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Concord Police Department

Date: August 29, 2005
To: Mayor and Council Members
From: David Livingston, Chief of Police
Subject: *Medical Marijuana Dispensaries - Potential Secondary Impacts*

The purpose of this memorandum is to provide a summary of additional background information regarding the proposed ordinance which would prohibit the establishment of medical marijuana dispensaries within the City of Concord. Police Department staff believes it is important to identify some of the potential secondary effects on public safety by the operation of marijuana dispensaries.

In researching this issue, Captain Crain reviewed a memorandum from Rocklin Police Chief Mark Siemens dated July 13, 2004, which addressed the secondary effects as observed by Rocklin police staff. The memorandum was in reference to pending consideration by the Rocklin City Council of a proposed ordinance to regulate the establishment of medical marijuana dispensaries in the City of Rocklin. In his memorandum, Chief Siemens addressed a variety of community safety concerns that had been expressed by a number of agencies throughout Northern California. While the City of Rocklin had no experience with dispensaries, other nearby communities did. The agencies he polled were Roseville, Oakland, Hayward and Fairfax police departments as well as the Lake County Sheriff's Office. All five agencies expressed similar concerns or experiences. Those concerns included, but were not limited to:

- Street level dealers attempting to sell to people entering the business
- Smoking of marijuana in public areas
- Increased "driving while under the influence of marijuana" violations
- Attempted burglaries of marijuana establishments
- Robberies of clients as they left businesses with their purchase
- Adverse impact on neighboring businesses
- Presence of a physician on the premises issuing prescriptions for use, which drew numerous people from out of the area
- Lack of effort on the part of dispensary owners/employees to control unlawful or nuisance behavior in and around the business
- Increased loitering and associated nuisances
- Complaints that other illegal drugs were sold from the dispensaries

- Trading of marijuana purchased at a dispensary to a minor for sex
- Purchasers congregating and smoking marijuana in areas frequented by children
- Sales of marijuana to persons not holding the appropriate certificate

The representatives of each of the agencies polled by Chief Siemens expressed regret that the dispensaries existed in their respective communities. Each was struggling with the immediate impacts and developing a method by which to regulate such businesses.

DISCUSSION

There are two medical marijuana dispensaries currently operating in the City of Concord. One is located at 2155 Colfax Street, and the other is located at 1120 Contra Costa Blvd. While the Police Department has no record of any complaints related to the business on Colfax Street, the department has responded to a citizen's complaint regarding activity associated with the business on Contra Costa Blvd.

That complaint was referred to the Police Department by the City Attorney's Office, on July 26, 2005. A representative of a neighboring business called to report that a "bad element" was loitering near the dispensary and "harassing" female customers of the complaining business. Officer Ken Carlson investigated the complaint and found no such activity at the time of his contact; however, Officer Carlson has continued to monitor the activity near the dispensary and is prepared to take the appropriate action against any criminal violations or nuisance issues.

While the City of Concord has responded to only the one complaint to date, it is likely that the city would experience an increase in complaints similar to those reported by the agencies referenced in this memorandum if additional dispensaries were authorized. The chance of such activity will also likely increase as word spreads about the existence of the two dispensaries currently operating in the City of Concord.

In addition to facts provided in Chief Siemens' memorandum, there have been two recent events of particular note in our region. The first incident was a recent robbery of a dispensary and homicide in unincorporated San Leandro and the second was a revocation of operating authorization for a dispensary by the City of Modesto.

San Leandro – Unincorporated Area

On August 19, 2005, a number of subjects concealed themselves near the entrance to the facility prior to the opening of the business. The subjects then confronted arriving employees at gunpoint and forced them into the building where they committed a "take over" robbery of marijuana and cash. An employee retrieved a firearm that was kept at the business for protection and exchanged gunfire with the robbers. One of the suspected robbers later died from wounds received in the shootout.

A representative of the Alameda County Sheriff's Office advised Concord staff that not unlike Concord's experience, the Sheriff's Office had also received very few complaints relative to the operation of the medical marijuana dispensaries in the unincorporated area. In fact, most criminal investigations did not involve the actual operation of the dispensary but instead the robberies of individuals after they left the facility. The victims were targeted for the marijuana they had just purchased.

In July of 2005, the Alameda County Board of Supervisors passed an ordinance regulating the existence of medical marijuana dispensaries. The ordinance calls for a three-part, comprehensive inspection. First, the Sheriff's Office is also now authorized to conduct thorough background investigations on all dispensary operators. The other two components are a facility inspection by the County Health Department and a code inspection by the County Building Department. Alameda County limits the number of dispensaries to a total of three in the unincorporated area, based on total population of those areas.

City of Modesto

The City of Modesto had adopted an ordinance that allowed marijuana dispensaries but required regulation of those dispensaries. Their ordinance also included provisions for the revocation of a previously issued permit, however, there was very little enforcement. The ordinance was vaguely written allowing a dispensary to open as long as the owner/operator complied with some very general provisions. In fact, two dispensaries set up operation without knowledge of the Police Department and with no real description of the true purpose of the businesses. One of the two eventually ceased doing business in the city.

The city began to reexamine its ordinance and the City Council ultimately enacted an emergency ordinance placing a moratorium on all such operations. The city then used the time period of the moratorium to proceed with a full prohibition on such businesses. The one remaining marijuana dispensary was granted a grace period in which to prepare for permanent closure. A Modesto Police Department representative reported that other than the potential for secondary public safety impacts, there were no issues of concern relative to either of the dispensaries. The actions by the City Council to enact a prohibition against such establishments were prompted by the June 6, 2005, U.S. Supreme Court decision in *Gonzales v. Raich*.

The Concord Police Department joins in the recommendation that the City Council enact an ordinance prohibiting medical marijuana dispensaries within the City of Concord.

cc. Lydia Du Borg, City Manager
Craig Labadie, City Attorney

