

cc: Imperial Beach City Manager

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Sincerely,

Chanel Dunagan

Name: Chanel Dunagan Date: 5-2-11

Address:

cc: Imperial Beach City Manager

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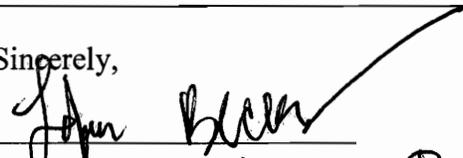
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Sincerely,


Name: Imran Becke

Date: 4-29-11

Address: _____

cc: Imperial Beach City Manager

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Signed: Benjamin McClain

Date: 5/2/11

Name: Ben McClain

Address: _____

Email/Phone: _____

cc: Imperial Beach City Manager

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I am opposed to a ban on medical cannabis collectives and cooperatives in the city, as such an ordinance would lack compassion for the sick and dying and would directly go against the will of the residents of Imperial Beach and California voters both of whom passed Proposition 215 in 1996 with a majority vote. (58% in Imperial Beach)

Medical cannabis patients and providers should not be banned from the City. There are patients in Imperial Beach with no space to cultivate, those without the requisite gardening skills to cultivate their own, and, most critically, those who face the sudden onset of a serious illness or who have suffered a catastrophic injury — all tend to rely on local dispensaries as a compassionate, community-based solution that is a safe alternative to what would otherwise result in dangerous illicit market transactions.

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I am hopeful that you will support patients and respect the will of the voters in ensuring safe access in the city of Imperial Beach as recommended in the San Diego County Grand Jury report.

Sincerely,

John Smith

Name:

John Smith

Date:

5-2-2011

Address:

cc: Imperial Beach City Manager

RECEIVED APR 26 2011

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Sincerely,



Name: MIRIAM TORRES

Date: 4/16/11

Address: _____

cc: Imperial Beach City Manager

Dear Imperial Beach Mayor and Council Members,

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I am an IB- Resident, and have been all my life. I do not want you to ban Safe Access to those who need it. A Starobent is Legband needed.

Sincerely,

[Signature]
Name: Michael Mason

Date: 4-28-11

Address:

Email/Phone: _____

cc: Imperial Beach City Manager

RECEIVED
MAY -9 P 3:28
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

Dear Imperial Beach Council Member,

As one of your constituents, I am signing this letter to inform you that I support reasonable regulations for medical cannabis facilities and safe access for patients in the city of Imperial Beach.

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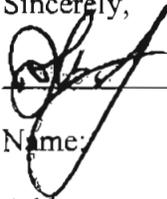
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~~WHY DOES YOUR LEADERSHIP DISCRIMINATE AND PERSECUTE HANDICAPPED INDIVIDUALS? IF THERE ARE FURTHER QUESTIONS, YOU CAN CALL ME DIRECT (619) 392-4203~~

Sincerely,



Name:

JOHN SEYMOUR

Date:

05/26/11

Address:

Email/Phone:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:28
CITY MANAGER
CITY CLERK OFFICES

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Sincerely,

Name: Shane Cunniff

Date: _____

Address: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:20
CITY MANAGER OFFICE
CITY CLERK OFFICE

Dear Imperial Beach Mayor and Council Members,

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Sincerely,

Name: Linzi Canley

Date: 4/28/11

Address: -

Email/Phone: -

cc: Imperial Beach City Manager

RECEIVED
2011 APR -9 PM 3:28
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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RECEIVED
2011 MAR -9 PM 3:28
CITY MANAGER'S OFFICE

Sincerely,

Name:

Charles Nelson

Date:

4-29-11

Address:

Email/Phone:

cc: Imperial Beach City Manager

Dear Imperial Beach Mayor and Council Members,

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Sincerely,

Name: Keshawn Williams

Date: 4/29/11

Address: _____

Email/Phone: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY 19 PM 3:26
CITY MANAGER/PRESIDENT
CITY CLERK OFFICES

Dear Imperial Beach Mayor and Council Members,

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Sincerely,

Name: Daniel Vega

Date: _____

Address: _____

Email/Phone: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:28
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,

Name: Etana Dorough

Date: 4/29/11

Address: _____

Email/Phone: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY -9 P 3:23
CITY OF IMPERIAL BEACH
CITY MANAGER/PERS. OFFICES

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RECEIVED
MAY 31 12:31 PM '11
CITY MANAGER/PERSONNEL
CITY OF IMPERIAL BEACH

Sincerely,

Name: Francisco Arenal

Date: 5/18/11

Address:

cc: Imperial Beach City Manager

Dear Imperial Beach Council Member,

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Sincerely,

Cedric Meyenga

Name: Cedric Meyenga

Date: 5/18/11

Address: _____

RECEIVED
2011 MAY 11 PM 3:29
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,

Kody Stone

Name: Kody J Stone

Date: 5/2/2011

Address: -
-
-

cc: Imperial Beach City Manager

RECEIVED
2011 MAY 31 PM 3:29
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,

Name: J. Parker

Date: 30 Apr 2011

Address: _____

RECEIVED
2011 MAY 31 PM 3:29
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

cc: Imperial Beach City Manager

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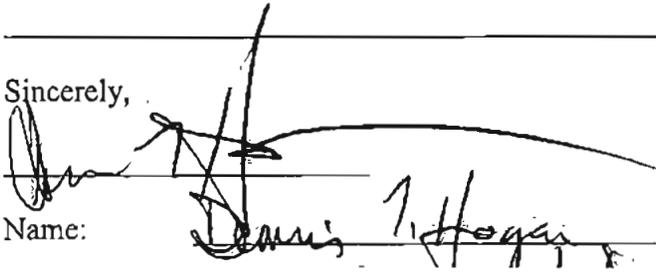
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Sincerely,


Name: Dennis T. Hogan

Date: 4/29/11

Address: _____

RECEIVED
2011 MAY 31 P 3:29
CITY MANAGER/PERSONNEL
CLERK OFFICES

cc: Imperial Beach City Manager

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To help the ones in NEED.

Signed: Angelina Solano

Name: Angelica Solano

Address: _____

Email/Phone: _____

Date: 5-13-11

CITY OF
IMPERIAL BEACH
2011

RECEIVED

INEL 29

cc: Imperial Beach City Manager

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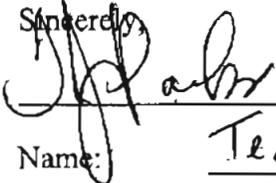
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Sincerely,



Name:

Teddrick Parks

Date:

4/29/11

Address:

CITY MANAGER/PERSONNEL
CITY CLERK/OFFICES

2011 MAY 31 P 3:29

RECEIVED

cc: Imperial Beach City Manager

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Sincerely,



Name: John Manan

Date: 5/18/11

Address: _____

cc: Imperial Beach City Manager

RECEIVED
2011 MAY 31 P 3: 29
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,



Name:

Marilyn Robles

Date:

5-14-11

Address:

cc: Imperial Beach City Manager

CITY MANAGER/PERSONAL
CITY CLERK OFFICES

2011 MAY 31 P 3:11

RECEIVED

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The people have the right to use cannabis for medical use.

