

**Los Angeles County
Advisory Working Group
on Cannabis Regulation**

Meeting Three:
**PUBLIC HEALTH AND SAFETY AND
CANNABIS CULTIVATION FOR
PERSONAL USE**

JULY 27, 2017

PREPARATION PACKET

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SECTION 1:

Public Health and Safety

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I. CANNABIS AS A CASH BUSINESS

A. Issue background

In a guidance document dubbed the “Cole Memorandum,” the U.S. Department of Justice identified eight priority areas that a local cannabis regulatory program must address to mitigate safety concerns and other potential impacts from cannabis legalization. Six of the eight priority areas deal specifically with public safety and crime:

- Preventing revenue from the sale of cannabis from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of cannabis from states where it is legal under state law to states where cannabis is illegal;
- Preventing state-authorized cannabis activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of cannabis;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with cannabis use; and
- Preventing the growing of cannabis on public lands.

However, because the federal government continues to classify cannabis as a Schedule I controlled substance, efforts at the state and local level to regulate businesses to ensure health and safety are often more complicated and difficult to implement than for products that are not illegal under federal law. ¹

In addition, because banks and credit unions are subject to a high degree of scrutiny by federal regulators, and rely on federal deposit insurance, as well as using Federal Reserve systems to process transactions, many financial institutions are unwilling to provide services to cannabis businesses.²

For this reason, licensed cannabis businesses face difficulties opening bank accounts and accepting credit card transactions. As a result, a large portion of cannabis-related

transactions take place in cash. This includes business-to-business and retail transactions, as well as payments to employees, vendors, insurance companies, and landlords. Many cannabis business owners even pay their taxes in cash.

The proliferation of cash in cannabis businesses has multiple implications, including:

- *Safety*: Having to store and transport large amounts of cash makes cannabis businesses targets for violent crimes;
- *Other illegal activity*: Inability to bank creates opportunities for money laundering and using cannabis businesses as a front for other illegal activity;
- *Logistics*: Cannabis businesses paying taxes, rent, employee wages, and other costs with cash presents a major inconvenience for all parties; and
- *Increased risks of unreported activity*: Cash transactions are more likely to go unreported to authorities, increasing the risk of tax evasion, wage theft, and other crimes.³

B. Guidance from the Federal Crimes Enforcement Network (FinCEN)

In 2014, the Financial Crimes Enforcement Network (FinCEN), part of the U.S. Treasury Department, released guidelines for financial institutions that wish to serve the cannabis industry. The guidelines require banks to monitor cannabis businesses they serve to ensure that they do not engage in any of the illegal activities outlined in the Cole Memorandum.

The continuous obligation to monitor and review a cannabis-related businesses' activities is onerous and requires financial institutions to examine their account-holders' business dealings in ways that go beyond what is ordinarily required. According to a report by the *Los Angeles Times*, as of March 2017, FinCEN reported that 368 banks and credit unions were serving the cannabis industry, a fraction of the nearly 12,000 banks and credit unions nationwide.⁴ Moreover, the few institutions that do service the cannabis industry typically charge fees in the range of several thousand dollars per month to recoup the costs of complying with the FinCEN guidelines.^{5 6}

C. Cannabis banking under California law

Proposition 64 does not directly address the use of cash in cannabis business or the general lack of participation in the cannabis industry by financial institutions. However, the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRA), which was adopted by the Legislature and signed into law in June 2017, indirectly addressed the issue by requiring state agencies to be prepared no later than January 1, 2018, to collect cannabis tax and fee payments in cash.⁷

D. No “silver bullet” to solving the cash problem in commercial cannabis

Short of the rescheduling or de-scheduling of cannabis under federal law, there does not appear to be a straightforward solution to solving the cash problem for commercial cannabis businesses.

In Colorado, a credit union was formed in 2014 for the specific purpose of providing banking services to the cannabis industry. The credit union was awarded a state charter, however the Federal Reserve Bank subsequently refused to issue a master account to the credit union, an essential element needed to process financial transactions.⁸ In Washington, the State Liquor Control Board issued a letter to financial institutions serving the cannabis industry, describing informational resources available for institutions seeking to comply with the FinCEN guidelines.⁹ However, in these states and others that have legalized adult-use cannabis, no “silver bullet” solution has yet emerged.

