

# The Decade of the Cannabis Club

By Dale Gieringer, PhD

Nothing has done more to advance the availability of medical marijuana than the advent of so-called “cannabis buyers’ clubs.” While state medical marijuana laws like California’s Prop 215 have relieved the legal jeopardy of medical cannabis users, they have not created a legal distribution system to actually deliver the medicine.

The first true distribution system arose when Dennis Peron established the San Francisco Cannabis Buyers Club in the summer of 1993. Modeled loosely on Amsterdam’s coffee houses, the club sold marijuana to anyone with a doctor’s note showing medical need. It claimed legitimacy based on a popular initiative passed by city voters in 1991 — “Proposition P” — that instructed local law enforcement to not arrest and prosecute medical marijuana users.

The SFCBC launched a movement. In 1992, Santa Cruz became the second county to approve a medical marijuana initiative, Measure A. Activists had rallied around Valerie Corral, who successfully battled criminal charges for cultivating marijuana to control her severe epilepsy. In the Spring of 1993 Corral and her husband, Mike, expanded their home garden, located on remote property in the Santa Cruz mountains, to provide for a growing circle of mostly terminally ill people. The Corrals organized the Wo/Men’s Alliance for Medical Marijuana (WAMM), the first medical marijuana cultivation collective in California. Members would take turns tending the crop or doing other chores, in return for which they received a share of the medicine.

WAMM eschewed buying or selling marijuana, thereby avoiding the taint of the illicit market. It served only the most seriously ill patients. It attended to the health and welfare of its members through social, medical and spiritual services.

In January 1995, Scott Imler, an ac-



**Valerie Corral of WAMM and Assemblyman John Vasconcellos at the first meeting of a task force that drafted legislation to “clarify” Prop 215. The group’s draft, revised by law enforcement lobbyists, became Senate Bill 420.**

tivist who had been associated with both Dennis Peron and the Corrals, opened the Santa Cruz Cannabis Buyers’ Club. Like the SFCBC, it sold marijuana from clandestine growers to patients who could show medical need.

Imler soon moved on to Los Angeles to work for the Prop. 215 campaign. In October ‘95, with backing from Peron, he established the Los Angeles Cannabis Buyers’ Cooperative on Marine Street in Venice. A few months later the LACBC moved to West Hollywood, first on Vista street, and finally to a second-story office at 7494 Santa Monica Boulevard. He re-organized the LA Cannabis Buyers’ Club as the LA Cannabis Resource Center with the intent of moving away from underground suppliers and relying on herb grown by the club’s own mem-

bers. He denounced Peron for serving non-medical users and ignoring standard procedures for non-profit organizations. “The only ‘haphazard... for profit’ buyers’ club in the state is the high-flying Market Street circus,” Imler wrote to the *San Francisco Chronicle*.

## The 1996 Generation

The Oakland Cannabis Buyers’ Cooperative was originally started as a delivery service by Jeff Jones, Matt Quirk and Andrew Glazier. In March, 1996, the Oakland City Council approved a resolution endorsing medical marijuana, and in particular commending the activities of the OCBC. On July 4, the OCBC formally opened to the public in an upper-floor office at 1755 Broadway.

Under the leadership of clean-cut Jeff Jones, the OCBC continued to make a favorable impression on public officials. In addition to providing cannabis, the OCBC issued photo ID cards so that members didn’t have to carry their doctors’ letter of approval on their person. (OCBC staff would phone the doctor’s office to confirm the applicant’s status as a patient.) In time the OCBC cards came to be accepted by Oakland police, as well as by many other cannabis clubs lacking the resources to develop their own ID system.

In August 1996, California Bureau of Narcotics agents raided the San Francisco CBC, taking cash, marijuana, and records on more than 11,000 members — while carefully leaving the campaign office intact.

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In a pattern that would be repeated, the raid did not put an end to cannabis clubs, but rather caused their profusion elsewhere. For a couple of weeks, the Metropolitan Community Church stepped in to allow emergency distribution to AIDS patients. Peron’s old space at 194 Church St. was resurrected by Vic Hernandez, who opened a new dispensary known as CHAMP (Californians Helping Alleviate Medical Problems). A club in the Mission district, Flower Therapy, was launched by John Hudson, Leslie Thomas, Beth Moore and others who had worked closely with Peron.

In Marin, Lynnette Shaw established the Marin Alliance for Medical Marijuana in a comfortable, out-of-the-way office in the town of Fairfax.

## Ramifications of Prop 215

The new law created by Prop 215 explicitly protected doctors and their patients, but it provided at best vague and tenuous moral protection for those who grew and distributed cannabis. Specifically, it authorized possession and cultivation for personal medical use both patients and their designated “primary caregivers.” It did not explicitly change the state laws banning distribution and sales. It did offer a non-binding declaration calling on “the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need.”

This exhortation proved fruitless,

as the federal government dug in its heels and fought to frustrate any move to legitimize medical marijuana. On December 30, 1996, Drug Czar Barry McCaffrey joined Attorney General Janet Reno and HHS Secretary Donna Shalala in denouncing Prop. 215 as contrary to federal law. Given the prospect of federal opposition, state legislators were reluctant to attempt to create a legal distribution system.

McCaffrey and Reno threatened to penalize doctors who recommended marijuana by suspending their federal prescription-writing licenses. This would have been a terrible blow to Prop 215 had it not been for a lawsuit by Marcus Conant, MD, and co-plaintiffs (including Valerie Corral) which won a federal injunction protecting the right of doctors and patients to discuss marijuana as a treatment option.

In the heady days immediately after the election, many activists sought to follow Dennis’s example. Some who did so were surprised to find that local law enforcement was not as tolerant as in San Francisco. Scores of growers were arrested for marijuana cultivation that they mistakenly believed to be legal because it was for medical use by others. Zealous prosecutors could short-circuit any hope of a Prop 215 defense by turning a case over to their federal counterparts.

In Placer County, Bill and Peggy Riddick, both in their 60s, were convicted on federal charges after claiming that the several hundred plants they were growing were for Peron’s club; they were sentenced to 30 months in prison.

B.E. Smith became another Prop 215 martyr after announcing his intent to the Trinity County Board of Supervisors to grow a field of medical marijuana. Smith, an outspoken Vietnam vet, was arrested on federal charges and sentenced to a maximum sentence of 27 months by Judge Garland Burrell, who found him “beyond rehabilitation.”

Another victim of the federal juggernaut was Bryan Epis, who along with David Kasakove hoped to follow Peron’s example by starting a patient co-op garden in Chico. Epis was arrested on federal charges and sentenced to 10 years in prison for conspiracy to grow more than 1,000 plants. Like other federal arrestees, Epis was forbidden to mention medical marijuana at his trial. The specter of federal arrest would continue to haunt medical cannabis growers, providers and users up to the present day.

A group of activists committed to “working within the system” held a strategy session in Santa Cruz in October, 1997. The group included Scott Imler, Jeff Jones, Valerie Corral, and Lynnette Shaw, myself, and about 20 others. Dennis Peron was invited but did not attend.

