



San Diego County Sheriff's Department

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William D. Gore, Sheriff

Thomas J. Cooke, Undersheriff

July 28, 2010

RECEIVED

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SAN DIEGO
COUNTY GRAND JURY

The Honorable Kevin A. Enright, Presiding Judge
San Diego Superior Court
P. O. Box 120128
San Diego, CA 92101

Dear Judge Enright:

Proposed Sheriff's Response to the: Grand Jury Report "Medical Marijuana in San Diego"

The 2009-2010 San Diego County Grand Jury conducted an investigation into the issue of Medical Marijuana in San Diego. On June 7, 2010, the Grand Jury issued its report. There were eleven (11) Findings and eighteen Recommendations. Three of the "**Findings**", numbers 3, 7, and 11, apply in whole, or in part, to the Sheriff's Department. Three "**Recommendations**", numbered 10-109, 10-110 and 10-111, apply in whole, or in part, to the Sheriff's Department.

California Penal Code section 933(c) requires that ... "every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, **on the findings and recommendations pertaining to matters under the control of that county officer or agency head.** (emphasis added)

It should be noted that while the Grand Jury was conducting its investigation and writing its report, San Diego County was working on ordinances regulating the location and operation of medical marijuana collectives. On June 30, 2010 the County Board of Supervisors approved a medical marijuana zoning and regulatory ordinance that addressed many of the concerns raised by the Grand Jury report.

Facts and Findings:

Finding #3: There are no clear and uniform guidelines for law enforcement personnel in San Diego County for law enforcement personnel which would protect the rights of legitimate qualified medical marijuana patients

Disagree. Law enforcement personnel are governed by the Compassionate Use Act of 1996, the Medical Marijuana Program Act enacted in 2004, the California Attorney General Guidelines published in 2008, evolving case law on medical marijuana and the newly enacted San Diego County Code, Title 2, Division 1, Chapter 25 Adopting Regulations Relating to Medical Marijuana Collective Facilities in the unincorporated County.

Finding #7 Annual financial reporting and periodic auditing of cooperatives and collectives, predominantly cash operations, are not currently required in San Diego County.

Disagree. On June 30, 2010 the County Board of Supervisors enacted San Diego County Code, Title 2, Division 1, Chapter 25, Regulations Relating to Medical Marijuana Collective Facilities. Section 21.2505 of the newly enacted ordinance addresses "Operating Requirements for Collective Facilities". This subsection requires extensive record keeping and provides for auditing of the facilities by the Sheriff's Department.

Finding #11: The imposition of regulatory fees and associated costs could create a financial hardship for the smaller medical marijuana cooperatives and collectives.

Agree. It is certainly possible that the imposition of regulatory fees and associated costs, regardless of the amount, "could" create a financial hardship for the smaller medical marijuana cooperatives and collectives. However, this finding calls for speculation on both costs and the financial resources of cooperatives and collectives which may come into existence in the unincorporated area of the County. The Sheriff's Department is not in a position to adequately evaluate this finding.

On June 30, 2010 the County Board of Supervisors adopted zoning and regulatory ordinances for medical marijuana collective facilities within the unincorporated County. The County adopted cost neutral ordinances which will require applicants to cover costs associated with the Sheriff's licensing process and the Department of Planning and Land Use (DPLU) building division fees. Fees would be utilized to cover applicant processing and inspection of medical marijuana collective facilities. The impact of these fees on any particular collective or cooperative cannot be predicted with any accuracy.

RECOMMENDATIONS

10-109: In cooperation with the County of San Diego District Attorney and in consultation with officials of the nine municipal police departments in the County, publish a position paper which contains guidelines for the medical marijuana cooperatives and collectives in San Diego County.

The recommendation will not be implemented because it is not practical. Currently all law enforcement personnel are governed by the Compassionate Use Act of 1996, the Medical Marijuana Program Act enacted in 2004, the California Attorney General Guidelines published in 2008 and evolving case law on medical marijuana. Deputy Sheriffs working the unincorporated area are also governed by the newly enacted San Diego County Code, Title 2, Division 1, Chapter 25 Adopting Regulations Relating to Medical Marijuana Collective Facilities. As stated in the Grand Jury report, the 18 cities in the County have different rules regulating medical marijuana. Some cities have adopted moratoriums, others have bans, others rely on existing zoning regulations along with various other business and licensing regulations. The City of San Diego is working on an ordinance and the County of San Diego has a medical marijuana ordinance. The diverse approaches to the medical marijuana issue make it impossible to publish a position paper which would be applicable to all the cities and the unincorporated area.

10-110: Adopt clear guidelines for law enforcement personnel so that the rights of legitimate medical marijuana patients will be respected.

The recommendation has been implemented. On June 30, 2010 the County Board of Supervisors approved a medical marijuana zoning and regulatory ordinance which provides clear guidance for deputies working in the unincorporated areas. Additionally, all law enforcement personnel are governed by the Compassionate Use Act of 1996, the Medical Marijuana Program Act enacted in 2004, the California Attorney General Guidelines published in 2008 and evolving case law on medical marijuana.

10-111: In cooperation with the County of San Diego District Attorney, establish a Medical Marijuana Advisory Council as a forum through which the operators of legitimate medical marijuana collectives and cooperatives, as well as patients and members of the public, could engage in dialogue with representatives of County law enforcement on a regular basis.

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The recommendation will not be implemented because it is not warranted. The Sheriff's Department serves the unincorporated area as well as nine contract cities. The Sheriff's jurisdiction ranges from the Imperial Beach area to Fallbrook to remote East County areas such as Borrego Springs and Campo. There are currently no legal medical marijuana collectives in the Sheriff's jurisdiction. The Sheriff currently has community outreach groups in each of these communities where members of the public can engage in dialogue with representatives of County law enforcement on a regular basis. Community members with concerns about medical marijuana collectives, or concerns with medical marijuana in general, can bring their concerns to the existing community meetings or to their local Sheriff's Station.

Sincerely,

A handwritten signature in black ink that reads "William D. Gore". The signature is written in a cursive, flowing style.

William D. Gore, Sheriff

WDG/alb

Cc: San Diego County Board of Supervisors