To explore various approaches in California, State Treasurer John Chiang has convened a Cannabis Banking Working Group (CBWG), made up of representatives from law enforcement, regulators, banks, taxing authorities, local government and the cannabis industry. The CBWG has held several public hearing events but has not yet offered any recommendations.¹⁰

E. Summary of relevant state law provisions and potential County actions

Cannabis as a Cash Business		
State Law	Considerations	Potential County Actions
<p>No later than January 1, 2018, the Secretary of Business, Consumer Services, and Housing or his or her designee shall initiate work with the Legislature, the Department of Consumer Affairs, the Department of Food and Agriculture, the State Department of Public Health, and any other related departments to ensure that there is a safe and viable way to collect cash payments for taxes and fees related to the regulation of cannabis activity throughout the state.</p> <p>[Bus. and Prof. Code §26180.5]</p>	<ul style="list-style-type: none"> State law addresses only one of many logistical issues related to the use of cash by cannabis businesses 	<ul style="list-style-type: none"> Ensure that County departments dealing with cannabis businesses are able to accept cash payments for taxes and fees Implement appropriate security protocols at County Treasurer and Tax Collector offices to ensure safety of employees and customers Work with the California Treasurer to develop solutions that minimize the use of cash by cannabis businesses Explore third-party services that could minimize the risks associated with the use of cash by cannabis businesses

Discussion Questions for Cannabis as a Cash Business

1. Are there solutions, products, or services that can be implemented at the local level to reduce the use of cash by cannabis businesses?
2. What steps can the County take to ensure it is ready to accept and process large amounts of cash from cannabis businesses operating within the County?
3. What can the County do to minimize safety risks to customers and employees at County facilities where tax payments are processed?

II. CRIME

A. Issue background

For many, cannabis legalization brings with it worries that violent and property crime will increase. Some are concerned businesses will be the targets of violent crime, creating dangerous and destabilizing conditions in communities. Others fear businesses will attract persons more likely to commit crimes in their neighborhoods, including vandalism, theft, robberies, burglaries and other violent crime. Still others are concerned that the psychological effects of cannabis use will lead to criminal behavior. Whether these threats are real or perceived, regulators must ensure that cannabis businesses do not become crime magnets or contribute to blight and instability in local communities.

B. Effect of Cannabis Legalization on Crime Rates

1. Federal government data and law enforcement perspective

U.S. Attorney General Jeff Sessions has stated he believes cannabis legalization is associated with increases in violent crime.¹¹ The U.S. Department of Justice is currently considering the scope and extent of the connection between cannabis and violent crime, and recommendations are expected soon about ways to deal with any such connection.¹²

Colorado legalized adult-use cannabis in 2012 and the first adult-use cannabis stores opened in 2014. According to the Rocky Mountain High Intensity Drug Trafficking Area Task Force (HIDTA), crime increased in the state of Colorado and the city of Denver in particular from 2013 to 2015, including a 6.2 percent increase in property crime and a 6.7 percent increase in violent crime from 2014 to 2015.¹³ HIDTA also notes increases over 300 percent in citations given in Denver for unlawful public consumption of cannabis from 2013 to 2015.¹⁴ HIDTA also cites anecdotal accounts of violent crimes associated with cannabis.¹⁵

Although these HIDTA statistics are sometimes cited as evidence of the impacts of cannabis legalization,¹⁶ the HIDTA report acknowledges that the crime statistics it provides are not intended to demonstrate a causal connection between the crime data provided and the legalization of cannabis.¹⁷ In addition, HIDTA measured the total number of crimes in a single year increment, from 2014 to 2015, but did not take into account overall crime rates (crimes committed per person) in Colorado and Denver.

2. Other research on cannabis legalization and crime

Available data tends to show that cannabis legalization has had little effect on overall crime rates.¹⁸ In a comprehensive study on the impacts of cannabis legalization, the Cato Institute analyzed crime data from Denver, Seattle, and Portland prior to and after cannabis legalization, and concluded no discernable changes in crime trends after cannabis legalization.¹⁹