A key goal of the group was to establish sites where marijuana could be grown legally. This hope was dashed by the DEA, which made it clear that it would not tolerate open gardening. On April 21, 1997, the DEA raided John Hudson’s Flower Therapy club in San Francisco, shortly after it had been featured in a *Chronicle* article with a



**Line outside S.F. Cannabis Buyers Club when it reopened in January, 1997, reflects pent-up demand by medical cannabis users. It had been closed since an Aug. 4 raid by state narcotics agents. The Oakland Cannabis Buyers Cooperative and new clubs in the city stepped into the breach.**

picture of its indoor garden. The message became clear that clubs were at risk if they had gardens onsite. The result was to force gardens underground and keep prices at black-market levels.

With few exceptions, clubs had to rely on a network of underground growers, some with small gardens or co-ops, others with industrial warehouses. Thus an enduring illegal taint was left on the medical marijuana market.

Proponents continued to explore ways of providing medical marijuana legally within the strictures of federal law. However, all such efforts were doomed by the DEA’s refusal to issue the required permits under the Controlled Substances Act. The DEA turned down permit applications from Robert Schmidt, proprietor of the Genesis 1:29 club in Petaluma, and Johann Stahl, a prospective hemp farmer in Mendocino.

An alternative to DEA-licensed grows was proposed by San Mateo Supervisor Mike Nevin, who suggested having the county hospital distribute marijuana that had been confiscated by the police. This alternative was rejected due to the irregular quality and doubtful purity of illicit cannabis.

In 2002, San Francisco voters approved Proposition S, calling on the city to investigate ways of establishing a legal distribution system. After much discussion, a Prop S task force failed to find a practicable solution.

Although it did not legalize distribution, Prop 215 did offer two possible legal defenses for medical cannabis providers. First, insofar as it allowed patients and caregivers to grow, it presumably allowed them to grow together collectively. This was essentially the WAMM model. It was difficult to implement in practice, however and could only serve a limited number of patients (WAMM has never exceeded 300 members).

San Diego activist Steve McWilliams tried to emulate WAMM by establishing a cultivation collective known as Shelter from the Storm, first in Valley Center, and then in San Diego. He was arrested three times by local police.

A second alternative for providers was to claim that they were “primary caregivers” for their customers. This was the tack preferred by Dennis Peron, who had seen to it that Prop 215 had a broad definition of “caregiver.” The definition had been deliberately broadened to use the conjunction “or” instead of “and,” so as to read, “The individual designated... who has consistently assumed responsibility for the housing, health, or safety of that person.”

As a medical marijuana provider,  
*continued at right*



## Cannabis Clubs *from previous page*

Peron could argue that he fit under the "health" category.

Peron was able to reopen in January, 1997, thanks to a favorable ruling from Superior Court Judge David Garcia, who urged the SFCBC to act as a non-profit caregiver. Attorney General Dan Lungren appealed Garcia's decision and in December the First District Court of Appeals ruled that Peron had too many patients to qualify as a bona fide caregiver. After further legal wrangling, the SFCBC was ultimately forced to close its doors on May 26, 1998. Peron moved to a farm in rural Lake County, where he tried his hand at cultivation.

[Within two years Dennis would be marginalized by the movement/industry he had founded. He decried the cannabis club owners who were following his own "buy low, sell high" model, many of them people he had trained. The feeling was mutual. It often happens that the most devoted followers are most resentful when the leader seeks to change course. —FG]

The decision in *People v. Peron* did not put an end to the caregiver defense. It was resurrected in the case of Ken Hayes and Mike Foley, who were arrested in May 1999 for growing 899 plants in Sonoma County. Hayes and Foley argued that they were acting as caregivers for the 1,280 patient members of CHAMP in San Francisco, and with support from testimony by SF District Attorney Terence Hallinan, were acquitted by the jury in 2001.

In the absence of state regulations, implementation of Prop 215 depended on local authorities. The Bay Area was most hospitable to cannabis clubs. Oakland became an early model for success, thanks to the efforts of Jeff Jones and the OCBC in developing a professional and responsible intake system.

Another early success was the boldt Cannabis Center won official recognition from the city. Arcata police chief, Mel Browne, cooperated by developing a photo ID system. The city authorized the HCC to share its crop with its members and to accept "lawful remuneration" as caregivers. The Center lasted a couple of years before folding due to internal problems.

In San Jose, efforts to replicate the Oakland model encountered difficulties. City officials were initially receptive to the efforts of Peter Baez and David Garcia to establish the Santa Clara County Medical Cannabis Center at 265 Meridian Ave. They were less sympathetic to the efforts of a rival entrepreneur and established regulations that allowed only Baez's club to operate. The police department complicated the situation by requiring that the club grow all its medicine on-site. Their rationale was that transportation was not strictly legal under Prop 215, so the club had to grow its own.

An appellate court soon ruled otherwise in the *Trippet* decision, which declared that transportation was covered by Prop 215. The city ignored the precedent and the San Jose club finally folded due to financial problems.

Elsewhere, communities moved to keep cannabis clubs from opening. In Monterey, the sheriff quickly closed the Medical Marijuana Care Center, operated by an individual with a prior record for marijuana offenses. In Marin, a pair of entrepreneurs with a dubious reputation went from town to town trying to set

up in the medipot business. In a tactic that would be used many times again, a string of Marin towns —including San Rafael, Larkspur, Mill Valley, and Novato— passed ordinances in 1997 declaring an official moratorium on medical cannabis outlets. Palo Alto and Garden Grove soon followed suit.

### *Despite its larger population, Southern California lagged conspicuously in the development of cannabis clubs.*

Despite its larger population, Southern California lagged conspicuously in the development of cannabis clubs. In San Diego, Dion Markgraaff operated the San Diego Cannabis Caregivers' Club in Ocean Beach for a few months until being busted by police. In the state's largest city, Imler's LACRC remained the only club in operation.

An ambitious attempt to set up a larger-scale medical marijuana operation ended in July, 1998, when LA police arrested cancer survivor Todd McCormick, who had been growing some 4,000 plants in an old Bel-Air mansion, and his backer, author Peter McWilliams. Both were charged federally. McWilliams, suffering from AIDS and cancer, and deprived of cannabis by a court order, died while awaiting trial. McCormick was sentenced to prison. The defendants came to regard Scott Imler as a government informer.

Imler organized a second providers' meeting in Santa Cruz in October, 1997. Attendees signed a declaration entitled an "Affirmation of Principles and Guidelines for Medical Cannabis Providers." They called for providers to "maintain lowest possible prices, maintain charitable distribution programs for indigent clients, not offer on-site diagnostics or recommending physicians, not offer sign-up incentives or membership promotions, and refrain from behavior and statements blurring lines between medical and non-medical use of marijuana."

The latter was a reference to a line of Dennis's that outraged Imler and others when it was quoted in a *New York Times* article: "Peron, who lives in San Francisco, contended that since stress relief is a medical purpose, too, any adult who uses marijuana does so for medical reasons. 'I believe all marijuana use is medical — except for kids,' Peron said."

