



JOEL ANDERSON
SUPERVISOR, SECOND DISTRICT
SAN DIEGO COUNTY BOARD OF SUPERVISORS

AGENDA ITEM

DATE: August 17, 2021

TO: Board of Supervisors

SUBJECT

ENHANCING ENFORCEMENT OF ILLEGAL MARIJUANA DISPENSARIES AND SIMPLIFYING THE RECEIVERSHIP PROCESS (DISTRICTS: ALL)

OVERVIEW

On January 27, 2021, the Board of Supervisors directed the Chief Administrative Officer to draft an ordinance outlining cannabis-related regulations in the unincorporated areas based on state law.

However, illegal and unlicensed dispensaries continue to operate throughout San Diego County. As a result, the San Diego County Sheriff's Department, District Attorney's Office, County Counsel and Planning & Development Services (PDS) have been engaged in a continuing cycle of shutting down illegal cannabis storefronts. In some instances, an unpermitted dispensary may re-open at the same location on a later date. Additionally, the same location may repeatedly host different illegal dispensaries after each one is shut down. This has been an ongoing battle for our local law enforcement agencies. At my request, in January, the Board of Supervisors allocated \$500,000 in additional County funds for aggressive enforcement to immediately shut down illegal pot shops, labs or other unlicensed marijuana facilities.

Despite this action, the Sheriff's Department, District Attorney's office and PDS continue to experience daily challenges with enforcement and associated prosecution for those operating illegal cannabis dispensaries in the unincorporated area. To assist these agencies, my advocacy recently spurred an increase of \$1.2 million dollars in the County's Fiscal Year 2021-22 budget to support a full-time enforcement team within the Sheriff's Department, dedicated to the investigation and eradication of illegal cannabis operations in our neighborhoods. To complement this, I am also requesting an increase of \$1.2 million to assist the District Attorney in supporting and expanding ongoing prosecutions of unlicensed dispensaries.

One important tool that can be used to address a property with repeated or other code violations related to the illegal sale of cannabis, is a request for the court to authorize a receivership over that property. Although the California Health and Safety Code and other provisions in State law authorize receivership actions, currently those actions are not listed in the litigation authority of the County Counsel's Office as outlined in section 142 of the Code of Administrative Ordinances.

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As a result, the County Counsel's Office would need to obtain authorization from the Board of Supervisors each time they decide to use this option.

Today's action will expedite the receivership process by directing County Counsel to return to the Board with an ordinance to allow County Counsel to initiate receivership actions on the County's behalf in circumstances where other code enforcement efforts have been unsuccessful, without the need to obtain Board of Supervisors approval for each receivership action. Although the receivership remedy could be used for cannabis businesses which have outstanding code violations, this authorization would allow the remedy to be used for other code violations as well, such as residences in severe disrepair.

**RECOMMENDATION(S)
SUPERVISOR JOEL ANDERSON**

1. Direct County Counsel to return to the Board on October 5, 2021, or as soon as practicable, with an ordinance authorizing County Counsel to file receivership actions on the County's behalf in circumstances where other code enforcement efforts have been unsuccessful.
2. Establish appropriations of \$1,200,000 in the District Attorney, Salaries & Benefits, to enhance prosecutions of unlicensed dispensaries based on prior year available General Fund fund balance. (4 VOTES)

EQUITY IMPACT STATEMENT

Illegal marijuana dispensaries in the unincorporated area have elicited criminal activity that has inequitably threatened the health and safety of many of our economically disadvantaged and SB 535 communities. The recommended ordinance change will improve processes used by County Counsel and Planning & Development Services to utilize the tool of receivership to promptly shut down illegal dispensaries and seize illegally possessed cannabis and associated paraphernalia.

FISCAL IMPACT

Funds for this request are not included in the Fiscal Year 2021-22 Operational Plan for the District Attorney. If approved, this request will result in costs of up to \$1,200,000 in Fiscal Year 2021-22 and estimated ongoing annual costs of \$1,200,000. The proposed funding source for Fiscal Year 2021-22 is prior year available General Fund fund balance. The funding sources for subsequent fiscal years would include General Purpose Revenue and ongoing District Attorney program revenues, where available. This request will result in an increase in General Fund net cost and five additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

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N/A

BACKGROUND

Although the County is currently developing a framework and regulations for legal cannabis activities in the unincorporated area, illegal cannabis dispensary activities continue to pose a challenge for local law enforcement agencies and the County departments supporting their efforts.

The County has multiple paths to address enforcement of illegal dispensaries. The Sheriff and District Attorney collaborate with Planning & Development Services (PDS) to take criminal action against illegal dispensaries. However, County Counsel and PDS also take civil enforcement action against the illegal dispensaries as a violation of the Zoning Ordinance and County Building Code, and the County follows abatement procedures, issuing administrative fines, and/or civil penalties for such businesses as appropriate.

