

The Medical Marijuana Regulation and Safety Act (MMRSA) will have a significant impact on Sheriff's Office operations as current county ordinance is written.

SIGNIFICANT PORTIONS OF THE MMRSA AS IT RELATES TO THE SHERIFF'S OFFICE

The MMRSA is comprised of three separate bills (AB 243, AB 266, and SB 643.) The MMRSA became operative on January 1, 2016, however many of the standards under the MMRSA will not go into effect until January 1, 2018. The MMRSA makes it clear that local governments have the right to regulate or ban activities related to this new law, however, states such bans and regulations need to be enacted by March 1, 2016. Otherwise, the state assumes control over the licensing. The MMRSA addresses all aspects of commercial distribution of marijuana, and allows the State of California to issue licenses for activities that include cultivation, manufacturing, testing, dispensing, distribution, and transportation. One of the biggest changes is marijuana can now be sold for unlimited profit.

The state will issue the following types of licenses:

Type 1- Cultivation Outdoor up to 5000 sq ft of canopy or 50 plants

1A - Cultivation Indoor up to 5000 sq ft

1B - Indoor artificial lighting only

2 - Outdoor mixed light (using artificial lighting) 5000 sq ft

2A - Cultivation indoor 5001 to 10000 sq ft

2B - Cultivation mixed light 5001 to 10000 sq ft

3 - Cultivation outdoor 10000 sq ft to 1 acre

3A - Cultivation indoor 10001 to 22000 sq ft

3B - Cultivation mixed light 10001 to 22000 sq ft

4 - Cultivation- nursery

6 - Manufacturer not using volatile products

7- Manufacturer using volatile products

8 - Testing

10 - Dispensary general

10A - Dispensary- no more than 3 sites

11- Distribution

12- Transporters

AB 243 Section 6, adds Section 11362.777 to the Health and Safety Code which includes the provision in subsection (c) (4) that states:

“(4) If a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the division shall be the sole licensing authority for medical marijuana cultivation applicants in that city, county, or city and county.”

CRIME ASSOCIATED WITH THE MMRSA

In April 2009, the California Police Chiefs Association Task Force on Marijuana Dispensaries published a report discussing the negative secondary effects of medical marijuana dispensaries on the health, safety and welfare of the communities where they have been established. The

report analyzed several negative secondary effects including armed robberies, murders, burglaries, drug dealing, money laundering and organized crime. The report states:

"Because they are repositories of valuable marijuana crops and large amounts of cash, several operators of dispensaries have been attacked and murdered by armed robbers both at their storefronts and homes, and such places have been regularly burglarized. Drug dealing, sales to minors, loitering, heavy vehicle and foot traffic in retail areas, increased noise, and robberies of customers just outside dispensaries are also common ancillary byproducts of their operations. To repel store invasions, firearms are often kept on hand inside dispensaries, and firearms are used to hold up their proprietors."

Marijuana activity in general, whether it is distribution, cultivation, transportation, etc. brings with it the above described negative secondary effects. In 2015 alone, El Dorado County marijuana related crimes encompassed ten child abuse, two homicide, six armed robbery, four assault with a deadly weapon, one grand theft, and one terrorist threat case, not to mention several trespass and odor complaints, with hundreds of regular time and overtime hours being spent on those investigations.

HOW THE LAW WILL BE ENFORCED UNDER MMRSA

Under the MMRSA the state shall be responsible for enforcement of licensees and any violations as related to their operations with enforcement on licensees being off limits to the Sheriff's Office. The Sheriff's Office will only enforce marijuana related laws on non-licensed individuals, and investigate secondary negative effects related to licensed operations. One might be inclined to think the MMRSA will reduce the impact on the Sheriff's Office. As will be discussed, however, current county ordinance will have just the opposite impact on the Sheriff's Office resources.

CURRENT EL DORADO COUNTY PERMITS/ORDINANCES RELATED TO MARIJUANA

El Dorado County does not have a permit program as it relates to marijuana activities and only has two ordinances. Ordinance 5000 regulates outdoor cultivation and ordinance 4999 regulates marijuana dispensaries and both ordinances address zoning only. AB 243 Section 6 creates concern our two zoning ordinances which may allow the state to assume control over the licensing, without regard for the restrictions outlined within the ordinances. Even if the state honors the El Dorado County's zoning restrictions as outlined in County ordinances 4999 and 5000, there is still concern.

In addition, El Dorado County's zoning ordinances do not address the other thirteen types of licenses that will be issued by the state under the MMRSA. It is safe to reason the state will assume this responsibility, and issue licenses for these activities with the county having no ban, permitting process, or ordinances addressing these activities.