Sincerely,

Richard Barrera

Name: Richard Barrera

Date: 5/4/14

Address: _____

RECEIVED
2011 MAY 31 P 3:28
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

cc: Imperial Beach City Manager

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Sincerely,

Name: Fernanda Gonzalez

Date: 5-18-11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY 31 P 3:28
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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as you the city council wrote in 1996!!! Regulate Doctor's, Tax patients, Give free Americans Safe Access, thats why we voted for YOU

Sincerely,

Jeannette R. Shambaugh

Name:

JEANNETTE SHAMBAUGH

Date:

5/18/2011

Address:

RECEIVED
MAY 31 P 3:28
CITY MANAGER/PERMISSIBLE
CITY CLERK OFFICES

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Sincerely,

Brittany Morales

Name:

Brittany Morales

Date:

5/1/11

Address:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY 31 P 3: 28
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Cancer has struck me 2x and my option for living already have enough of a struggle to have this option banned from my choice is just unjust and wrong

Sincerely,

Jessica Parada
Name: Jessica Parada

Date:

5/1/11

Address: -
-

RECEIVED
2011 MAY 31 P 3:28
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

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Sincerely,

Name:

Victor Hernandez

Date:

5/5/14

Address:

RECEIVED
2014 MAY 31 P 3:28
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

cc: Imperial Beach City Manager

Dear Imperial Beach Mayor and Council Members,

RECEIVED

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CITY MANAGER/PERSONNEL
CITY OFFICES

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I am a Medi-Cal patient with a
County Card to use medical Marijuana.
I need Access close to my home, please.

Signed:  Date: 5-13-11

Name: ARTHUR Youngman

Address:

Email/Phone:

cc: Imperial Beach City Manager

Dear Imperial Beach Council Member,

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RECEIVED
2011 MAY 31 P 3:28
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

Sincerely,

Name:

A. R. OWENS

Date:

5/2/11

Address:

cc: Imperial Beach City Manager

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RECEIVED
2011 MAY 31 P 3:28
CITY MANAGER PERSONNEL
CITY CLERK OFFICES

Sincerely,

James M. Harbin

Name:

James M. Harbin

Date:

April 23 11

Address:

cc: Imperial Beach City Manager

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My mom needs her dispensary close to her.

Signed:

Charlene Munguia

Date: 5-14-11

Name:

Charlene Munguia

Address:

Email/Phone:

cc: Imperial Beach City Manager

RECEIVED
2011 MAY 11 PM 4:20
CITY MANAGER/PERS
CITY CLERK OFFICES

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Sincerely,

Steve Hamilton

Name: Steve Hamilton

Date: 4-30-11

Address:

RECEIVED
2011 MAY 31 P 3: 28
CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

cc: Imperial Beach City Manager

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Sincerely,

FACSO Victor

Name:

FACSO Victor

Date:

5-14-2011

Address:

cc: Imperial Beach City Manager

RECEIVED
CITY MANAGER/PERS. MGR.
700 N. MAIN ST.
IMPERIAL BEACH, CA 92249
760-735-1100

Medical-marijuana dispensaries' effect on crime unclear

By John Ingold and Nancy Lofholm

The Denver Post

Posted: 01/24/2011 01:00:00 AM MST

Updated: 01/24/2011 10:30:34 AM MST



Crimes connected to medical marijuana have undoubtedly increased since the beginning of Colorado's cannabis boom. But there are no statistics suggesting the medical marijuana businesses make neighborhoods less safe. (Carlos Osorio, Associated Press file)

The would-be thieves — captured on surveillance video at the Colorado Springs medical-marijuana dispensary they were trying to burglarize — made for a fitting symbol of the connection between dispensaries and crime.

Prevented by locked doors in front of them from getting what they came for and prevented by locked doors behind them from getting away, they were stuck in the muddled middle.

With a calendar year of data now available, local law enforcement officials face a similar predicament.

Crimes connected to medical marijuana have undoubtedly increased since the beginning of Colorado's cannabis boom.

Robbers target the expanded number of people legally growing marijuana. Burglars break into dispensaries that didn't exist 18 months ago. Police have publicly linked incidents of violence and even a homicide to medical marijuana.

"Across the state, we're seeing an increase in crime related to dispensaries," said Ernie Martinez, a Denver police detective who is president of the Colorado Drug Investigators Association. "And that's just the crime that's being reported to us."

But so far, there is no statistical evidence that medical-marijuana businesses have made neighborhoods less safe overall.

A Denver police analysis completed late last year of areas around dispensaries showed that the number of crimes in those pockets dropped in the first nine months of 2010 compared with the same period in 2009. The drop, 8.2 percent, was

marginally less than the city's overall drop in crime of 8.8 percent, according to police.

Meanwhile, a Denver Post analysis of crimes committed in the first 11 months of 2010 found that some Denver neighborhoods with the highest concentration of dispensaries per capita saw a bigger decrease in crimes than did some neighborhoods with no dispensaries.

What these numbers mean, though, and whether dispensaries have played any role in the changes is unclear.

"It's not like I have seen excessive reports" involving violence linked to medical marijuana, said Steve Fox, director of public affairs for the National Cannabis Industry Association. "It's no different from any normal business. You always will have robberies and break-ins where someone believes there are valuables."

Dispensaries as targets

Indeed, the value of the product seems to drive most of the crimes reported around medical marijuana. The would-be burglars in Colorado Springs — who in November bumblingly locked themselves inside a dispensary until cops arrived — are perhaps the most famous example of a dispensary-related crime in Colorado.

Dozens of other dispensary burglaries or attempted burglaries have been reported across the state.

Other crimes have been more menacing. Two New Castle men were arrested in early October on suspicion of severely beating a woman whom they accused of stealing a medical- marijuana plant from them.

In September, Grand Junction police arrested Joseph Doremus on suspicion of shooting at another man because, the victim said, he owed Doremus \$250 for medical marijuana, police said.

And one year ago, police arrested a man on suspicion of killing a Denver medical-marijuana grower during a deal-turned-robbery.

Based on incidents like these, Martinez concludes that dispensaries aren't making neighborhoods safer.

"It's not taking away the underground empire of criminality," Martinez said of medical marijuana's legitimization.

One factor among many

Sgt. Steve Noblitt, a Colorado Springs police spokesman, said comparing neighborhood crime pre- and post-dispensary is complicated. Because crime rates

fluctuate all the time for many reasons, what should police departments use as a baseline for assessing dispensaries' impact?

"We haven't done an analysis," Noblitt said, "because we don't know what to compare it to."

The 46 medical-marijuana-related burglaries Colorado Springs police responded to between January 2009 and November were a small fraction of the total burglaries police handled in that time. The only crime at a business near a Colorado Springs dispensary that police can definitively tie to the dispensary, he said, was an incident in which burglars busted into an adjacent building to dig into the dispensary next door.

In two of Denver's most dispensary-dense neighborhoods, community activists say they haven't seen much change since the pot shops moved in.

"I haven't sensed any outrageous behavior at all," said Catherine Sandy, president of the Overland Park Neighborhood Association.

In the Ballpark neighborhood near Coors Field, the situation is the same, said neighborhood association co-president Judy Schneider. The community is part of the larger Five Points statistical neighborhood, which has 15 dispensaries, the most of any neighborhood in Denver.