According to Todd McCormick, "Scott organized that meeting in Santa Cruz and then informed the feds who attended and what they were planning. He gave them information to get in good with them, which explains why his club would be the only club in L.A. for so many years."

The Santa Cruz statement was signed by 17 medical cannabis providers and 11 start-up affiliates, only a few of whom represented substantial operations. Not all providers adhered to the principles. Many continued to host visiting hours by doctors, building an important client base in remote areas. Prices would be a continuing sore point with many consumers who were hard-pressed to come up with \$50 to \$60 an eighth ounce for a medicinal herb that's not difficult to grow.

#### **The Federal Injunction**

The movement was dealt a significant setback on Jan. 13, 1998, when the U.S. Attorney for Northern California announced that his office was seeking an injunction to close the SFCBC, the OCBC and four other providers —



**SPACE AT 350 DIVISADERO would be turned into the Patients Resource Center by four refugees from the defunct SF Cannabis Buyers Club — Wayne Justmann, Randi Webster, Gary Farnsworth, and Jane Weirick. "Finding a location and a landlord willing to rent to us may have been the hardest part of getting open," said Justmann.**

Flower Therapy, the Marin Alliance, the Santa Cruz CBC, and the Ukiah CBC, a small group run by Cherrie Lovett and Marvin Lehrman.

U.S. District Court Judge Charles Breyer rejected the clubs' various defenses and issued an injunction to close them. On Oct. 20, 1998, the OCBC ceased distributing cannabis to its 2,200 members (while continuing to issue ID cards and to sell hemp products and literature).

Like the attack on Peron's club, the federal injunction proved less than a fatal blow. No sooner had the OCBC ceased operations than another dispensary, known as the Zoo, quietly opened a few doors away. Two of the six clubs in the federal suit, Marin and Ukiah, continued to operate despite the injunction. The others closed before the injunction took effect. (Peron's club closed on May 26th in response to a state court ruling.)

CHAMP, which had been closed due to labor-management problems when the federal suit was filed, re-opened. Altogether, roughly a dozen clubs continued to operate despite the federal injunction.

The medical cannabis movement got an indirect boost on Election Day, 1998, when medical marijuana initiatives in six other states —Oregon, Alaska, Nevada, Washington, Colorado and the District of Columbia.

On the same day, Californians elected a new Attorney General, Bill Lockyer, an avowed supporter of Prop. 215. With Lungren gone, the state suddenly seemed hospitable to implementing the Compassionate Use Act of 1996. One of Lockyer's first actions was to remove the state Bureau of Narcotics of Enforcement from medical marijuana cases. Lockyer announced that Prop 215 enforcement would be left to individual counties and cities.

Another boost, albeit temporary, came on Sept. 13, 1999, when the Ninth Circuit U.S. Court of Appeals ruled that the OCBC should be allowed to provide marijuana to patients with "medical necessity." The decision was stayed by the U.S. Supreme Court in August 2000 and reversed in May 2001. In the meantime, however, it afforded welcome relief from federal pressure.

Yet another positive development was a permanent injunction issued by a federal judge in *Conant v. McCaffrey* barring the government from prosecuting doctors for recommending marijuana.

The end of the millenium proved to be a halcyon period for medical cannabis. New clubs began sprouting up in communities around the Bay Area. In Hayward, the Hempori-um, founded by

Bob Wilson and Jane Weirick in a storefront at B and Mission St, sold hemp products, books and paraphernalia in the front, with a backroom where medicinal hemp could be obtained and smoked.

Berkeley was the home of two early cooperatives —the Berkeley Cannabis Co-op, located in the Long Haul Info Shop, and the Berkeley Patients' Group, organized by AIDS patient Jim McClelland, who was suc-

ceeded by Cannabis Action Network director Debbie Goldsberry and Don Duncan. In 2001 Berkeley became the first city to officially cap the number of dispensaries (at three).

In rural areas patients were served by more informal co-ops. In the Eastern Sierra, Bonnie Metcalf and Steve King of the Yuba Compassionate Use Collective furnished medicine to seriously ill patients from their caregiver garden. Other patient groups provided support, if not actual medicine, in Sonoma, Sacramento, and El Dorado counties.

With Dennis's club gone, the new political center for the movement became the San Francisco Patients' Resource Center, founded by Jane Weirick, Wayne Justmann, Randi Webster and Gary Farnsworth in 1999. The SFPRC hosted regular meetings for patients and providers. During Terence Hallinan's successful re-election campaign for District Attorney, the club hosted a debate between him and challenger Bill Fazio.

ACT-UP, a collective of radical AIDS activists, opened a club on Market St. The Hemp Center (THC) on Balboa, a combined hemp goods and marijuana store owned by Kathleen Lemons, was perhaps the first dispensary to report a robbery to the police.

As of June 2000, there were eight pot clubs in San Francisco, ranging from one-man hole-in-the-walls to ACT-UP, which grossed \$1.6 million in its first year, according to the Bay Area Reporter.

#### **Still Slow in the South**

Developments continued to lag in the Southland, where Imler's LACRC remained the only major club. A smaller club, the Inglewood Medical Cannabis Center, founded by Paul Scott, discreetly served a limited clientele. In San Diego, an upscale club was opened in Hillcrest by businesswoman Caroline Konow as an avowedly for-profit enterprise; like previous San Diego clubs, it was busted by the police (2001).

Orange County, whose sheriff, Brad Gates, had headed the No-on-215 campaign, proved even more hostile. Authorities were quick to quash the Orange County Cannabis Co-op, a delivery service launched by Marvin Chavez. In the county's first Prop 215 case, David Herrick, a distributor for the club, was sentenced to four years in prison for possessing 2 oz. of marijuana bearing the club's label. Chavez was arrested for selling to an undercover officer feigning severe pain, and ended up being sentenced to six years in prison without access to his medicine (1999).

The early years of Prop. 215 saw  
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scores of other medical marijuana arrests, mostly for cultivation. In Los Angeles, Somayah Kambui —“Sister Somayah”— who served a small group of sickle-cell patients, suffered repeated raids on her home garden in South Central. Burdened with an ancient “2-strike” record from her days as a Black Panther Party member, Somayah continued to be hassled by the LAPD, even after winning a jury acquittal.

For the most part, however, clubs were rarely hassled by police. In some instances, clubs even felt safe enough to call the police to report burglaries or robberies, knowing that they would be treated professionally like other businesses.

### 2001-2002: Persistent Terror

The year 2001 saw a resurgence of the federal threat, as the inauguration of President George W. Bush brought to office: John Ashcroft, John Walters, and Asa Hutchinson. Just as the new administration was settling in, the U.S. Supreme Court voted 8-0 to reverse the 9th Circuit's medical necessity ruling, reinstating the federal injunction against the Oakland CBC.