ANTICIPATED INCREASE IN CRIME IN EL DORADO COUNTY

Even though County Ordinance 5000 has zoning restrictions regarding the outdoor cultivation of marijuana, the restrictions are rarely heeded with well over a thousand cultivation sites operating outside the restrictions. El Dorado County is known as a, "Weed Friendly" county among marijuana cultivators, with a significant influx of illegal cultivation sites over the last few

years. Cultivators grow marijuana under the “umbrella” of the zoning ordinance, but operate outside the restrictions, creating a significant impact on the Sheriff’s Office resources.

With the passage of the MMRSA, the State of California will become a “Weed Friendly” state with even more of an influx of cultivators, in particular, to El Dorado County with a favorable climate for outdoor cultivation. As of January of 2016, a local north-county real estate agent reports 80% of potential real estate customers are looking for a place to grow marijuana. We believe, many, if not most cultivators moving in to, or already in El Dorado County will discover they do not meet state requirements, or the costs are simply too prohibitive. The growers will know they will be mixed among the licensed cultivators, growing in areas where they can tell neighbors they are licensed. We see this already happening within the county. Cultivators know they are not likely to get caught in their illegal activities as there are so many cultivation sites in relation to the detectives available to investigate them. The likelihood of being discovered is minimal. If they are investigated, it is believed many cultivators will simply use the MMRSA as an umbrella to claim they are, or will be going through the state licensing process, which will be difficult if not impossible to confirm until January 1, 2018, giving the county a two year period in which laws will be difficult to enforce.

With regard to those licensees operating within the state guidelines, there will still be a significant impact on the Sheriff’s Office’s resources in this area as well. Even though the Sheriff’s Office would not be responsible for enforcement related to the marijuana activities carried on by the licensee, they would still be responsible for investigating the negative secondary effects of marijuana activities, namely, the crimes as detailed in the California Police Chiefs Association Task Force article as referenced above. Again, these crimes are already impacting the Sheriff’s Office’s resources.

MARIJUANA IMPACT ON EDSO’s PROPERTY DIVISION

Marijuana currently has the following impact on the Property Division:

Four of the Property Division’s six off-site storage units are used for marijuana related items at a cost of approximately \$7,200.00 per year.

Disposal cost for marijuana is approximately \$1,000.00 per year.

Of approximately 6,000 square feet of the Property Division’s on-site outdoor storage, approximately 25% is used for marijuana.

Of approximately 4,500 square feet of the indoor storage area, approximately 20% is used for marijuana related items.

Of the Property Division’s four employees (160 hours a week), approximately 40% to 45% of the time is consumed with marijuana related activity during June through October, and approximately 25% of the time used during the other seven months.

With no change in the county ordinance, the Property Division expects these numbers to rise.

POTENTIAL IMPACT ON EDSO’s RECORDS DIVISION

The new Medical Marijuana Safety Act laws may have possible impact to the Sheriff Records department for licensing purposes. Currently records processes licenses issued by the state for

Second Hand Dealer licenses. This process requires the applicant to complete an appointment with the local law enforcement agency to complete their application, have fingerprints completed and pay their fees for the license. Records then forwards all the collected information including the fees collected to the State for processing and approval. Once the license is approved the law enforcement agency provides the license to the applicant. If the state chooses to follow the same process we have seen in the past for state licensing records may see an increase in staff workload and appointments.

IMPACT ON SHERIFF'S OFFICE OPERATIONS WITH CURRENT COUNTY ORDINANCE

If the county ordinance does not change, there will be a significant impact on the Sheriff's Office Operations. The Sheriff's Office will still be obligated to investigate marijuana activities of non-licensed individuals, and the crimes that will move into our county as a result of licensed individuals operating here. Without the allocation of additional resources, the MMRSA will take time away from the investigation of other crimes and activity in the community.

The Western El Dorado County Narcotics Enforcement Team (WENET) is the primary unit within the Sheriff's Office tasked with the investigation of marijuana related complaints. WENET is comprised of a local four person unit with a supervisor. Roughly 80% of WENET's time is spent investigating marijuana related crime and activity, including approximately 1,560 hours a year in overtime. Even at that, WENET is only able to investigate approximately 2% of the cultivation sites within the county that are operating outside county zoning ordinance. With the passage of the MMRSA, it is anticipated illegal cultivation sites could easily double.

In addition, the other 13 types of state issued licenses will introduce even more crime into our county. Without additional personnel, other narcotics related investigations regarding heroin, methamphetamine, and cocaine, and secondary effects of those crimes will suffer. There will be a need for additional Patrol, Records, Property, and Custody personnel, plus the associated resources.

RECOMMENDATIONS

The only way to reduce the significant impact the MMRSA will have on the Sheriff's Office is to enact a complete ban on all activities as listed in the MMRSA. This will stop or significantly reduce new cultivation operations from moving into our county from other states and/or California Counties that enact bans. Many existing cultivation operations will likely be reduced as they will move into counties that do not ban such activities. With a county wide ban, the remaining illegal cultivation sites will be easy to identify, making enforcement on remaining perpetrators easier, with a significant reduction in crime surrounding marijuana activities.