

GOING TO POT IN MENDOCINO COUNTY

SMOKER BEWARE

JUNE 3, 2010

Summary

The 2009-2010 Mendocino County Grand Jury, (GJ), chose to investigate the illegal growing of cannabis, (marijuana), in the County. The GJ found that the growing of illegal marijuana continues to create problems for the citizens of the County.

Mendocino County is known throughout the State, the nation, and the world as part of the *Emerald Triangle*. The triangle is comprised of Mendocino, Trinity, and Humboldt Counties. Possession and cultivation laws differ widely between these counties. The climate, soil, and politics in Mendocino County are ideal for growing marijuana plants.

Measure G passed in 2000. The measure states: "...remove the fear of prosecution and the stigma of criminality from people who harmlessly cultivate and/or use marijuana for personal medical or recreational purposes". Measure G also set a limit of 25 plants per medical marijuana patient. The growing of marijuana in Mendocino County subsequently became a major industry and a magnet for marijuana growers, who moved here from other states and countries to make quick profits.

This quasi-legalization has caused residents to become inflamed with a rise in crimes such as home invasion, armed robbery, fires, and murder. Declines in property values and increases in water use, hazardous waste, odor, ecological damage, misuse of public lands, and health related issues are also of significant concern to the public. Additional GJ concerns are the effects that the marijuana culture has on children and on employment opportunities in Mendocino County.

The environment will continue to suffer because the illegal diversion of streams, diesel spills, hazardous waste, poisoning of wildlife, erosion, and massive dumping of plastic debris and other trash, are causing an environmental disaster in Mendocino County.

Methods

The GJ interviewed law enforcement personnel, County Deputy District Attorneys and District Attorney Investigators, as well as private attorneys; reviewed law enforcement reports, County documents, budgets, and a 10-year clinical study

on the medical benefits of marijuana, from the University of California, San Diego, (UCSD), released in 2010.

Background

On November 5, 1996, the voters of California voted in favor of Proposition 215, also known as *The Compassionate Use Act*, which legalized marijuana for medical purposes.

County Measure G passed in 2000, and set the per-patient limit at 25 plants. The measure states, "...remove the fear of prosecution and the stigma of criminality from people who harmlessly cultivate and/or use marijuana for personal medical or recreational purposes."

Effective January 1, 2004, SB 420 set State guidelines regarding how much medical marijuana patients may grow and/or possess without being subject to arrest. SB 420 set per patient guidelines at eight ounces of dried bud and six mature or 12 immature plants. SB 420 also provided that counties could set higher limits.

In February 2008, the Board of Supervisors, (BOS), set a 25 plant limit for each land parcel. The BOS placed Measure B, a return to State guidelines, on the June 3, 2008 ballot. The passing of Measure B rescinded Measure G.

In January 2010, the part of SB 420 regarding limits for possession was overturned by the court.

Findings

1. California State laws and local ordinances are numerous, inconsistent, and subject to interpretation. Contiguous counties have different possession limits. Several court decisions have changed or negated parts of marijuana laws.
2. One of three possible propositions or initiatives on the November, 2010, ballot will be AB 390. California's *Marijuana Control, Regulation and Education Act*, if passed will:
 - remove criminal penalties for personal marijuana possession and cultivation for adults over the age of 21. Adults can use marijuana at home; using marijuana in public would be a \$100 fine,
 - allows persons 21 or older to grow up to six mature plants. If a garden is outdoors, the plants cannot be visible to the public,
 - legalizes the possession and/or sales of marijuana paraphernalia for adults,
 - allows cultivation of industrial hemp,
 - does not remove penalties for marijuana possession and/or sales on school grounds,
 - does not change existing laws protecting medical marijuana patients, nor does it impose additional taxes on marijuana obtained for medical purposes,

- does not affect the rights of employers to drug test, terminate, or deny employment to individuals based on marijuana use,
 - institutes a regulatory system for commercial growers, processors, wholesalers, and retailers, to go into effect 30 days after a change in Federal law allowing states to set their own marijuana policies. A fee of \$50 per ounce of marijuana would be assessed on retailers, similar to alcohol stamp taxation.
3. In February 2010, a 10-year study from UCSD reports that marijuana is effective in relief of muscle spasms for patients, such as those with multiple sclerosis and other neurological conditions. The same pain reduction was achieved with low doses of psychoactive ingredients as with high doses.
 4. Patients requiring treatment with marijuana must obtain a doctor's recommendation. Clinics that receive Federal money cannot recommend marijuana.
 5. In 2009, the Mendocino County Sheriff's Office, (MCSO), initiated a "zip-tie" program that provides comfort for medical users by instituting a \$25 fee for each medically approved plant. The plants, with serial numbered zip-ties, are easily identified as medical by law enforcement officers.
 6. It is estimated that there were more than five million plants grown in Mendocino County in 2009.
 7. Law enforcement records show that 541,250 illegal plants were seized from 256 sites in 2009, including 15,709 indoor plants and 525,541 outdoor plants.
 8. In 2009, it was estimated that only 10% of illegal plants were seized in the County.
 9. In 2009, other drugs found were, methamphetamine, hashish, LSD, oxycodone, and hallucinogenic mushrooms.
 10. Each year more officer time is expended for marijuana related crimes. MCSO has been budgeted the same number of officers for the past 40 years.
 11. MCSO receives hundreds of calls complaining about the strong odor of growing marijuana.
 12. Illegal marijuana gardens consume County resources, e.g.:
 - law enforcement agencies contribute 25% of their resources and time in the summer for eradication of marijuana.
 - in the winter, 10% of resources and time are spent on enforcement of illegal drug activity, including court time,
 - MCDAO estimates 40% of their workload is dedicated to investigation and prosecution of illegal grows,
 - Child Protective Service is called when children are found at a drug bust,
 - those arrested may be receiving public aid and other social services,
 - dirt road erosion and deterioration caused by excessive traffic and speeding vehicles,
 - costly clean-up from fuel spills, fertilizers, and poisons.
 13. Illegal marijuana farming has become a public nuisance; e.g., the strong odor from the marijuana plants impacts neighbors.
 14. Foreign nationals are present in our County, representing cartels and syndicates, who trespass, are responsible for large grows on public and private lands.
 15. Each plant requires one to two gallons of water per day for maximum production. Water is diverted from streams, trucked over dirt roads to remote