The Department of Justice struck just weeks after 9/11 with a pair of medical marijuana arrests. On Sept. 28, agents raided the Ventura garden of Judy and Lynn Osburn, who had been growing for the Los Angeles Cannabis Resource Center. On the same day, the DEA raided the El Dorado County clinic of Mollie Fry, MD, and Dale Schafer, which had provided recommendations for some 6,000 eastern California patients. Fry and Schafer had a small garden from which, the feds would allege, some patients were provided with marijuana —an act not protected by the *Conant* injunction.

The DEA followed up on October 27th by raiding the LACRC, the major medical marijuana facility in Southern California. It served some 960 members, mainly AIDS patients. The raid was especially disappointing to advocates of working within the system because the LACRC had shunned patients who did not have well documented serious diseases. Under Imler's leadership, the LACRC had maintained open books, filed tax reports, and cooperated with local officials and the LA Sheriff's Department. The policy backfired, as the Department of Justice cited these very records as evidence that it was breaking federal law.

Criminal charges were filed against Imler, the Osburns, and club officers Jeff Yablan and Jeff Farrington, all of whom pled guilty to avoid lengthy mandatory minimum sentences. The city of West Hollywood, which had lent the LACRC \$350,000 to buy its building, lost their investment in a federal forfeiture suit.

According to a *Washington Post* article, the LACRC raid had been instigated by Congressional drug warriors in Washington incensed by reports about the LACRC's flouting of federal law. The raid severely limited availability of medical marijuana in the state's largest city. For the next two years, the only club in Southern California would be the small one in Inglewood. The message to the clubs seemed to be: avoid publicity



Sister Somayah Kambui

and don't file any reports on your business activities.

The federal rollback continued on Valentine's Day 2002, when DEA administrator Asa Hutchinson came to speak at the Commonwealth Club in San Francisco. Earlier that day, his agents arrested “Ganja Guru” Ed Rosenthal in Oakland, raiding a pair of gardens he supervised in an Oakland warehouse and the basement of a club in San Francisco. Rosenthal, who specialized in supplying clones to the clubs, claimed to be acting as an official deputy of the city of Oakland, in accordance with that city's medical marijuana ordinance.

Rosenthal's case would become a cause celebre, culminating in a nominal one-day sentence. The jury recanted its guilty verdict, protesting that they hadn't been allowed to hear evidence that Rosenthal was growing for medical purposes. Despite all the furor, not a single San Francisco or Oakland club was closed due to the raid that netted Rosenthal and Rick Watts (and drove Ken Hayes into exile).

While the rest of the United States was preoccupied with the “war on terror,” Northern California was hit by a flurry of medical marijuana raids in 2002. Although the raids mostly targeted gardens, they brought down a couple of Sonoma County clubs: Aiko in Santa Rosa, and Genesis 1:29, whose director, Robert Schmidt, was apprehended in a field with 3,454 plants.

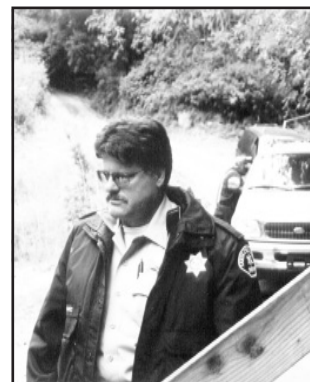
By far the most fearsome federal blow fell on September 5, 2002, when DEA agents raided the Corral's property in the Santa Cruz hills, arresting Valerie and Mike at gunpoint and destroying the WAMM communal garden. The raid was especially chilling, since WAMM exemplified the “gold standard” of medical marijuana patients' groups — not a club or dispensary that sold marijuana grown by others, but a communal gardening co-op belonging to 200 gravely ill patients. There was no doubting the legality of WAMM even under the strictest reading of Prop 215.

*The WAMM raid left no room to doubt the federal government's lack of scruples.*

The WAMM raid left no room to doubt the federal government's lack of scruples about enforcing prohibition to the hilt, even at the expense of the privacy, freedom, and health of the most gravely ill patients. Although no one was criminally charged in the raid, WAMM had to close its collective garden for fear of losing its property to forfeiture. In a remarkable show of civil disobedience, Santa Cruz city officials protested the raid by allowing WAMM to stage a hand-out of medicine at the courtyard of City Hall. DEA helicopters circled overhead, but nothing was done to stop the protest.

Events took a more sinister turn in San Diego when patient advocate Steve McWilliams staged a sympathy protest against the WAMM raid on the steps of city hall. McWilliams, who had been growing 25 plants in his side yard for a handful of patients in the Shelter from the Storm collective, received a letter from the U.S. Attorney demanding that he remove his garden. After refusing to do so, McWilliams was arrested on federal cultivation charges. He became embroiled in a federal case and pled guilty pending appeal. Denied the use of marijuana while out on bail, suffering intense spinal pain and depression, he committed suicide on July 11, 2005.

## The Raid on WAMM



**A RUINED GARDEN (top) and grieving members of WAMM (top and middle at right) were the legacy of the DEA raid Sept. 5, 2002. After chopping down the almost-ready plants, agents hauled them away in rented trucks. WAMM supporters had gotten word of the raid and began assembling at a gate on the dirt road leading to the Corral's property, which they padlocked. Embarrassed sheriff's deputies (bottom right) were ordered to negotiate an exit for the federal confiscators.**

One side-effect of the DEA raids was to disrupt the statewide organization of cannabis clubs that had grown out of the Santa Cruz conference. The club operators had continued to stay in contact through monthly meetings at which they exchanged news, discussed legal, business, and political issues, and tried to develop a common strategy. The group hoped to organize a trade association, known as the Medical Cannabis Association, to develop good-practice business standards for the industry. The meetings were originally hosted by Jeff Jones at the OCBC, then moved to the San Francisco Patients Resource Center (SFPRC).

The meetings were disrupted when it transpired that one of the principals at SFPRC, a mysterious priest known as “Father Nazarin,” had written a letter to the DEA informing on Ed Rosenthal. Although the SFPRC promptly expelled Father Nazarin from its leadership, the movement was split by mutual distrust and recrimination. No longer maintaining a common political front, club operators became increasingly preoccupied with their own private business affairs.

*By the end of 2002 there had been more than 40 federal arrests for medical marijuana in Northern California.*

By the end of 2002 there had been more than 40 federal arrests for medical marijuana in Northern California. Despite this, there were no fewer clubs operating than a year before. The Bay Area had become the world's leading center of medical marijuana entrepreneurship, with some 13 clubs in San Francisco, three in Berkeley, two in Hayward, and three more in Oakland's “Oaksterdam” district. There was even a new club in Sacramento. With the

closure of the LACRC in the more populous southern half of the state, California had a two-tier system of medical marijuana distribution: available in the North, unavailable in the South.

### Resurgence of Clubs

As it turned out, the wave of federal repression reached its height in 2002. No systematic sweep of dispensaries materialized. Instead, medical marijuana advocates staged a counter-offensive. The government ended up with mud on its face in the Rosenthal trial, as Ed walked out of court with a one-day sentence, time served, on June 4, 2003.