"What I think it is," Schneider said, "is that people are running their businesses well."

Dan Brennan, the Wheat Ridge police chief and president of the Colorado Association of Chiefs of Police, said police have also had to deal with problems from small, at-home medical-marijuana operations. There have been home-invasion robberies, burglaries and a fire started by bad wiring in a marijuana-growing room.

But when it comes to what it all means, Brennan is a little like the burglars in Colorado Springs: stuck in the muddle.

"We're still so early into this," Brennan said. "I don't know that we have a total picture of what this really looks like."

John Ingold: 303-954-1068 or jingold@denverpost.com

Americans For Safe Access

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

MEDICAL CANNABIS DISPENSING COLLECTIVES AND LOCAL REGULATION

MEDICAL CANNABIS DISPENSING COLLECTIVES AND LOCAL REGULATION

February 2011

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Americans For Safe Access

AN ORGANIZATION OF MEDICAL PROFESSIONALS, SCIENTISTS AND PATIENTS HELPING PATIENTS

EXECUTIVE SUMMARY

California's original medical cannabis law, the Compassionate Use Act of 1996 (Prop. 215), encouraged state and federal governments to develop programs for safe and affordable distribution of medical cannabis (marijuana). Although self-regulated medical cannabis dispensing collectives (dispensaries) have existed for more than 14 years in California, the passage of state legislation (SB 420) in 2003, court rulings in *People v. Urziceanu* (2005) and *County of Butte v. Superior Court* (2009), and guidelines from the state Attorney General, all recognized and affirmed their status as legal entities under state law. With most of the 300,000 cannabis patients in California relying on dispensaries for their medicine, local officials across the state are developing regulatory ordinances that address business licensing, zoning, and other safety and operational requirements that meet the needs of patients and the community.

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 to act as a guide to policy makers tackling dispensary regulations in their communities. 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:

Benefits of regulated dispensaries to communities include:

- 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 is 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 across the state to craft ordinances that meet the state's legal requirements, as well as the needs of patients and the larger community.

Please contact us if you have questions:
888-929-4367.

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 (see AmericansForSafeAccess.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 50,000 active members with chapters and affiliates in all 50 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. The two largest physician-based professional organizations in the U.S., the American Medical Association and the

American College of Physicians, have urged the federal government to reconsider its regulatory classification of cannabis.

For decades, the federal government has maintained the position that cannabis has no medical value, despite the overwhelming evidence of marijuana's medical efficacy and the broad public support for its use. Not to be deterred, Americans have turned to state-based solutions. The laws passed by voters and legislators 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.

Fifteen states have adopted medical marijuana laws in the U.S. Beginning with California in 1996, voters passed initiatives in nine states plus the District of Columbia—Alaska, Arizona, Colorado, Maine, Michigan, Montana, Nevada, Oregon, and Washington. State legislatures followed suit, with elected officials in Hawaii, Maryland, New Jersey, New Mexico, Rhode Island, and Vermont taking action to protect patients from criminal penalty. Understanding the need to address safe and affordable access to medical cannabis, Arizona, California, Colorado, Maine, New Jersey, New Mexico, and Rhode Island all adopted local or state laws that regulate its production and distribution.

Despite *Gonzales v. Raich*, a U.S. Supreme Court ruling in 2005 that gave government the discretion to enforce federal cannabis laws even in medical cannabis states, more states continue to adopt laws each year.

With the election of President Barack Obama, a new approach to medical cannabis is taking shape. In October 2009, the Justice Department issued guidelines discouraging U.S. Attorneys from investigating and prosecuting medical cannabis cases. While this new policy specifically addresses enforcement, ASA continues to work with Congress and the President to push for expanded research and protection for all medical cannabis in the U.S. The public advocacy of well-known cannabis

patients such as the Emmy-winning talkshow host Montel Williams and music artist Melissa Etheridge has also increased public awareness and helped to create political pressure for changes in state and federal policies.

HISTORY OF MEDICAL CANNABIS IN CALIFORNIA

Since 1996, when 56% of California voters approved the Compassionate Use Act (CUA), public support for safe and legal access to medical cannabis has steadily increased. A statewide Field poll in 2004 found that "three in four voters (74%) favors implementation of the law." In 2003, the state legislature recognized that the Compassionate Use Act (CUA) gave little direction to local officials, which greatly impeded the safe and legal access to medical cannabis envisioned by voters.

Legislators passed Senate Bill 420, the Medical Marijuana Program (MMP) Act, which provided a greater blueprint for the implementation of California's medical cannabis law. Since the passage of the MMP, ASA has been responsible for multiple landmark court cases, including *City of Garden Grove v. Superior Court*, *County of San Diego v. San Diego NORML*, and *County of Butte v. Superior Court*. Such cases affirm and expand the rights granted by the CUA and MMP, and at the same time help local officials better implement state law.

In August 2008, California's Attorney General issued a directive to law enforcement on state medical marijuana law. In addition to reviewing the rights and responsibilities of patients and their caregivers, the guidelines affirmed the legality of storefront dispensaries and outlined a set of requirements for state law compliance. The attorney general guidelines also represent a roadmap by which local officials can develop regulatory ordinances for dispensaries.

WHAT IS A MEDICAL CANNABIS DISPENSING COLLECTIVE?

The majority of medical marijuana (cannabis) patients cannot cultivate their medicine for

themselves and cannot find a caregiver to grow it for them. Most of California's estimated 300,000 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. As of early 2011, ASA estimates there are approximately 2,000 medical cannabis dispensaries in California.

Dispensaries operate with a closed membership that allows only qualified patients and primary 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 MEDICAL CANNABIS DISPENSING COLLECTIVES

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 prototype 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 passed the Medical Marijuana Program Act (MMP), or Senate Bill 420, in 2003, establishing that qualified patients and primary caregivers may collectively or cooperatively cultivate and distribute cannabis for medical purposes (Cal. Health & Safety Code section 11362.775). The Act also exempts collectives and cooperatives from criminal sanctions associated with "sales" and maintaining a place where sales occur.

In 2005, California's Third District Court of Appeal affirmed the legality of collectives and cooperatives in the landmark case of *People v. Urziceanu*, which held that the MMP provides collectives and cooperatives a defense to marijuana distribution charges. Another landmark decision from the Third District Court of Appeal in the case of *County of Butte v. Superior Court* (2009) not only affirmed the legality of collectives but also found that collective members could contribute financially without having to directly participate in the cultivation.

In August 2008, the State Attorney General issued guidelines declaring that "a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law." The Attorney General provided law enforcement with a list of operational practices for collectives to help ensure compliance with state law. By adhering to a set of rules—including not-for-profit operation, the collection of sales tax, and the verification of patient status for collective members—dispensaries can operate lawfully and maintain legitimacy. In addition, local officials can use the Attorney General guidelines to help them adopt local regulatory ordinances.

In September 2010, the California Legislature

enacted Assembly Bill 2650, which states that medical marijuana dispensaries must be located further than 600-foot from a school. By recognizing "a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider that is authorized by law to possess, cultivate, or distribute medical marijuana and that has a storefront or mobile retail outlet which ordinarily requires a local business license," the Legislature has expressed its intent that storefront dispensaries and delivery services are legal under California law.