County staff can also initiate a receivership process pursuant to the Health and Safety Code to address dilapidated, abandoned and/or nuisance properties. Under a receivership, the court directly controls the property via a court-appointed receiver. The receiver will take the necessary steps to bring the property back up to code and supervise the rehabilitation of the property at the property owner's expense. This action protects community members who have been subjected to negative impacts by absentee or recalcitrant property owners. Receiverships can potentially be used for properties with repeated code violations, including violations related to the illegal sale of cannabis, complex or extensive grading violations, extensive solid waste, as well as unpermitted construction of structures among other types of violations. While County staff provide property owners the opportunity to voluntarily resolve violations on their own, receiverships are often a tool of last resort when other compliance and enforcement tools have not resulted in an owner addressing the violation. Although the County can currently pursue receiverships in applicable circumstances under State law, I am proposing an ordinance adding a new subsection to the County Code of Administrative Ordinances relating to receivership proceedings. This new provision will simplify and expedite the process by allowing the receivership proceedings to commence promptly where appropriate without the additional step of obtaining Board approval for each specific property.

Numerous community leaders and constituents have voiced concerns about illegal cannabis dispensaries operating near schools and residential areas and the negative impact illegal dispensaries have on our neighborhoods. These unregulated facilities attract criminals involved in other illicit drug activities, and are often the catalyst for violent crime, property crime, and financial crime that affect residents and other local businesses. Products sold at unlicensed cannabis facilities are often cultivated and manufactured using processes which may be harmful to consumers and are often marketed toward children. Additionally, THC-infused food products closely resembling well-known name brands may be inadvertently consumed, creating potential health and safety risks.

In one instance, members of the Sheriff's Special Enforcement Detail (SED/SWAT) served a search warrant in El Cajon on March 26 and shut down an illegal dispensary, seizing hundreds of pounds of THC infused products, 97 pounds of marijuana and one firearm. When an illegal

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marijuana dispensary was shut down by Sheriff's Deputies in Spring Valley on April 30, investigators discovered several THC-infused edibles which falsely appeared to be legitimate name brand chips and candies. On May 7, members of the Sheriff's Narcotics and Gang Division arrested 15 people and closed down another illegal marijuana dispensary in Spring Valley, seizing three handguns and \$70,000 in cash in addition to THC products and processed marijuana.

Unfortunately, these illegal and unlicensed dispensaries continue to operate throughout the County of San Diego. The Fiscal Year 2021-22 budget, unanimously approved by the Board, included an additional \$1.2 million to support five deputies, one sergeant, and a crime analyst, creating a full-time enforcement team within the Sheriff's Department dedicated to the investigation and eradication of illegal cannabis operations in our neighborhoods.

I am requesting an additional \$1.2 million for the District Attorney's office to support and expand ongoing prosecutions of unlicensed dispensaries to enhance and supplement the efforts of the Cannabis Enforcement Team. The District Attorney would use the funds to hire two deputy district attorneys, two district attorney investigators, and one crime analyst with these funds.

These additional resources will allow increased action by the District Attorney in shutting down unlicensed dispensaries. The District Attorney has worked with local law enforcement to prosecute these illegal businesses over the past two years. However, the problem persists as the managers and owners of these illegal businesses can quickly open in new buildings. The additional resources will allow for an enhanced approach to solve this complicated problem.

The funds will also enable local law enforcement to track money laundering activity stemming from the unlawful sale of cannabis. Money laundering investigations consume extensive resources and require special expertise including those of investigators and analysts. Importantly, these resources would also enhance the District Attorney's ability to initiate enforcement action against any cannabis delivery services selling marijuana to minors in violation of the law. Recently, SANDAG and the Center for Community Research revealed a concerning rise in cannabis abuse by minors who reported that delivery services were their sources of supply. The additional funds will assist in eliminating these delivery services.

To further enhance these efforts, this board letter directs County Counsel to return to the Board with an ordinance providing litigation authority to County Counsel to initiate receivership actions on behalf of its client departments as allowed under State law, including the Health and Safety Code (Section 17980.7) and the Business and Professions Code (Section 17203). The receivership actions would be applicable to properties with repeated code violations, including those related to the illegal sale of cannabis, and violations of unfair competition law. Although the receivership remedy could be used for cannabis businesses which have outstanding code violations, this authorization would allow the remedy to be used for other code violations as well, such as residences in severe disrepair.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

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The County makes health, safety and thriving a focus of all policies and programs through internal and external collaboration. Action today supports the pursuance of policy and program change for healthy, safe and thriving environments to positively impact residents.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Joel Anderson', with a long horizontal flourish extending to the right.

JOEL ANDERSON
Supervisor, Second District

ATTACHMENT(S)
N/A

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AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: Yes No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED
 Yes No

PREVIOUS RELEVANT BOARD ACTIONS:

January 27, 2021, Framework For Our Future: Measures to Provide Economic Access and Equity in the Cannabis Industry

BOARD POLICIES APPLICABLE:

N/A

BOARD POLICY STATEMENTS:

N/A

MANDATORY COMPLIANCE:

N/A

**ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION
NUMBER(S):**

N/A

ORIGINATING DEPARTMENT: Board of Supervisors, District 2

OTHER CONCURRENCE(S): District Attorney, Sheriff’s Department, Planning and Development Services, County Counsel

CONTACT PERSON(S):

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