A serious constitutional challenge to the Controlled Substances Act had been launched by medical marijuana users. Angel Raich and Diane Monson, who filed a federal lawsuit arguing that the government lacked authority under its powers to regulate interstate commerce to prohibit them from possessing and cultivating marijuana for personal medical use.

The case relied on precedents favoring states' rights written by the Supreme Court's conservative majority. Raich and Monson won a favorable ruling from the Ninth Circuit Court of Appeals on Dec. 16, 2003. Although the ruling only protected patients' personal use and cultivation, and did not clearly apply to cannabis clubs that engaged in commerce, it afforded unprecedented federal protection for medical marijuana defendants.

In April, WAMM won a U.S. court injunction protecting their garden from federal raids and planted the first legal, private marijuana garden in the U.S. since the Marihuana Tax Act of 1937. Prosecutions of other medical marijuana defendants were put on hold and some, like Bryan Epis, were released on bail while the government appealed the *Raich* decision to the Supreme Court. Although the Court eventually ruled

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against Raich and Monson on June 6, 2005, the Ninth Circuit decision gave medical cannabis advocates a year and a half of breathing space during which they enjoyed enhanced legal credibility and protection against federal raids.

### Commercialization

By the time of the DEA raids, medical cannabis was developing into an increasingly commercialized business. The first generation of cannabis clubs had been led by politically engaged advocates such as Dennis Peron and Valerie Corral. As these leaders were targeted and sidelined by the DEA, a new generation of more business-oriented providers emerged, some of whom were derisively dubbed “potpreneurs.” These operators had little interest in politics or marijuana as medicine, they were mainly focused on buying low and selling high. Some of the most successful had experience running other businesses.

The new operations were organized in various ways — as corporations, non-profits, co-ops, sole proprietorships, adjuncts to other businesses, one-man delivery services. Unlike the SFCBC and its first wave of successors, the newer clubs rarely offered counseling, social activities, massage/yoga classes, medical and political literature, etc. Very few allowed on-site smoking or socialization, activities known to detract from sales and encourage adverse attention from neighbors. They preferred to be known as “dispensaries” rather than clubs.

Dispensaries focused on three primary tasks: (1) to oversee intake and validate recommendations; (2) to provide security at the door, which became increasingly important as robbers started targeting dispensaries on account of their considerable bundles of cash and “product,” and (3) to sell marijuana.

As the industry grew, so did the variety and sophistication of products available through dispensaries. Commercial vendors specialized in different strains of cannabis — Romulan, White Widow, Diesel, Train Wreck, and dozens of other varieties with equally non-medicinal names. Other vendors specialized in providing clones, which patients could take home and cultivate. Others manufactured hashish, and still others marketed new kinds of extracts, balms, tinctures, capsules, and oils. A dazzling array of cannabis edibles were developed — brownies, ginger snaps, ganja cakes, butter, breads, candies, frosting, ice cream, milk shakes, soda pop, even peanut butter and jelly. Many products came with their own brand labels, some with sober medical warnings (“Do not use when driving”), others in



**A dazzling display of edibles**

flagrant imitation of commercial goodies (“Keef Kat,” “Munchy Way,” “Pot Tarts,” “Toka-Cola.”).

*Many growers and dispensaries were interested in having their products tested for purity, potency and cannabinoid con-*

*tent, but this was ruled out by DEA regulations.*

Quality control was lacking in the medical marijuana market. Although some consumers worried about pesticides or contaminants in their medicine, it was impossible to arrange inspections, since the DEA forbade licensed labs to handle controlled substances. Many growers and dispensaries wanted to have their products tested for purity, potency and cannabinoid content, but this too was prohibited. Most edibles and extracts were prepared in private homes and kitchens not subject to public health inspection. Some products were said to be manufactured using dangerous chemicals such as isopropyl alcohol and propane; but, again, testing for such substances was impossible under the Controlled Substances Act.

A factor driving the growth of the medical marijuana market was the increasing availability of physicians and clinics specializing in marijuana evaluations. In the early years of Prop 215, recommendations were hard to come by, most physicians having received no education concerning cannabis and being afraid of punishment for approving its use. A handful of doctors stepped into the breach, led by Tod Mikuriya, a Berkeley-based psychiatrist. Early on, Mikuriya got referrals from the SFCBC and other clubs and developed a loyal clientele of patients unable to get recommendations from their regular doctors (or reluctant to ask). Over the years he has been joined by more than 20 MDs who have made a specialty of cannabis consultations.

In the early days, Mikuriya and others would travel around the state to special clinics hosted by clubs and patients’ advocates. This practice, which might have raised ethical concerns about conflict of interest, gradually abated. The *Conant* injunction protects doctors who recommend marijuana to their patients, but not if they help them to obtain it. As a result, physicians were encouraged to part ways with the clubs and reach out on their own. By the year 2000, some medical cannabis practitioners had begun advertising their services in local newspapers.

In Oaksterdam, two new clinics set up offices near the cannabis clubs: Norcal which was established by doctors who had previously rented space at Compassionate Caregivers, and Medi-Cann, which advertised evaluations at the bargain price of \$100. Both soon opened branches in other cities.

Employing physician’s assistants to cut costs, the clinics churned out recommendations on short order at reasonable prices. Some doctors and lawyers expressed concern that the clinics were cutting corners and failing to perform adequate examinations. However, few consumers complained about the quick in-and-out service, which allowed them to get an approval, an OCBC ID card, and access to nearby pot clubs in one convenient trip to downtown Oakland.

The Butte County DA forced Medi-Cann to close its Chico office, saying that its recommendations were not valid because they were issued by physician’s assistants. MediCann closed its Chico offices and stopped using PAs.

TV news crews began visiting the clinics, showing how easy it was for their reporters to get recommendations with a convincing tale of pain.

Undercover cops also made use of the cannabis specialists to obtain recommen-



**DISPENSARY MODEL** was exemplified by the “Green Cross” in San Francisco, whose owner claimed to “have taken medical marijuana from the ‘60s into the 21st century.”

dations so as to penetrate the clubs. (*See story on page 3.*) Several of the doctors, including Mikuriya, faced disciplinary hearings before the medical board after having written approvals to undercover cops claiming they had used marijuana safely and effectively to treat pain.

*As access expanded, so did the proportion of patients whose medical need for marijuana was not obvious.*

As access expanded, so did the proportion of patients whose medical need for marijuana was not obvious. Prop. 215 allowed marijuana to be recommended for any medical condition that the physician deemed appropriate. According to a survey by Dr. Mikuriya, this comprised over 200 indications, including such common complaints as back pain, arthritis, depression, nausea, migraines, and PMS.

Based on reports of efficacy from their patients, doctors approved marijuana use for ADD, depression, anxiety, insomnia, alcoholism and drug addiction — even though there were no clinical studies in peer-reviewed medical journals substantiating the patients’ claims. The situation was summarized by a KTVU-TV news crew, which, after visiting a MediCann office, concluded, “just about anyone with any medical malady can get a recommendation.”

Not just in the media but in reality the clientele of cannabis clubs came to be characterized less and less by people treating life-threatening conditions such as AIDS and cancer, and more and more by people treating stress and pain, depression and ADHD — including seemingly able-bodied young men who looked like stereotypical “recreational” smokers.