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 of patients, particularly those in urban settings, do not have the ability to produce it 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 operation or adopted ordinances regulating them. Dispensary regulation is one way in which the cities can exert local control and ensure that the needs of patients and the

community at large are being met. As of January 2011, forty-two cities and nine counties have enacted regulations, and many more are considering doing so soon.

Officials recognize their duty to implement state laws, even in instances when they may not have previously supported medical cannabis legislation. Duke Martin, former 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."

This understanding of civic obligation was echoed at the Ridgecrest hearing by Councilmember Ron Carter, now Mayor Pro Tem, 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 and other undesirable behavior, which poses 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 problems or secondary effects 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 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 who was responsible for the ordinance regulating dispensaries, Barbara Killey, noted that "The areas around the dispensaries may be some of the safest areas of Oakland now because of the level of security, surveillance, etc...since the ordinance passed."

Likewise, former 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 or from neighboring businesses."

Neighboring Sebastopol has had a similar experience. Despite public opposition to medical cannabis dispensaries, Sebastopol Police Chief Jeffrey Weaver admitted that for more than two years, "We've had no increased crime associated [with Sebastopol's medical cannabis dispensary], no fights, no loitering, no increase in graffiti, no increase in littering, zip."

"The parade of horrors that everyone predicted has not materialized. The sky has not fallen. To the contrary...California jurisdictions have shown that having medical cannabis in place does not impact...public safety." —San Francisco Supervisor David Campos

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. 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.

Several officials said that regulatory ordinances had significantly improved relations with other businesses and the community at large. An Oakland city council staff member noted that prior to adopting a local ordinance the city had received reports of break-ins. However, the council staff member said that with the adoption of Oakland's dispensary ordinance, "That kind of activity has stopped. That danger has been eliminated." Assistant City Administrator Arturo Sanchez, a nuisance enforcement officer, affirmed that since 2004 he has "never received a nuisance complaint concerning lawfully established medical marijuana dispensaries in Oakland...[or] had to initiate an enforcement action."

The absence of any connection between dis-

pensaries and increased local crime can be seen in data from Los Angeles and San Diego. During the two-year period from 2008 to 2010 in which Los Angeles saw the proliferation of more than 500 dispensaries, the overall crime rate in the city dropped considerably. A study commissioned by Los Angeles Police Chief Charlie Beck, comparing the number of crimes in 2009 at the city's banks and medical marijuana dispensaries, found that 71 robberies had occurred at the more than 350 banks in the city, compared to 47 robberies at the more than 500 medical marijuana facilities. Chief Beck observed that, "banks are more likely to get robbed than medical marijuana dispensaries," and that the claim that dispensaries attract crime "doesn't really bear out." In San Diego, where some officials have made similar allegations about increased crime associated with dispensaries, an examination of city police reports by a local paper, the San Diego City Beat, found that as of late 2009 the number of crimes in areas with dispensaries was frequently lower than it was before the dispensary opened or, at worst, stayed the same.

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 that have instituted ordinances is that such problems, which are rare in the first place, quickly disappear. In addition to being monitored by law enforcement, dispensaries universally have strict rules about how members are to behave in and around the facility. Many have "good neighbor" trainings for their members that emphasize sensitivity to the concerns of neighbors, and all dispensaries absolutely prohibit the resale of cannabis. Anyone violating that prohibition is typically banned from any further contact with the dispensary.

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 an illegal resale, local law enforcement has at its disposal all of the many legal penalties provided by the state. 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."

"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

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 preemptive measures. The reduction of crime in areas around 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 sim-

ply 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 either 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, councilmember and former mayor for 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."

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.

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."

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

Mike Rotkin of Santa Cruz stated that since the city enacted an ordinance for dispensaries, "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 obtaining 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 as a preferable alternative to potentially dangerous illicit market transactions.

Many elected officials in California recognize the importance of dispensaries to 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."

West Hollywood Mayor John Duran agreed, noting that with the high number of HIV-positive residents in the area, "Some of them require medical marijuana to offset the medications they take for HIV." Jane Bender, former 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."

And Mike Rotkin of Santa Cruz 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. Former 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."

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

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 from 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 choose to offer a wider array of social services, including everything from a place to congregate and socialize to help with finding housing and offering meals. The social support patients receive in these settings has far-reaching benefits that also influences 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.

MANY DISPENSARIES PROVIDE KEY HEALTH AND 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.

Cannabis-related services include making cannabis available in other forms for patients who cannot or do not want to smoke it. While most patients prefer to have the ability to modulate the dosing that smoking easily allows, for others, the effects of extracts or edible cannabis products are preferable. Dispensaries typically offer a wide array of edible products 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. 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 mic 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.

Examples of health services offered at dispensaries across California:

- Naturopathic medicine
- Reiki
- Ayurvedic medicine
- Chinese medicine
- Chiropractic medicine
- Acupuncture
- Massage
- Cranial Sacral Therapy
- Rolfing Therapy
- Group & Individual Yoga Instruction
- Hypnotherapy
- Homeopathy
- Western Herbalists
- Individual Counseling
- Integrative Health Counseling
- Nutrition & Diet Counseling
- Limited Physical Therapy
- Medication Interaction Counseling
- Condition-based Support Groups

Social services such as counseling and support groups were reported to be the most commonly and regularly used, 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:

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 derived 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 illnesses, such as HIV/AIDS and terminal cancer, groups of people with similar conditions can also help fellow patients through the grieving

process. Many patients who have lost or are losing friends and partners to terminal illness 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

After more than 14 years of existence, dispensaries are proving to be an asset to the communities they serve, as well as the larger community in which they operate. This is especially the case when public officials choose to implement local ordinances that recognize the lawful operation of dispensaries. Since the Medical Marijuana Program Act was enacted by the California legislature in 2004, more than 50 localities have adopted ordinances regulating dispensaries.

By surveying local officials and monitoring regulatory activity throughout the State of California, ASA 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 medical 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, have been outspoken in praise of the dispensary 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 300,000 sick and suffering Californians, dispensaries, and the regulations under which they operate, are working.

RECOMMENDATIONS FOR DISPENSARY REGULATIONS

Cannabis dispensaries have been operating successfully in California for more than 14 years with very few problems. And, although the legislature and courts have acted to make dispensaries legal under state law, the question of how to implement appropriate zoning laws and business licensing is still 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...

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.

ADMINISTRATION OF DISPENSARY REGULATIONS ARE BEST HANDLED BY 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
- Citrus Heights—City Manager
- Cotati—City Manager
- Dunsmuir—Planning Commission
- Eureka--Dept of Community Development
- Laguna Woods—City Manager
- Long Beach—Financial Management
- Los Angeles—Building and Safety
- Malibu—City Manager
- Napa—City Council

- Palm Springs—City Manager
- Plymouth—City Administrator
- Sebastopol—Planning Department
- San Francisco—Dept. of Public Health
- San Mateo—License Committee
- Santa Barbara—Community Development
- Selma—City Manager
- Stockton—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 that 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 unintended and undesirable effects such as lines outside of dispensaries, increased prices, and lower quality medicine, in addition to increased illicit-market activity.