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With respect to crime that occurs at cannabis businesses, the State of Colorado reports that such crime is difficult to measure due to a lack of comprehensive reporting statistics.²⁰ Citing statistics from Denver, however, Colorado reported that “the total number of industry-related crimes has remained stable and makes up a very small portion of overall crime in Denver,” with the most common industry-related crime being burglary (entry onto property with the intent to steal or commit another crime), which accounted for 62 percent (114 total incidents) of all cannabis industry-related crime in Denver in 2015.²¹ Robbery (taking money or property from a person by threat or force), on the other hand, represented less than 3 percent (5 total incidents) of cannabis industry-related crime in Denver in 2015.²²

Recent studies have also attempted to connect the presence of cannabis businesses with crime incidence at the neighborhood level. A 2017 study published in the *Journal of Urban Economics* concludes that the temporary closure of some dispensaries by the City of Los Angeles in 2010 resulted in an immediate increase in certain crimes around the dispensaries relative to dispensaries allowed to remain open.²³ However, the study emphasizes that similar increases in crime are present when restaurants are ordered temporarily closed due to health violations and attributes localized increases in crime to the “eyes on the street” phenomenon, which holds that open businesses and the presence of employees and customers operate as informal security.²⁴

On the other hand, a 2017 study published in *The Journal of Primary Prevention* concluded that the presence of cannabis retailers was related to higher rates of property crime in “spatially adjacent areas,” which include neighborhoods around those where

cannabis retailers operated. No such association was found for violent crime.²⁵ The study concluded that the effects of cannabis businesses on property crime may not necessarily be felt within the blocks around which cannabis retailers are located, but are occurring in adjacent areas.²⁶

3. *Anecdotal accounts of violent crime*

While research suggests that violent crime associated with cannabis retailers may be limited, violent crimes related to the cannabis industry are widely reported and may affect perceptions about the public safety.²⁷

C. *Diversion of cannabis to places where it remains illegal*

Another chief concern, for regulators in states where cannabis is legal, is preventing the diversion of cannabis and cannabis products to other states and countries where it remains illegal. Product diversion provides an opportunity for criminal organizations and gangs to continue to profit from cannabis despite its legalization in California. In fact, according to California's official estimates, 11 million pounds of cannabis were illegally exported from California to other states in 2016, representing over 80 percent of the total amount of cannabis grown in California. Using the state's "conservative" assumption of a wholesale value of \$1,500 per pound, this equates to \$16.5 billion of inter-state gray market activity.²⁸

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Product diversion is also a source of friction between neighboring jurisdictions. For example, Nebraska and Oklahoma have attempted to sue Colorado to stop diversion of cannabis into their states.²⁹

In part to address the issue of diversion, California law requires the California Department of Food and Agriculture (CDFA) to establish a "track and trace" program that uses unique identifiers to track the movement of cannabis and cannabis products throughout the supply chain, from cultivation to sale.³⁰

The purposes of the track and trace program include the following:

- Preventing diversion (legally grown cannabis sold through illegal channels or exported to other states);
- Preventing inversion (illegally grown cannabis sold through legal channels);

- Ensuring that all cannabis being sold commercially has been lab tested, as required by state law; and
- Ensuring that all taxes have been paid, as required by state law.

State law also authorizes cities and counties to administer local track and trace programs, however this would supplement rather than replace the state’s program.³¹

D. State funding to address crime related to cannabis businesses

Proposition 64 established a Local Government Law Enforcement Account to provide, in part, grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of Proposition 64.³² The total amount of cannabis tax revenue that will be deposited in the Local Government Law Enforcement Account is unknown at this time.³³ Local governments that have banned personal cannabis cultivation or some commercial cannabis activities, including retail sales, are disqualified from receiving grants.³⁴

E. Summary of relevant state law provisions and potential County actions

Crime		
State Law	Considerations	Potential County Actions
<p>CDFA shall establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier, secure packaging, and is capable of capturing key details about the product’s origination, distribution, and disposition.</p> <p>[Bus. and Prof. Code § 26067]</p>	<ul style="list-style-type: none"> • Local governments may not be able to access information from the state track and trace system for some time after initial rollout • Local government track and trace programs may be timely and costly to implement and may quickly become obsolete if the state track and trace program expands to allow communication with local programs 	<ul style="list-style-type: none"> • Establish a countywide track and trace program to monitor products originating in or entering the distribution chain in Los Angeles County • Work closely with state entities to establish local track and trace requirements that meet or exceed state requirements • Work with cities within Los Angeles County to establish best practices for local track and trace monitoring
<p>CDFA may enter into a cooperative agreement with a county agricultural commissioner to assist the department in implementing track and trace and other requirements.</p> <p>[Bus. & Prof. Code § 26069.1]</p>	<ul style="list-style-type: none"> • State may delegate track and trace duties to the County agricultural commissioner • May result in operational difficulties if local access to the state track and trace system is limited • Agreement must fully compensate County for duties performed on behalf of the state 	<ul style="list-style-type: none"> • Consider cooperative agreements with CDFA to implement track and trace programs for businesses operating in the County