As competition among dispensaries grew, so did promotion. Dispensaries started to advertise, first in handbills and newsletters, then eventually in ads in the alternative press. With the rise of the internet, many launched websites. One company, Arizona Medical, tried to sell medical marijuana online, but was busted. One or two clubs even bought radio ads.

Some clubs offered special discounts. Unfortunately, the practice of offering small amounts of free marijuana (“compassion”) to needy patients sometimes resulted in handouts being resold on the street. This in turn attracted adverse attention from neighborhood groups, always alert to the abuses of club clientele.

### Tax Issues

As cannabis clubs began to resemble retail businesses, they had to face the issue of taxes. Some patient groups organized as non-profit co-ops and accordingly considered themselves tax exempt. The newer clubs usually filed for business permits, obliging them to pay local business and income taxes. WAMM filed to become a 501c(3) charitable organization, eligible for tax-deductible contributions. The state of California approved their application upon passage of Prop 215, but the IRS overturned it.

The sales tax posed special issues. At first, everyone ignored it, reasoning that medicine was tax-exempt. In fact, the California tax code provided that only prescription medicines sold in pharmacies were exempt from sales tax; herbs sold in healthfood stores were taxable. Because marijuana was “recommended” rather than prescribed and sold in pharmacies, it could be considered taxable.

The Hemp Center in San Francisco made the mistake of filing a statement to the state Board of Equalization, in which it claimed that its sales of medical marijuana were tax exempt. The store was hit with a hefty claim for back taxes, driving it to the verge of bankruptcy, according to the owner. The sales tax represents up to 8.75% of revenues. Increasingly, the newer dispensaries “buy into the system” and pay it.

### The Rise and Fall of Oaksterdam

Oakland emerged as the center of California’s new medical cannabis culture and commerce. Following the federal injunction against the OCBC, new clubs came to locate in the surrounding area, a semi-deserted downtown district near the 19th Street BART station that soon became known as “Oaksterdam.” The OCBC was a magnet, operating the most popular ID card system in the state. Thousands of patients from around the state came to get OCBC cards.

Oaksterdam attracted a diverse range of businesses. The Oakland Patients Group, located at 19th and Telegraph, adhered to rigorous security standards, while offering social services to its members. A couple of doors down from the OCBC, the Bulldog Coffee Shop was launched by Richard Lee in open imitation of an Amsterdam coffee shop. The front of the Bulldog had a coffee counter and street café open to all, while the back room had a window where cannabis was sold to members. Although Lee himself used marijuana for medical purposes, he made no secret of his desire to expand the membership to all adults



**Oaksterdam’s Bulldog Coffee Shop**

regardless of health status.

Between the Bulldog and the OCBC was the Four Seasons, a hydroponic store where those wishing to exercise their Prop 215 right to cultivate could obtain the requisite indoor growing equipment.

The largest and —for a while— most successful Oaksterdam business epitomized the new trend toward commercialism. “Compassionate Caregivers” was established by Larry Kristich, an out-of-towner whose previous experience was in the gambling business and who said

*continued on next page*



Cannabis Clubs from previous page

he had no affinity for marijuana. Located in the upper floors of an office building at 1740 Telegraph Ave., a few doors behind the OCBC, the club became known as the “Third Floor.” It could not be seen from the street, other than a couple of security guards who hung out on the sidewalk checking IDs at the door. On the second floor were offices, which for a while were rented out for physician’s clinics, until it was decided that this was too risky. On the third floor an impressive variety of products was sold, many of them supplied from the club’s own garden. Kristich stayed aloof from the movement and activist politics, concentrating instead on establishing branch outlets around the state.

Unlike the typical patient collective, Compassionate Caregivers was organized along professional business lines, with a payroll of some 200 employees, for whom it paid withholding taxes, Social Security, unemployment and health insurance, as well as sales taxes to the state. At its height in early 2005, Compassionate Caregivers operated branches in San Francisco, Ukiah, Bakersfield, Alameda County, West Hollywood and San Diego. The bubble burst that May when the LAPD came upon more than \$300,000 in cash and 800 pounds of products (weight of edibles and packaging included) at the West Hollywood outlet, known as the “Yellow House.”

The feds moved to seize CC’s assets, and most of the outlets were forced to fold. Larry Kristich dropped out of sight. Manager Sparky Rose, tried to rescue the outlets in San Francisco and Oakland by re-organizing a new entity known as “New Remedies.” However, the city of Oakland refused to re-license the Oakland outlet, and the San Francisco branch was closed by a DEA raid on October 3, 2006, in which Rose and 14 associates were arrested. So ended the saga of what was once the largest medical cannabis business in California, if not the world.

Oaksterdam suffered a reversal in the summer of 2003 following a complaint to the city council by the director of a center serving gay minority youth that was located between Compassionate

*The ordinance forced the permanent closure of five of the eight clubs in Oaksterdam. Although it appeared to be a major setback for medical marijuana in Oakland, it also represented a significant victory for the surviving businesses.*

school was located nearby. The ordinance forced the permanent closure of five of the eight clubs in Oaksterdam; others were forced to relocate and disperse to other parts of the city.

Although the ordinance appeared to be a major setback for medical marijuana in Oakland, it also represented a significant victory for the surviving businesses. By licensing the dispensaries, the city implicitly acknowledged their legitimacy. Medical marijuana dispensaries had moved from the outskirts of civil disobedience to the mainstream of legally licensed businesses.



Greater Oaksterdam (in 1917)

Measure Z: “Tax and Regulate”

The Oakland ordinance prompted marijuana proponents to counter with a ballot initiative, Measure Z, calling for the city to “tax and regulate” marijuana for general adult use. Measure Z passed with an impressive 65% of the vote in 2004, but it did not prevent the neighborhood from sinking back towards its previous state of economic inactivity. According to the city tax assessor, gross revenues reported by medical cannabis dispensaries plummeted from \$26.2 million in the year 2003-4 to \$5.4 million two years later.

The crackdown in Oaksterdam precipitated an exodus of clubs to the unincorporated part of Alameda County. Before long, half a dozen dispensaries had sprung up in the Cherryland-Ashland district south of the city. For a while, they ran discreetly beneath the radar, lost in the jumble of strip shopping boulevards. Trouble broke out near the busy intersection of E. 14th St and Ashland, where one particularly popular club began attracting unwelcome carloads of out-of-town customers, mostly young men, causing neighbors to complain of parking conflicts and rude behavior. Neighborhood groups raised a storm when they discovered that half a dozen other clubs had also located nearby. The Alameda County Board of Supervisors responded by passing an ordinance regu-

lating cannabis clubs in unincorporated areas. The ordinance was somewhat less dire than its Oakland counterpart, in that it allowed for on-site consumption in the form of vaporization. It capped the number of clubs at three, forcing four others to shut down.