Examples of cities and counties without numerical caps on dispensaries:

- Dunsmuir
- Fort Bragg
- Laguna Woods
- Long Beach
- Placerville
- Redding
- Ripon
- San Mateo
- Santa Barbara
- Selma

- Tulare
- Calaveras County
- Kern County
- City and County of San Francisco
- San Mateo County
- Sonoma County

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 travel is difficult for many patients, 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 providers 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 residences, schools or other facilities) that can make it impossible for dispensaries to locate anywhere within the city limits, thereby establishing a de facto ban on dispensing. 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 of specialized delivery methods, such as vaporizers, which do not require smoking.

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

- Alameda County
- Berkeley
- Kern County
- Laguna Woods
- Richmond
- San Francisco
- San Mateo County
- South El Monte

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 can or want to 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 and extracts 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, and different functions, to new patients.

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

- Albany
- Angels Camp
- Berkeley

- Cotati
- Citrus Heights
- Eureka
- Laguna Woods
- Long Beach
- Los Angeles (city of)
- Malibu
- Napa
- Palm Springs
- Redding
- Richmond
- Santa Barbara
- Santa Cruz
- Sebastopol
- South El Monte
- Stockton
- Sutter Creek
- West Hollywood
- Alameda County
- Kern County
- Sonoma County

RESOURCES FOR MORE INFORMATION

A downloadable PDF of this report is online at AmericansForSafeAccess.org/DispensaryReport

A model dispensary ordinance can be seen at AmericansForSafeAccess.org/ModelOrdinance.

A regularly updated list of ordinances, moratoriums, and bans adopted by California cities and counties can be found at AmericansForSafeAccess.org/regulations.

You can find ASA chapters in your area at AmericansForSafeAccess.org/Chapters.

ASA Blog

AmericansForSafeAccess.org/blog

ASA Forums

AmericansForSafeAccess.org/forum

Medical and Scientific Information

AmericansForSafeAccess.org/medical

Legal Information

AmericansForSafeAccess.org/legal

Become a member of ASA

AmericansForSafeAccess.org/join

Contact ASA to order the DVD "Medical Cannabis in California"—interviews with elected officials and leaders who are implementing safe and effective regulations.

APPENDIX A

CALIFORNIA CITIES AND COUNTIES THAT HAVE ADOPTED ORDINANCES REGULATING DISPENSARIES

(as of February 2011)

For an updated list, go to:
AmericansForSafeAccess.org/regulations

City Ordinances (42)

Albany
Angels Camp
Berkeley
Citrus Heights
Cotati
Diamond Bar
Dunsmuir
Eureka
Fort Bragg
Jackson
La Puente
Laguna Woods
Long Beach
Los Angeles
Malibu
Mammoth Lakes
Martinez
Napa
Oakland
Palm Springs
Placerville
Plymouth
Redding
Richmond
Ripon
Sacramento
San Carlos
San Francisco
San Jose
San Mateo
Santa Barbara
Santa Cruz
Santa Rosa

Sebastopol
Selma
South El Monte
Stockton
Tulare
Visalia
West Hollywood
Whittier
Yucca Valley

County Ordinances (9)

Alameda
Calaveras
Kern
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Sonoma

APPENDIX B

ASA'S QUICK GUIDE FOR EVALUATING PROPOSED MEDICAL MARIJUANA DISPENSARY ORDINANCES IN CALIFORNIA

This is a quick guide on what should be, and what should not be, in city and county ordinances to best support safe access for medical cannabis patients.

What the ordinance **MUST** include:

- Allowance for over-the-counter/storefront sales (sometimes called reimbursements, contributions, or not-for-profit sales)
- Allowance for patients to medicate on-site
- Allowance for sale of cannabis edibles and concentrated extracts
- Distinction between Medical Cannabis Dispensing Collectives (MCDCs) and private patient collectives or cooperatives

What to look out for in proposed ordinances:

Is the general language and focus framed as a medical or healthcare issue, rather than a criminal justice or law enforcement problem?

Does the ordinance affirm that MCDCs should be organized to serve patients and have a "not-for-profit" business model?

Is there a cap on the number of MCDCs allowed to operate that could negatively impact accessibility, affordability and quality?

- How was the MCDC cap number determined (per capita, per pharmacy)?
- What criteria will be used to approve and license MCDCs?
- Will quality through competition be supported?

Zoning considerations:

- Will each MCDC be required to apply for a conditional use permit, or does the ordinance specify MCDCs as an enumerated business?
- Are there proximity restrictions or "buffer zones" from so-called "sensitive uses" which will make locating a dispensary onerous.
- Has a map been prepared that shows where the ordinance will require MCDCs to locate?

Does the ordinance provide for a community oversight committee tasked with any licensing or appeals processes?

- Will the oversight committee include patients, activists, MCDC operators, and members of the local community?

What are the MCDC requirements for book-keeping and records disclosure?

- Does the ordinance allow MCDCs to keep identifying information about its members off-site, to protect patient identities?
- Does law enforcement have unfettered access to patient records or is a subpoena required?

Are there caps on the number of patient-members an MCDC can serve?

Is on-site cultivation prohibited for MCDCs?

APPENDIX C

ATTORNEY GENERAL, STATE OF CALIFORNIA, GUIDELINES FOR THE SECURITY AND NON-DIVERSION OF MARIJUANA GROWN FOR MEDICAL USE

August 2008

GUIDELINES REGARDING COLLECTIVES AND COOPERATIVES

Under California law, medical marijuana patients and primary caregivers may "associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes." (§ 11362.775.) The following guidelines are meant to apply to qualified patients and primary caregivers who come together to collectively or cooperatively cultivate physician-recommended marijuana.

A. Business Forms: Any group that is collectively or cooperatively cultivating and distributing marijuana for medical purposes should be organized and operated in a manner that ensures the security of the crop and safeguards against diversion for non-medical purposes. The following are guidelines to help cooperatives and collectives operate within the law, and to help law enforcement determine whether they are doing so.

1. Statutory Cooperatives: A cooperative must file articles of incorporation with the state and conduct its business for the mutual benefit of its members. (Corp. Code, § 12201, 12300.) No business may call itself a "cooperative" (or "coop") unless it is properly organized and registered as such a corporation under the Corporations or Food and Agricultural Code. (Id. at § 12311(b).) Cooperative corporations are "democratically controlled and are not organized to make a profit for themselves, as such, or for their members, as such, but primarily for their members as patrons." (Id. at § 12201.) The earnings and savings of the business must be

used for the general welfare of its members or equitably distributed to members in the form of cash, property, credits, or services. (Ibid.) Cooperatives must follow strict rules on organization, articles, elections, and distribution of earnings, and must report individual transactions from individual members each year. (See id. at § 12200, et seq.) Agricultural cooperatives are likewise nonprofit corporate entities "since they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers." (Food & Agric. Code, § 54033.) Agricultural cooperatives share many characteristics with consumer cooperatives. (See, e.g., id. at § 54002, et seq.) Cooperatives should not purchase marijuana from, or sell to, non-members; instead, they should only provide a means for facilitating or coordinating transactions between members.