- grows; landowners have reported their water stolen.
16. Chemical fertilizers are being leached into water sources.
 17. Pesticides and rat poisons are illegally transported from Mexico and are used on marijuana gardens.
 18. Illegal diversion of streams, spills of diesel fuel, hazardous waste, poisoning and killing of wildlife, erosion, and massive dumping of plastic debris and other trash, has caused an environmental disaster.
 19. Legal and illegal gardens are often protected by aggressive canines and armed laborers, representing a threat to the public, and effectively limiting access to public lands.
 20. There is such an abundance of illegal marijuana grow cases that the MCDAO has declined to prosecute certain cases, citing lack of staff.
 21. The County District Attorney issued an internal office memo which stated the office would not prosecute marijuana cases below 200 plants seized. This memo was leaked to the press and later rescinded.
 22. It was reported to the GJ that there is inconsistency in prosecuting or dismissing similar cases.
 23. Some County citizens believe that growing and/or using medical marijuana is a legal defense against prosecution.
 24. Illegal growers may have their cash, vehicles, equipment, or other assets seized and forfeited.
 25. Marijuana is so abundant that it is used as currency, *green cash*, to trade for other illegal drugs or goods.
 26. Oversupply of marijuana in Mendocino County has caused the local price to drop to less than \$2,000 per pound; whereas the price in Chicago is approximately \$7,000 per pound and \$4,500 in the state of Georgia.
 27. Marijuana is regularly shipped to customers throughout the nation by commercial and private carriers.
 28. Growers illegally bypass meters and pilfer electricity to grow crops indoors. Overload of electricity combined with inadequate wiring has caused structure fires.
 29. Rat poison has been found placed every 10 to 15 feet along a row of marijuana plants. Instructions on use clearly state that this product is not to be placed near plants that may be consumed by humans, and will poison domestic and wild animals. Animals or birds that ingest poisoned rats or other animals will themselves die of poisoning.
 30. Chemical fertilizer products, illegally imported from Mexico, have been found in these gardens. Law enforcement states that used and unused bags are left at grow sites. Rain or irrigation causes the chemicals to run into streams, ponds, and lakes.
 31. Law enforcement and the legal community cannot agree on the definition of a mature plant

Recommendations

The Grand Jury recommends that:

1. the Mendocino County Sheriff's Office continue to enforce all laws pertaining to marijuana grows. (Findings 1, 6-9,12-14,18-19)
2. the Mendocino County Board of Supervisors use the zip-tie funds for a six month full time position for the administration of the program. (Finding 5)
3. the Mendocino County Sheriff's Office continue to administer the "zip-tie" program and develop other programs that will eliminate costs and create revenue. (Finding 5)
4. the Mendocino County Board of Supervisors not decrease the number of Sheriff's Deputy positions in the budget. (Finding 10)
5. the Mendocino County District Attorney prosecute or dismiss all similar cases equally. (Findings 12, 20-24)
6. Law enforcement and the legal community establish a uniform definition of a mature marijuana plant

Discussion

There is controversy regarding the effectiveness of marijuana for the relief of some symptoms of illnesses and disabilities. Marijuana grows contribute to an environment of crime, an underground economy, social problems, costs for government services, and environmental degradation.

Witnesses stated that when there is excessive use of rat poison or pesticides in a wet or irrigated area, it will be absorbed by any plant in close proximity, and is unfit for human consumption. The unknown chemicals used in marijuana grows can negatively affect your health. *Caveat fumor*; let the **smoker beware**.

Required Responses

Mendocino County Sheriff (Findings 1-19, 21-31; Recommendations 1, 3, 6)

Mendocino County District Attorney (Findings 12, 20, 31; Recommendation 5, 6)

Mendocino County Public Defender's Office (Findings 12, 20, 31;
Recommendation 5, 6)

Mendocino County Board of Supervisors (All Findings; All Recommendations)

Requested Responses

Director, California Bureau of Land Management (All Findings; All Recommendations)