



# County of San Diego

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AUG 5 2005

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AUG 8 2005

SAN DIEGO  
COUNTY GRAND JURY

August 3, 2005

The Honorable John S. Einhorn  
San Diego Superior Court, Presiding Dept.  
220 West Broadway  
San Diego, CA 92101

## **RESPONSE FROM COUNTY OF SAN DIEGO ON FINAL 2004-2005 GRAND JURY REPORTS**

Dear Judge Einhorn:

On August 2, 2005, the County of San Diego Board of Supervisors approved responses to the four 2004-2005 San Diego County Grand Jury reports which addressed recommendations to them. The Board further directed that these responses be sent to your office, pursuant to the Penal Code requirements.

The four reports for which responses are attached are titled: Homeless in San Diego; The Politics of Medical Marijuana: A Question of Compassion; Brush, Wind and Fire: An Active Approach to Preventing Future Tragedies; and the Supervisor's Community Funds

Since these were the only 2004-2005 Grand Jury reports to address recommendations to the County Board or departments under their jurisdiction, this completes our organization's commitment to submit responses to reports issued during the 2004-2005 Grand Jury session.

If you have any questions concerning the attachment or any related matter, please contact me at (619) 531-5250.

Sincerely,

WALTER F. EKARD  
Chief Administrative Officer

Attachment

**COUNTY OF SAN DIEGO RESPONSE TO 2004-2005 GRAND JURY REPORT  
“THE POLITICS OF MEDICAL MARIJUANA: *QUESTION OF COMPASSION*”  
Issued June 8, 2005**

**Findings:**

- 1. Notwithstanding the uncertainty surrounding the medicinal value of marijuana, California voters decided that it is appropriate for seriously ill Californians to have the right to obtain and use marijuana for medicinal purposes if certain conditions are met.**

**Agree.**

California voters approved the passage of Proposition 215, which “exempts patients and defined caregivers who possess or cultivate marijuana for medical treatment recommended by a physician from criminal laws which otherwise prohibit possession or cultivation of marijuana.”

- 2. The San Diego County Board of Supervisors has been blinded by its prejudices against medical marijuana use and has failed to implement the will of California voters.**

**Disagree.**

On October 1, 2002, the San Diego County Board of Supervisors voted to oppose the City of San Diego’s Medicinal Marijuana Task Force’s proposed program. In May 2003, the Board voted to oppose the passage of Proposition 215. Reasons for opposition related to existing legal conflicts between State and federal law. To date, legal issues remain unresolved. It is the County’s position that implementing the program, without knowing the full legal implications and potential liabilities to the County, is not in the best interest of the citizens and taxpayers.

- 3. San Diego County needs to set an example for all California with respect to implementation of the Compassionate Use Act of 1996 and S.B. 420.**

**Agree.**

The County of San Diego is setting an example for all Californians by thorough and thoughtful investigation of all aspects of this program in order to protect the safety of San Diego County citizens.

- 4. The City of San Diego took prompt and continual action to attempt to implement the Compassionate Use Act of 1996 and S.B. 420.**

**Disagree.**

The City of San Diego did not take any action to address the Compassionate Use Act of 1996 until 1998. Further, the City has discontinued actions to implement the Compassionate Use Act of 1996 and S.B. 420. Implementation of the City Verification Card Program was suspended after the passage of S.B. 420.

- 5. Uniform enforcement guidelines are necessary to balance the rights and needs of legitimate patients and caregivers with the interest of law enforcement to protect San Diegans from illegal use, cultivation, possession and sale of marijuana.**

**Agree.**

Uniform enforcement guidelines are important for the success of the program. Since there still remains a conflict between federal and State law, the resolution of this key issue is imperative before uniform enforcement guidelines can be established.

However, once the uniform enforcement guidelines are established and distributed among law enforcement agencies, the County of San Diego Board of Supervisors has no authority over the manner in which local and federal law enforcement agencies interpret or enforce laws.

- 6. Failure of all law enforcement agencies within San Diego County to implement uniform consistent guidelines has resulted in inconsistency and a failure to fulfill the mandate of the Compassionate Use Act of 1996.**

**Disagree.**

There currently are no uniform guidelines for the implementation of the Compassionate Use Act of 1996.