2. Collectives: California law does not define collectives, but the dictionary defines them as "a business, farm, etc., jointly owned and operated by the members of a group." (Random House Unabridged Dictionary; Random House, Inc. © 2006.) Applying this definition, a collective should be an organization that merely facilitates the collaborative efforts of patient and caregiver members - including the allocation of costs and revenues. As such, a collective is not a statutory entity, but as a practical matter it might have to organize as some form of business to carry out its activities. The collective should not purchase marijuana from, or sell to, non-members; instead, it should only provide a means for facilitating or coordinating transactions between members.

B. Guidelines for the Lawful Operation of a Cooperative or Collective: Collectives and cooperatives should be organized with sufficient structure to ensure security, non-diversion of marijuana to illicit markets, and compliance with all state and local laws. The

following are some suggested guidelines and practices for operating collective growing operations to help ensure lawful operation. 1. **Non-Profit Operation:** Nothing in Proposition 215 or the MMP authorizes collectives, cooperatives, or individuals to profit from the sale or distribution of marijuana. (See, e.g., § 11362.765(a) ["nothing in this section shall authorize . . . any individual or group to cultivate or distribute marijuana for profit"].)

2. Business Licenses, Sales Tax, and Seller's Permits: The State Board of Equalization has determined that medical marijuana transactions are subject to sales tax, regardless of whether the individual or group makes a profit, and those engaging in transactions involving medical marijuana must obtain a Seller's Permit. Some cities and counties also require dispensing collectives and cooperatives to obtain business licenses.

3. Membership Application and Verification: When a patient or primary caregiver wishes to join a collective or cooperative, the group can help prevent the diversion of marijuana for non-medical use by having potential members complete a written membership application. The following application guidelines should be followed to help ensure that marijuana grown for medical use is not diverted to illicit markets:

- a) Verify the individual's status as a qualified patient or primary caregiver. Unless he or she has a valid state medical marijuana identification card, this should involve personal contact with the recommending physician (or his or her agent), verification of the physician's identity, as well as his or her state licensing status. Verification of primary caregiver status should include contact with the qualified patient, as well as validation of the patient's recommendation. Copies should be made of the physician's recommendation or identification card, if any;
- b) Have the individual agree not to distribute marijuana to non-members;
- c) Have the individual agree not to use the marijuana for other than medical purposes;
- d) Maintain membership records on-site or have them reasonably available;
- e) Track when members' medical marijuana

recommendation and/or identification cards expire; and

- f) Enforce conditions of membership by excluding members whose identification card or physician recommendation are invalid or have expired, or who are caught diverting marijuana for non-medical use.

4. Collectives Should Acquire, Possess, and Distribute Only Lawfully Cultivated Marijuana: Collectives and cooperatives should acquire marijuana only from their constituent members, because only marijuana grown by a qualified patient or his or her primary caregiver may lawfully be transported by, or distributed to, other members of a collective or cooperative. (§§ 11362.765, 11362.775.) The collective or cooperative may then allocate it to other members of the group. Nothing allows marijuana to be purchased from outside the collective or cooperative for distribution to its members. Instead, the cycle should be a closed circuit of marijuana cultivation and consumption with no purchases or sales to or from non-members. To help prevent diversion of medical marijuana to nonmedical markets, collectives and cooperatives should document each member's contribution of labor, resources, or money to the enterprise. They also should track and record the source of their marijuana.

5. Distribution and Sales to Non-Members are Prohibited: State law allows primary caregivers to be reimbursed for certain services (including marijuana cultivation), but nothing allows individuals or groups to sell or distribute marijuana to non-members. Accordingly, a collective or cooperative may not distribute medical marijuana to any person who is not a member in good standing of the organization. A dispensing collective or cooperative may credit its members for marijuana they provide to the collective, which it may then allocate to other members. (§ 11362.765(c).) Members also may reimburse the collective or cooperative for marijuana that has been allocated to them. Any monetary reimbursement that members provide to the collective or cooperative should only be an amount necessary to cover overhead costs and operating expenses.

6. Permissible Reimbursements and Allocations: Marijuana grown at a collective or cooperative for medical purposes may be:

- a) Provided free to qualified patients and primary caregivers who are members of the collective or cooperative;
- b) Provided in exchange for services rendered to the entity;
- c) Allocated based on fees that are reasonably calculated to cover overhead costs and operating expenses; or d) Any combination of the above.

7. Possession and Cultivation Guidelines:

If a person is acting as primary caregiver to more than one patient under section 11362.7(d)(2), he or she may aggregate the possession and cultivation limits for each patient. For example, applying the MMP's basic possession guidelines, if a caregiver is responsible for three patients, he or she may possess up to 24 oz. of marijuana (8 oz. per patient) and may grow 18 mature or 36 immature plants. Similarly, collectives and cooperatives may cultivate and transport marijuana in aggregate amounts tied to its membership numbers. Any patient or primary caregiver exceeding individual possession guidelines should have supporting records readily available when:

- a) Operating a location for cultivation;
- b) Transporting the group's medical marijuana; and
- c) Operating a location for distribution to members of the collective or cooperative.

8. Security: Collectives and cooperatives should provide adequate security to ensure that patients are safe and that the surrounding homes or businesses are not negatively impacted by nuisance activity such as loitering or crime. Further, to maintain security, prevent fraud, and deter robberies, collectives and cooperatives should keep accurate records and follow accepted cash handling practices, including regular bank runs and cash drops, and maintain a general ledger of cash transactions.

C. Enforcement Guidelines: Depending upon the facts and circumstances, deviations from the guidelines outlined above, or other indicia that marijuana is not for medical use, may give rise to probable cause for arrest and seizure. The following are additional guidelines to help identify medical marijuana collectives and cooperatives that are operating outside of state law.

1. Storefront Dispensaries: Although medical marijuana "dispensaries" have been operating in California for years, dispensaries, as such, are not recognized under the law. As noted above, the only recognized group entities are cooperatives and collectives. (§ 11362.775.) It is the opinion of this Office that a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law, but that dispensaries that do not substantially comply with the guidelines set forth in sections IV(A) and (B), above, are likely operating outside the protections of Proposition 215 and the MMP, and that the individuals operating such entities may be subject to arrest and criminal prosecution under California law. For example, dispensaries that merely require patients to complete a form summarily designating the business owner as their primary caregiver - and then offering marijuana in exchange for cash "donations" - are likely unlawful. (Peron, supra, 59 Cal.App.4th at p. 1400 [cannabis club owner was not the primary caregiver to thousands of patients where he did not consistently assume responsibility for their housing, health, or safety].)

2. Indicia of Unlawful Operation: When investigating collectives or cooperatives, law enforcement officers should be alert for signs of mass production or illegal sales, including (a) excessive amounts of marijuana, (b) excessive amounts of cash, (c) failure to follow local and state laws applicable to similar businesses, such as maintenance of any required licenses and payment of any required taxes, including sales taxes, (d) weapons, (e) illicit drugs, (f) purchases from, or sales or distribution to, non-members, or (g) distribution outside of California.

