



COUNTY OF LOS ANGELES  
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April 17, 2017

Agenda No. 3 & 9  
02/07/17

TO: SUPERVISOR MARK RIDLEY-THOMAS, Chairman  
SUPERVISOR HILDA L. SOLIS  
SUPERVISOR SHEILA KUEHL  
SUPERVISOR JANICE HAHN  
SUPERVISOR KATHRYN BARGER

FROM: MARY C. WICKHAM  
County Counsel

RE: **Public Report on Enforcement Strategies for Closure of  
Unlawful Medical Marijuana Dispensaries**

**Purpose of Memorandum**

On February 7, 2017, your Board requested that our office, in conjunction with the District Attorney's Major Narcotics Division, Code Enforcement Section, and Bureau of Investigation ("District Attorney") and the Sheriff's Department ("Sheriff") report back to you regarding the Medical Marijuana Dispensary Enforcement Team's ("MMDET") suggested strategies to expedite closure of all illegal medical marijuana dispensaries ("MMDs") in the unincorporated areas of Los Angeles County ("County").

**Summary**

The MMDET was created pursuant to your Board's March 8, 2016, motion to enhance collaboration and communication among County Counsel, the Department of Regional Planning ("Regional Planning"), the District Attorney, and Sheriff, and significantly improve enforcement of the County's ban on MMDs in the unincorporated areas ("County Ban"), which went into effect in 2011.

Between 2011 and the creation of the MMDET, Regional Planning, Sheriff, and our office, working together, closed more than 60 illegal MMDs in the unincorporated areas.

Since its creation, the MMDET identified 106 MMDs operating illegally in the unincorporated areas.<sup>1</sup> The MMDET has confirmed the closure of 31 of the 106 illegal MMDs identified. As to the remaining 75, enforcement activities are pending against 49 MMDs by either the District Attorney or County Counsel, and preparations are underway for enforcement against the remaining 26 MMDs.

A chart of MMDET statistics is enclosed for your reference.

To expedite the closure of all illegal MMDs in the unincorporated areas, our office and the District Attorney recommend a "surge strategy" utilizing District Attorney and County Counsel resources to continue to process the current litigation and pending enforcement activities cited above, and to carry out enforcement activities against the 26 remaining illegal MMDs in the unincorporated areas.<sup>2</sup>

We believe that we can achieve closure of a majority of the currently known, illegal MMDs in the unincorporated areas in approximately four to six months.

### **Background**

In our February 25, 2016, confidential memorandum, we submitted to your Board our recommendations for accelerating the closure of illegal MMDs. In our memorandum, we detailed how County Counsel had been working collaboratively with Regional Planning and the Sheriff to close more than 60 MMDs. We also informed your Board about the District Attorney's successful enforcement efforts. We explained that successful closures aside, illegal MMDs continued to proliferate in the unincorporated areas, nearing 100. To help expedite and enhance these enforcement efforts, we proposed increasing County Counsel resources and amending the County Ban, as requested by the District Attorney.

On March 8, 2016, your Board approved a motion that directed: (1) the establishment of the MMDET; (2) the Chief Executive Office ("CEO") to identify funding for a full-time attorney for our office dedicated to medical marijuana enforcement; (3) preparation of an amendment to the County Ban, as requested by the District Attorney to prohibit property owners from renting or

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<sup>1</sup> With the exception of the 60 MMDs closed prior to the creation of the MMDET, all references to MMDs in this memorandum are to these 106 identified MMDs.

<sup>2</sup> It is important to note that this number may not reflect the total number of MMDs operating in the unincorporated areas. The actual number may be greater due to the fact that the MMDET tracks and enforces against MMDs based on third-party reports and constituent complaints, and because MMDs often close and re-open in new locations under different names, making it difficult to maintain accurate numbers.



leasing their properties to MMD operators; and (4) directed the MMDET to provide your Board with a status report in four months on its efforts to effectively and expeditiously close down MMDs in the unincorporated areas, including the impact of the amended County Ban.

Following the establishment of the MMDET, County Counsel presented to your Board the requested amendment to the County Ban which your Board adopted on March 22, 2016, and on July 1, 2016, our office hired a full-time attorney dedicated to enforcement of the County Ban.

### **Surge Strategy Recommendation**

County Counsel and the District Attorney recommend an aggressive, uniform, and expeditious enforcement "surge strategy" against illegal MMDs. This strategy would include combining County Counsel and District Attorney resources to continue to process the current litigation and pending enforcement activities against the 49 MMDs cited above, and to carry out enforcement activities against the 26 remaining illegal MMDs in the unincorporated areas in a quick and efficient manner. The District Attorney and County Counsel will coordinate which cases will be handled by each office. We believe the majority of cases can be resolved in approximately four to six months through stipulated judgments or settlement agreements. However, there will be contested cases that will require litigation.

The MMDET also plans to conduct community outreach and explore other ways to identify additional MMDs which may not have previously been reported. This outreach will seek to inform constituents about the law and encourage the reporting of illegal MMDs. It will also include sending letters to property owners in commercially zoned areas to make them aware of the illegality of MMDs, and that leasing their properties to such businesses violates the County Code.

### **Ongoing Issues**

A number of issues present concerning the MMDET's enforcement efforts. First, new MMDs continue to open since the passage of the Adult Use of Marijuana Act.

Second, when MMDET's efforts do culminate in civil suits, these cases can remain in litigation for extended periods. This is due not only to the nature of litigation, but also to the backlog of cases in the courthouse and tactics employed by defendants.

Third, once these cases conclude in the courts, defendants may ignore and/or violate court orders or the terms of a stipulated judgment or settlement agreement. The lucrative, nearly all-cash nature of MMD businesses, coupled with a comfort level that many owners/operators have with previously

operated illegal storefronts, are believed to be significant factors resulting in non-compliance. For instance, MMD defendants re-open after temporarily closing, or close one MMD and open a new one at a different location. This is often referred to as "Whack-a-Mole." This pattern of non-compliance by violating the County Code and subsequent court orders, often characterizes the County's experience with MMDs.

If you have questions concerning this matter, please contact me, Assistant County Counsel Elaine M. Lemke at (213) 974-1930, or Principal Deputy County Counsel Sari J. Steel at (213) 974-1853.

MCW:SJS:vn

Enclosures

c: Honorable Jackie Lacey  
District Attorney

Honorable Jim McDonnell  
Sheriff

Sachi A. Hamai  
Chief Executive Officer

Lori Glasgow, Executive Officer  
Board of Supervisors

Richard Bruckner, Director  
Department of Regional Planning

**MEDICAL MARIJUANA DISPENSARY  
ENFORCEMENT TEAM STATISTICS  
APRIL 1, 2016 – PRESENT**

|                                   |                     |
|-----------------------------------|---------------------|
| <b>MMDs That MMDET Has Closed</b> | <b>Subtotal: 31</b> |
| District Attorney                 | 27                  |
| County Counsel                    | 4                   |

|  |                     |
|--|---------------------|
| <b>Open MMDs Subject to MMDET Enforcement Activity</b> | <b>Subtotal: 49</b> |
| District Attorney                                      | 46                  |
| County Counsel   | 3                   |

|   |                     |
|---|---------------------|
| <b>MMDs By Supervisorial District that MMDET Will Target Next</b> | <b>Subtotal: 26</b> |
| SD1   | 16                  |
| SD2   | 5                   |
| SD3   | 0                   |
| SD4   | 3                   |
| SD5   | 2                   |

|  |                   |
|--|-------------------|
| <b>Illegal MMDs Identified in Unincorporated Areas</b> | <b>TOTAL: 106</b> |
|--|-------------------|