Sonoma County Crackdown

The drama was replayed in uglier terms in Santa Rosa. Although Sonoma County had voted 69% in favor of Prop. 215, the public mood soured when a dispensary known as Resource Green opened up not far from city hall. The club acquired a reputation for attracting riff-raff, fakers, and small-time dealers who resold their medicine on the street.

City officials were particularly dismayed at the high proportion of apparently able-bodied young men frequenting the club. The council responded with an ordinance that forced Resource Green to close while allowing two other clubs to be licensed under sharply restricted conditions: days and hours of operation were limited to 9 to 3 on weekdays and



Entrance to 194 Church St., Dennis Peron’s original SFCBC location, in its incarnation as “CHAMP.” At the door is manager Ken Hayes.

ment for disability access will rule out further use of Dennis Peron’s original second-floor location on Church Street, which had continued to operate in the hands of different owners for more than 10 years. (In Dennis’s time, wheelchair-bound patients waited at street level for medicine to be delivered to them from upstairs). The ordinance marked the end of laissez-faire free enterprise for cannabis clubs in San Francisco, and the beginnings of regulated capitalism.

*SB 420 called for enhancing patient access through “cooperative, collective cultivation projects.”*

Southern Comfort

While cannabis clubs were retrenching up north, they began proliferating in previously underserved parts of Southern California, Los Angeles, Bakersfield, and San Diego.

The explosion was precipitated by the enactment of SB 420, which took effect on Jan. 1, 2004. Although SB 420 did not actually legalize dispensaries, its language appeared to encourage improved legal access to cannabis. In particular, it called for enhancing patient access through “cooperative, collective cultivation projects” and gave such collectives provisional legal protection against charges of distribution and sale.

SB 420 authorized designated primary caregivers to charge for their services, at least on a “non-profit” basis. Although neither of these provisions legalized outright retail sales of the kind most cannabis clubs engaged in, it offered them a potential defense as caregivers or collectives.

Despite its limitations, SB 420 was widely interpreted as giving a green light to medical marijuana providers. This was especially true before June, 2005, when the Ninth Circuit’s *Raich* decision was in effect and it could be credibly argued that medical marijuana was totally legal. New clubs were emboldened to open in Bakersfield, Long Beach, Sacramento, Redding, and Modesto. Many filed for business licenses as medical cannabis dispensaries. With the Ninth Circuit *Raich* decision in effect, many city officials assumed clubs were legal under SB 420 and Prop 215.

Among the bolder new entrepreneurs was Richard Marino, who publicly announced that he was opening a club in Roseville, in the heart of Placer County. On his property, Marino grew hundreds of plants guarded by barbed wire and 24-hour security patrols. He would soon be busted by the DEA following complaints from neighbors.

More prudent operators enjoyed greater success. Cheryl Riendeau, a former medical office manager, had few problems in Placer County, quietly set-

continued on next page



Caregivers and the Lemon Drop, a bakery/dispensary. The director complained that his clients were being subjected to the smells and temptations of marijuana.

When a new club, the Dragonfly, opened just across the street, it proved too much for Oakland politicians, who were planning a massive new housing redevelopment project nearby. Led by President Ignacio De La Fuente, the city council passed an ordinance drastically limiting dispensaries in Oakland.

The ordinance capped the total number of dispensaries in the city at four; required that they submit to extensive regulations and pay an annual licensing fee of up to \$20,000; forbade on-site consumption and smoking; and forced clubs to relocate and spread out around the city, with no two permitted within 1000 feet of each other.

Most importantly, no clubs were permitted near the OCBC or 19th Street BART station on the grounds that a





## Cannabis Clubs *from previous page*

ting up Golden Gate Patient Care with support from local officials in the tiny town of Colfax.

The most impressive growth occurred in the Southland. Compassionate Caregivers from Oakland opened its “Yellow House” in West Hollywood in early 2004 (in a building that once was Charlie Chaplin’s office.) Two other Northern California enterprises followed —Ukiah Medical, with connections to Mendocino’s Emerald Triangle marijuana fields, and LA Patients and Caregivers Group, founded by Don Duncan, the politically astute co-director of the Berkeley Patients Group, who tried to help other providers maintain good relations with the public and city officials.

The new clubs took advantage of the fact that West Hollywood was patrolled by the Los Angeles County Sheriff’s Department, which had been supportive of medical marijuana, rather than by the LAPD, which was infamous for its repeated raids on Sister Somayah. Other dispensaries quickly jumped into the West Hollywood scene, prompting the city council to pass an ordinance limiting their number to seven in July 2005.

By this time dispensaries had begun to branch out in the territory of LA proper. Among the first to do so was Scott Feil’s former Ukiah club, now re-dubbed United Medical Caregiver Clinic, which established a flourishing business on Wilshire Boulevard. On the first floor were doctors’ offices. On the second was a capacious waiting room where customers were regaled with TV and a buffet while awaiting their turn in the bud bar. Celebrities were served in a private back room. Pushing the industry to a new stage of commercialism, UMCC went so far as to advertise on radio rock stations. Like Compassionate Caregivers, UMCC had a branch in Ukiah, in Mendocino County, a center of marijuana agriculture reputed to be a leading source of medicine for the LA clubs.

Inevitably, UMCC caught the attention of LA police, who raided it; but it managed to re-establish itself, re-organize, and re-locate again to Fairfax Ave.

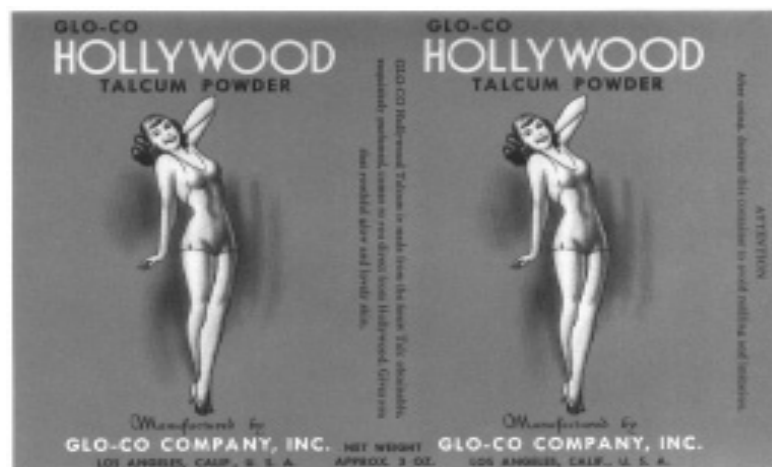
LA was soon swept by a flood of new dispensaries. The San Fernando Valley proved especially fertile grounds. The first club in the Valley, Trichome Healing Caregivers, was established in the second floor of a Van Nuys mini-mall in February, 2005. Two score more would follow. Within a year and a half, Los Angeles would have over 100 dispensaries, more than any other city in the state.

In Long Beach, dispensaries began opening after the city council voted to direct police to stop hassling Prop 215 patients. In LA County, the Board of Supervisors adopted an ordinance explicitly regulating dispensaries in the unincorporated part of the county along the same lines as West Hollywood. Up the coast, Santa Barbara proved especially receptive, with nearly a dozen clubs as of this writing. Even Bakersfield proved hospitable, as the Kern County Supervisors voted to allow a half dozen clubs.