APPENDIX D — MODEL ORDINANCE

MODEL ORDINANCE FOR COLLECTIVES

WHEREAS voters approved Proposition 215 in 1996 to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes and to encourage elected officials to implement a plan for the safe and affordable distribution of medicine; and

WHEREAS the California State Legislature adopted Senate Bill 420, the Medical Marijuana Program Act, in 2003 to help clarify and further implement Proposition 215 in part by authorizing Qualified Patients and Primary Caregivers to associate within the State of California in order collectively or cooperatively to cultivate cannabis for medical purposes; and

WHEREAS the California Attorney General published "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Purposes" in 2008, acknowledging that "a properly organized and operated collective of cooperative that dispenses medical marijuana through a storefront may be lawful under California law," provided the facility substantially complies with state law; and

WHEREAS crime statistics and the accounts of local officials surveyed by Americans for Safe Access indicate that crime is actually reduced by the presence of a Medical Cannabis Dispensing Collective (MCDC); and complaints from citizens and surrounding businesses are either negligible or are significantly reduced with the implementation of sensible regulations; and

WHEREAS California courts have upheld the legality of MCDCs under state law, including *People v. Hohanadel*, 98 Cal.Rptr.3d 347, and *People v. Urziceanu*, 132 Cal.App.4th 747;

THEREFORE, BE IT RESOLVED That _____ does hereby enact the following:

Purposes and Intent

- (1) To implement the provisions of California Health and Safety Code Sections 11362.5 and 11362.7, et seq., as described by the California Attorney General in "Guidelines For The Security And Non-diversion Of Marijuana Grown For Medical Use," published August 2008, which states in Section IV(C)(1) that "a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law," provided the facility substantially complies with the guidelines.
- (2) To help ensure that seriously ill _____ residents can obtain and use cannabis for medical purposes where that medical use has been deemed appropriate by a physician in accordance with California law.
- (3) To help ensure that the qualified patients and their primary caregivers who obtain or cultivate cannabis solely for the qualified patient's medical treatment are not subject to arrest, criminal prosecution, or sanction.
- (4) To protect citizens from the adverse impacts of unregulated medical cannabis distribution, storage, and use practices.
- (5) To establish a new section in the _____ code pertaining to the permitted distribution of medical cannabis in _____ consistent with state law.

Nothing in this ordinance purports to permit activities that are otherwise illegal under state or local law.

Definitions

The following phrases, when used in this Chapter, shall be construed as defined in California Health and Safety Code Sections 11362.5 and 11362.7:

- "Person with an identification card;"
- "Identification card;"
- "Primary caregiver;" and
- "Qualified patient."

The following phrases, when used in this Chapter, shall be construed as defined below:

"Medical Cannabis Dispensing Collective" or "MCDC". Qualified patients, persons with identification cards and designated primary caregivers of qualified patients and persons with identification cards who associate, as an incorporated or unincorporated association, within _____, in order to collectively or cooperatively provide medical marijuana from a licensed or permitted location pursuant to this Chapter, for use exclusively by their registered members, in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7, et seq.

"Director." The Director of Planning or other person authorized to issue a Conditional Use Permit pursuant to _____ code.

Cities and counties may issue a business license or a Conditional Use Permit (CUP) to regulate MCDCs. If a jurisdiction opts for a business license model, the language in the following sections may be replaced with language authorizing the issuance of a business license by amending the appropriate code Sections: Conditional Use Permit Required, Application Procedures, and Findings.

Conditional Use Permit Required

A Conditional Use Permit shall be required to establish or operate a Medical Cannabis Dispensing Collective (MCDC) in compliance with the requirements of this Chapter when located in Commercial, Manufacturing, or Retail Zones.

Application Procedure

- (1) In addition to ensuring compliance with the application procedures specified in Section _____, the Director shall send copy of the application and related materials to all other relevant City departments for their review and comment.
- (2) A disclaimer shall be put on the MCDC zoning application forms that shall include the following:
 - a. A warning that the MCDC operators and their employees may be subject to prosecution under federal law; and
 - b. A disclaimer that the City will not accept any legal liability in the connection with any approval and/or subsequent operation of an MCDC.

Findings

In addition to the findings required to establish compliance with the provisions of Section _____, approval of a Conditional Use Permit for an MCDC shall require the following findings:

- (1) That the requested use at the proposed location will not adversely affect the economic welfare of the nearby community;
- (2) That the requested use at the proposed location is outside a Residential Zone;
- (3) That the exterior appearance of the structure will be consistent with the exterior appearance of structures already constructed or under constructing within the immediate neighborhood, so as to prevent blight or deterioration, or substantial diminishment or impairment of property values within the neighborhood.

Location

The location at which an MCDC distributes medical cannabis must meet the following requirements:

- (1) The location must be in a Non-Residential Zone appropriate for Commercial, Manufacturing, or Retail uses, including health care use;
- (2) The location must not be within 600-foot radius of a school, as measured in Section 11362.768 of the California Health and Safety Code;
- (3) The location must not be within 1,000 feet of another MCDC.

Police Department Procedures and Training

- (1) Within six months of the date that this Chapter becomes effective, the training materials, handbooks, and printed procedures of the Police Department shall be updated to reflect its provisions. These updated materials shall be made available to police officers in the regular course of their training and service.
- (2) Medical cannabis-related activities shall be the lowest possible priority of the Police Department.
- (3) Qualified patients, their primary caregivers, and MCDCs who come into contact with law enforcement shall not be cited or arrested and dried cannabis or cannabis plants in their possession shall not be seized if they are in compliance with the provisions of this Chapter.
- (4) Qualified patients, their primary caregivers, and MCDCs who come into contact with law enforcement and cannot establish or demonstrate their status as a qualified patient, primary caregiver, or MCDC, but are otherwise in compliance with the provisions of this Chapter, shall not be cited or arrested and dried cannabis or cannabis plants in their possession shall not be seized if (1) based on the activity and circumstances, the officer determines that there is no evidence of criminal activity; (2) the claim by a qualified patient, primary caregiver, or MCDC is credible; and (3) proof of status as a qualified patient, primary caregiver, or MCDC can be provided to the Police Department within three (3) business days of the date of contact with law enforcement.

Operational Standards

- (1) Signs displayed on the exterior of the property shall conform to existing regulations;
- (2) The location shall be monitored at all times by closed circuit video recording system for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of any individual committing a crime anywhere on the site;
- (3) The location shall have a centrally-monitored alarm system;
- (4) Interior building lighting, exterior building lighting and parking area lighting must be in compliance with applicable regulations, and must be of sufficient brightness and color rendition so as to allow the ready identification of any individual committing a crime on site at a distance of no less than forty feet (a distance that should allow a person reasonable reaction time upon recognition of a viable threat);
- (5) Adequate overnight security shall be maintained so as to prevent unauthorized entry;
- (6) Absolutely cannabis product may be visible from the building exterior;
- (7) Any beverage or edible produced, provided or sold at the MCDC containing cannabis shall be so identified, as part of the packaging, with a prominent and clearly legible warning advising that the product contains cannabis and that is it to be consumed only by qualified patients;
- (8) No persons under the age of eighteen shall be allowed on site, unless the individual is a qualified patient and accompanied by his or her parent or documented legal guardian;
- (9) At any given time, no MCDC may possess more cannabis or cannabis plants than would reasonably meet the needs of its registered patient members;
- (10) A sign shall be posted in a conspicuous location inside the structure advising: "The diversion of cannabis (marijuana) for non-medical purposes is a violation of state law and will result in membership expulsion. Loitering at the location of a Medical Cannabis Dispensing Collective is also grounds for expulsion. The use of cannabis may impair a person's ability to drive a motor vehicle or operate heavy machinery;"
- (11) No MCDC may provide medical cannabis to any persons other than qualified patients and designated primary caregivers who are registered members of the MCDC and whose status to possess cannabis pursuant to state law has been verified. No medical cannabis provided to a primary caregiver may be

supplied to any person(s) other than the qualified patient(s) who designated the primary caregiver;