- 7. A medical marijuana identification card would not be a drain on the County treasury.**

**Disagree.**

The implementation of any new program without adequate financial resources would force the County of San Diego to redirect funds to that program. Prior to passage of S.B. 420, which allows for collection of fees, this program would have been an unfunded, state-mandated program.

**Recommendations:**

- 05-25: Take all possible action within its authority to facilitate access to medical marijuana by patients qualified under the Compassionate Use Act of 1996 and S.B. 420, including but not limited to the availability of identification cards.**

**This recommendation will not be implemented because the law does not require the County to “take all possible action within its authority to facilitate access to medical marijuana.”**

The County of San Diego is awaiting guidance from the State with respect to the promulgation of regulations that will govern the responsibilities of counties regarding the implementation of the provisions of S.B. 420. Once the State promulgates the regulations the County will be informed exactly what type of actions will need to be taken, and at that time, will examine what will be involved with implementing such actions. The County anticipates that the State’s regulations, once finally promulgated, will not mandate counties to “take all possible actions within its authority to facilitate access to medical marijuana,” but rather will require certain specified actions that are limited by design.

- 05-26: Meet with all law enforcement agencies within San Diego County, the San Diego City Medical Marijuana/Cannabis Task Force and the County of San Diego Health and Human Services Agency to formulate uniform protocols and procedures consistent with the Compassionate Use Act of 1996 and S.B. 420.**

**This recommendation will not be implemented because it is not warranted.**

Development of uniform protocols and procedures for the Medical Marijuana Card Identification Program is the responsibility of the State and not the County of San Diego.

- 05-27: Consult with officials in other California counties, specifically San Francisco, Marin, Santa Barbara and El Dorado Counties, who already have guidelines and protocols in effect.**

**This recommendation will not be implemented because it is not warranted.**

The State is currently conducting a pilot program and is expected to finalize uniform guidelines and protocols by the end of July 2005. Given that the State is ultimately responsible to issue policy and procedure guidelines to implement the Medical Marijuana Identification Card Program, it is the County’s position that any efforts to implement the program in advance of the State would be potentially inefficient and costly.

The County’s Health and Human Services Agency, like other public health jurisdictions, will wait for the final program guidelines from the State.

- 05-28: Direct the Health and Human Services Agency to begin preparations for implementing S.B. 420 and the issuance of identification cards.**

**This recommendation will not be implemented because it is not warranted.**

The County's Health and Human Services Agency is awaiting the issuance of final guidelines, policies and procedures by the State before local implementation would be considered.

- 05-29: Issue a clear statement of uniform protocols and procedures to law enforcement, physicians and patients consistent with the provisions of the Compassionate Use Act of 1996 and S.B. 420, as well as interpretations of the California Attorney General, the California Department of Justice and the California Department of Health Services.**

**This recommendation will not be implemented because it is not warranted.**

Issuing uniform policies and procedures to law enforcement, physicians and patients is not within the purview of the County Board of Supervisors. The Medical Marijuana Program manual being developed by the State will be the "accepted standard" for developing documents to communicate to law enforcement, the medical community, and the general public about the policies and procedures of the Medical Marijuana Identification Card Program. There has been no directive from the State regarding how this manual will be distributed among law enforcement agencies and stakeholders. Further, it should also be noted that the County Board of Supervisors has no authority over the manner in which local and federal law enforcement agencies interpret or enforce laws.

- 05-30: Issue a clear statement discouraging local law enforcement from arresting or confiscating marijuana from anyone who claims protection under the Compassionate Use Act of 1996 until after an investigation has been completed. This recommendation assumes the individual is operating within the limits set by the County.**

**This recommendation will not be implemented because it is not warranted.**

This recommendation is not under the jurisdiction of the Board of Supervisors. The Sheriff and the District Attorney are independent elected officials. The Board of Supervisors has no authority over the manner in which local and federal law enforcement agencies interpret or enforce laws.

- 05-31: Issue a clear statement discouraging local law enforcement from cooperating with federal agencies in enforcing marijuana violations. This recommendation assumes that California law is not being violated.**

**This recommendation will not be implemented because it is not warranted.**

This recommendation is not under the jurisdiction of the Board of Supervisors. The Sheriff and the District Attorney are independent elected officials. The Board of Supervisors has no authority over the manner in which local and federal law enforcement agencies interpret or enforce laws.