On the other hand, many towns proved hostile. Some police chiefs and neighborhood groups warned that dispensaries attracted robberies, crime, and unsavory visitors. Dozens of towns enacted moratoriums or regulations to block new dispensaries, among them Pasadena, Fresno, Ontario, Temecula, Modesto and Torrance. In order to avoid such exclusion, many dispensaries acted pre-emptively, opening up quietly

without public notice so as to establish use rights before city officials could act. Once established, such facilities were difficult to eliminate by standard zoning ordinances. The standard response was to enact moratoriums, which prevented new facilities from opening but left existing ones intact.

Cannabis dispensaries were still vulnerable to criminal prosecution for violating the drug laws. This sanction was rarely invoked during the time the Ninth Circuit’s *Raich* decision prevailed. After the Supreme Court overturned it, however, cities began to enact outright bans on the grounds that marijuana was still illegal under federal law.



### Impact of the Raich Decision

On June 6, 2005, medical marijuana proponents were again put on the defensive as the Supreme Court’s ruling against *Raich* re-established federal supremacy. No longer could California patients claim to be engaging in completely legal activity.

On June 22 the DEA raided three San Francisco dispensaries run by Asian-Americans and arrested 20 staffers. The U.S. attorney portrayed them as part of a “widespread criminal enterprise,” throwing in charges of money laundering and ecstasy peddling. The defendants were not well known in the marijuana activist community. Local police had encountered them in a string of indoor grow busts that were never prosecuted. Despite denials, the San Francisco Police Department had cooperated with the DEA. In a departure from previous raids, federal officials took pains to portray the operation not as an attack on medical marijuana per se, but rather on illegitimate activity masquerading under Prop 215.

A few other DEA dispensary raids and arrests followed. In each case, local law enforcement helped instigate the action. In Sacramento, the DEA teamed up with county sheriff’s deputies to arrest Wayne Fowler for running a high-profile dispensary on Folsom Boulevard without a business license. In Bakersfield, the DEA raided the Free and Easy dispensary, whose owner was found to be in illegal possession of firearms. In Kern County, Joe Fortt was arrested with a 2,000-plant medical grow. In Merced, Dustin Costa, who was organizing patients to get involved politically, was arrested for cultivating 900 plants. And in Stanislaus County, Thunder Rector was federally charged for a garden that supplied his wife’s club in San Francisco.

New dispensaries were opened by entrepreneurs who assessed the federal crackdown as finite. This was especially true in the Southland. In the 16 months following the *Raich* decision, 214 new cannabis providers made their presence known on California NORML’s website. Of these, 153 were in the southern half of the state. In the previous 16 months, 66 clubs had opened, only 29 in Southern

## By 2006, Los Angeles had finally outstripped the Bay Area in the number of dispensaries serving it.

California. By 2006, Los Angeles had finally outstripped the Bay Area in the number of dispensaries serving it.

### San Diego: Rapid Rise, Rapid Fall

In September, 2004, Legal Ease, Inc. became the first dispensary to open in San Diego since the closure of the Hillcrest club in ‘01. A year and a half later, some 20 dispensaries were operating — such had been the pent-up demand in the state’s second most populous city.

The dispensaries burgeoned quietly and without any comment from city officials.

## The San Diego suit challenged the validity of SB 420 and Prop. 215 on the grounds that they violate federal law.

The county’s conservative Board of Supervisors then took an extraordinary action with implications throughout the state. The Board decided to fight the requirement in SB 420 requiring the county establish a patient ID system. County counsel was directed to file a lawsuit against the state (and San Diego NORML, which had threatened to sue if the county wouldn’t issue ID cards).

The San Diego suit challenged the validity of SB 420 and Prop. 215 on the grounds that they violate federal law. The lawsuit was joined by two other counties hostile to Prop 215, San Bernardino and Merced and opposed by the ACLU, Americans for Safe Access, and the Drug Policy Alliance.

San Diego dispensaries had been closed even faster than they sprung up. On Dec. 15, 2005 DEA and San Diego narcotics agents raided 13 dispensaries, seizing medicine, computers, and patient records. Although no arrests were made, authorities announced that they were investigating the clubs’ operations. In July, 2006, they followed up by raiding 11 dispensaries, arresting 15 persons, and threatening any remaining dispensaries to close or face federal charges. Operators of a delivery service have since been taken down by the task force.

The San Diego sweep marked the first systematic campaign by a county to rid itself of dispensaries. It was rationalized not in terms of federal law, but rather state law. The San Diego District Attorney’s office explained that retail sales were illegal, and that dispensaries could not legitimately qualify as caregivers under Prop. 215. In addition, the district attorney argued that most of the clubs’ clients were not seriously ill, but rather young men with trivial problems who were “abusing” the law.

San Diego’s position was backed by the District Attorney of Riverside County who issued a white paper arguing that medical cannabis sales are illegal under Prop. 215 and SB 420. In response, the Attorney General’s office commented that dispensaries were an “allowable” option for counties to implement access to medical marijuana.

The San Diego crackdown marks a new stage in the battle over cannabis clubs. Its resolution will ultimately depend on whether San Diego public officials and residents conclude that cannabis dispensaries are a net asset or a nuisance to the community. It will also depend on court decisions, and an important one has come down as the issue goes to press in early December.

Superior Court Judge William Nevitt, Jr. has rejected the San Diego lawsuit, challenging Prop 215 and SB 420. Requiring counties to issue ID cards for medical marijuana users, Nevitt ruled, did not create a “positive conflict” with federal law because the U.S. Supreme Court has decided that states aren’t obliged to enforce federal laws. However, Nevitt noted, California statutes do not prevent law enforcement officers from arresting offenders under federal anti-drug laws.

### “We Love L.A.”

The most crucial battleground for the future of dispensaries is likely to be Los Angeles, the nation’s trend-setting entertainment capital. As in San Francisco and Oakland, the proliferation of cannabis clubs in LA has created a politically unstable situation. In the North Hollywood district, police and neighborhood groups have begun to agitate against the profusion of clubs. DEA agents have been actively investigating and conducting exploratory raids. The news media have begun to cover the LA cannabis scene, emphasizing the casual access it affords to seemingly able-bodied young people. LA City Councilman Dennis Zine has filed a motion to impose a moratorium on new clubs while the city develops an ordinance.

If Los Angeles enacts an ordinance to license dispensaries a la Oakland or San Francisco, dispensaries are likely to survive and thrive, albeit in reduced numbers. On the other hand, if Los Angeles follows the path of San Diego and tries to eliminate dispensaries entirely, they could be extinguished from all but a few liberal enclaves in California.

Legislation is needed to create a clear legal framework for the distribution of cannabis. State lawmakers are unlikely to pass such legislation until federal law has been changed to allow for legal distribution. One possible future for dispensaries is implicit in Oakland’s Measure Z: providing a stepping stone towards legalized use of marijuana by adults.