- (12) No outdoor cultivation shall occur at an MCDC location unless: a) it is not visible from anywhere outside of the MCDC property; and b) secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry;
- (13) No MCDC shall cause or permit the establishment or maintenance of the sale or dispensing of alcoholic beverages for consumption on the premises or off-site of the premises;
- (14) No dried medical cannabis shall be stored in structures without at least four walls and a roof, or stored in an unlocked vault or safe, or other unsecured storage structure; nor shall any dried medical cannabis be stored in a safe or vault that is not bolted to the floor or structure of the facility; and
- (15) Medical cannabis may be consumed on-site only as follows:
 - a. The smoking or vaporizing of medical cannabis shall be allowed provided that appropriate seating, restrooms, drinking water, ventilation, air purification system, and patient supervision are provided in a room or enclosed area separate from other MCDC service areas.
 - b. The maximum occupancy of the on-site consumption area shall meet applicable occupancy requirements.
 - c. The MCDC shall use an activated charcoal filter, or other device sufficient to eliminate all odors associated with medical cannabis use from adjoining businesses and public walkways. The fan used to move air through the filter shall have the capacity sufficient to ventilate the square footage of the separate room or enclosed area in which medical cannabis use is permitted.
- (16) MCDCs must verify that each member (1) is legally entitled to possess or consume medical cannabis pursuant to state law; and (2) is a resident of the State of California.
- (17) All MCDC operators, employees, managers, members, or agents shall be qualified patients or the designated primary caregivers of qualified patients. MCDC operators, employees, managers, members, or agents shall not sell, barter, give away, or furnish medicine to anyone who is not a qualified patient or primary caregiver, registered as a member of the MCDC, and entitled to possess cannabis under state law.
- (18) MCDCs shall maintain accurate patient records necessary to demonstrate patient eligibility under the law for every MCDC member, including (1) a copy of a valid driver's license or Department of Motor Vehicle identification card, (2) a patient registration form, (3) a current valid letter of recommendation for the use of medical cannabis written by a state-licensed physician. All patient records shall be kept in a secure location, regarded as strictly confidential, and shall not be provided to law enforcement without a valid subpoena or court order.
- (19) Operating hours for MCDCs shall not exceed the hours between 8:00 AM and 10:00 PM daily.
- (20) MCDCs must have at least one security guard with a Guard Card issued by the California Department of Consumer Affairs on duty during operating hours.

Severability

If any section, sub-section, paragraph, sentence, or word of this Article is deemed to be invalid, the invalidity of such provision shall not affect the validity of any other sections, sub-sections, paragraphs, sentences, or words of this Article, or the application thereof; and to that end, the sections, sub-sections, paragraphs, sentences, and words of this Article shall be deemed severable.

From: Monica Moore

Sent: Monday, June 06, 2011 9:35 AM

To: jjanney@cityofib.org; loriebraggib@aol.com; pbilbray@gmail.com; ejspriggs@yahoo.com; jimkingforib@gmail.com

Cc: ibcmanager@cityofib.org; jlyon

Subject: Please support a complete ban of marijuana dispensaries

June 6, 2011

Good Morning Mayor, City Councilmembers and Staff of IB:

I understand that IB will be voting this month whether or not to ban marijuana dispensaries. **Please vote to ban them.**

Marijuana is a Schedule I controlled substance for a reason. It is a highly addictive, dangerous drug with no medical value. We also know that after passing "medical" marijuana laws, states and communities see:

- More danger on the roads. Traffic fatalities caused by marijuana- fueled drivers increase dramatically.
- More crime. Dispensaries and indoor grow houses are crime magnets and a blight on neighborhoods.
- More marijuana use by teens. Teens who smoke pot are more likely to fail in school and life.

The truth about the harmful effects of marijuana is surfacing more everyday. We now know that many seriously ill people are harmed by marijuana. The American Cancer, Glaucoma and Multiple Sclerosis Societies all warn patients not to use marijuana because it does far more harm than good. Moreover, are sick people foregoing **real** medicines based on the false hope offered by marijuana advocates who are simply using sick people for their own agenda? Someone needs to stand up for the people who are listening to marijuana advocates instead of their doctors. For very good reasons, the FDA, not the ballot box, should be responsible for approving medicines in this country.

Those hurt most by these disingenuous laws are our young people. Teen marijuana use is substantially higher in "medical" marijuana states. Apparently, teens are buying the lie told by pro-drug advocates that marijuana is not only harmless, but also good for you.

You have a great opportunity to not only protect neighborhoods, but to stand up for our kids!

Respectfully submitted,

Monica Moore

From: Diego Di Maria

Sent: Thursday, June 09, 2011 12:25 PM

To: jjanney@cityofib.org; loriebraggib@aol.com; pbilbray@gmail.com; ejspriggs@yahoo.com; jimkingforib@gmail.com

Cc: ibcmanager@cityofib.org; jlyon@mclex.com

Subject: Support for your decision to BAN marijuana dispensaries in IB

Dear IB Mayor, Council, and Staff:

I urge you to support a ban on all marijuana dispensaries. The law is fully on your side as I'm sure your city attorney has advised.

1) Marijuana dispensaries are not legal at the state level and that is a common misconception. Although the pro-pot lobby will argue it is, the laws clearly state otherwise. Proposition 215 and SB 420 don't mention marijuana dispensary storefronts and the Attorney General guidelines on this issue states, "Although marijuana dispensaries have been operating in California for years, dispensaries, as such, are not recognized under the law."(see attached *medical marijuana guidelines page 11 C. Enforcement Guidelines 1. Storefront Dispensaries*)

Proposition 215 allows for caregivers and patients to gather collectively to operate in a closed circuit network, but not for profit as a commercial enterprise. This is the key difference that many don't understand. Cities with bans aren't saying a true caregiver and patient can't associate together to use marijuana, for this is what Prop. 215 and SB 420 set up. It's the illegal marijuana dispensaries cities and neighborhoods don't approve of.

2) Courts Uphold Closure And Prohibition Of Marijuana Dispensaries - Recently both state and federal courts in southern California have upheld the rights of cities to prohibit marijuana dispensaries. The following are some of the many recent court cases upholding the closure and prohibition of marijuana dispensaries:

- *City of Claremont v. Kruse*
- *City of Lake Forest v. Moen*
- *City of Dana Point v. Point Alternative Care*
- *City of Dana Point v. Beach Cities Collective*

I appreciate your consideration.

Sincerely,

Diego Di Maria