Crime		
State Law	Considerations	Potential County Actions
<p>The Bureau of Cannabis Control (Bureau) within the California Department of Consumer Affairs shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of cannabis and cannabis products.</p> <p>[Bus. & Prof. Code § 26070(b)]</p>	<ul style="list-style-type: none"> The Bureau is expected to issue regulations in August 2017 detailing security requirements 	<ul style="list-style-type: none"> Consider state minimum security requirements and establish more stringent requirements as necessary
<p>Cannabis tax revenue shall be provided to the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act.</p> <p>[Rev. & Tax. Code § 34019(f)(3)]</p>	<ul style="list-style-type: none"> Counties and cities that ban personal cannabis cultivation and some types of commercial cannabis activity, including retail sales, are prohibited from receiving grants Total amount of available grants is uncertain No guarantee of funding to any one city or county 	<ul style="list-style-type: none"> Consider prioritizing spending of any local tax on law enforcement activity necessary to prevent increases in crime associated with cannabis businesses Ensure robust data collection at the County level to track and appropriately respond to crime statistics affected by cannabis legalization

Discussion Questions for Crime Associated with Cannabis Legalization

- Do you agree that cannabis legalization has the potential to increase crime at cannabis retailers and in adjacent neighborhoods? Why or why not? If so, what steps should the County take to ensure crime does not occur in and around dispensaries? If not, what steps should the County take to address perceptions that cannabis businesses increase crime?
- What security protocols should the County require to minimize the risk of crime occurring on the site of a cannabis business?
- What steps can cannabis retailers and other businesses take to reduce the risk that they will be victims of burglary, theft, or violent crime?

III. DRIVING UNDER THE INFLUENCE OF CANNABIS

A. Issue background

Use of illicit drugs or misuse of prescription drugs can make driving unsafe in the much the same way as alcohol. Driving under the influence of drugs (DUID) puts the driver, passengers, and others who share the road at risk.

After alcohol, cannabis is the drug most often found in the blood of drivers involved in crashes. But the role that cannabis plays in crashes is often unclear. Cannabis levels can be detected in a person's blood for days or even weeks after use. Cannabis is sometimes used in conjunction with alcohol and other drugs, which can make it difficult to determine whether cannabis played a role in a fatal car crash and to what extent.

Additionally, standards, data, and enforcement concerning DUIDs are more complicated than those for driving with alcohol intoxication, and juries are less likely to convict in DUID cases because of complicated enforcement issues.

Each of the above factors concerns regulators and law enforcement officials as cannabis legalization takes place in California.

B. How driving under the influence of alcohol differs from driving under the influence of cannabis

Because of the distinct ways that alcohol and cannabis work within the body to create intoxication, strategies to prevent driving under the influence of alcohol do not necessarily work for cannabis.

In California, the blood alcohol concentration limit is 0.08 percent.³⁵ This serves as a “per se” limit, meaning that if the driver is found to be over that limit, they are guilty of driving under the influence of alcohol. Blood-alcohol concentrations can easily be verified through blood, urine, or breath tests and are highly correlative with a person's level of intoxication.³⁶

On the other hand, no “per se” blood limits or “cannabis breathalyzer” or other tools are universally accepted to for DUIDs, and California has not established any “per se” standards similar to a blood-alcohol concentration for establishing when a driver who has consumed cannabis is too impaired to drive. Instead, law enforcement agencies in California rely on specially-trained officers, known as drug recognition experts (DREs), to perform field tests to determine whether a person is under the influence of cannabis or other drugs. With cannabis legalization, the need for DREs is likely to increase.³⁷ Even with evidence of cannabis intoxication provided by a DRE, however, many juries are unwilling to convict a person for driving under the influence of drugs due to the lack of an established standard for DUIDs similar to that in alcohol cases.³⁸

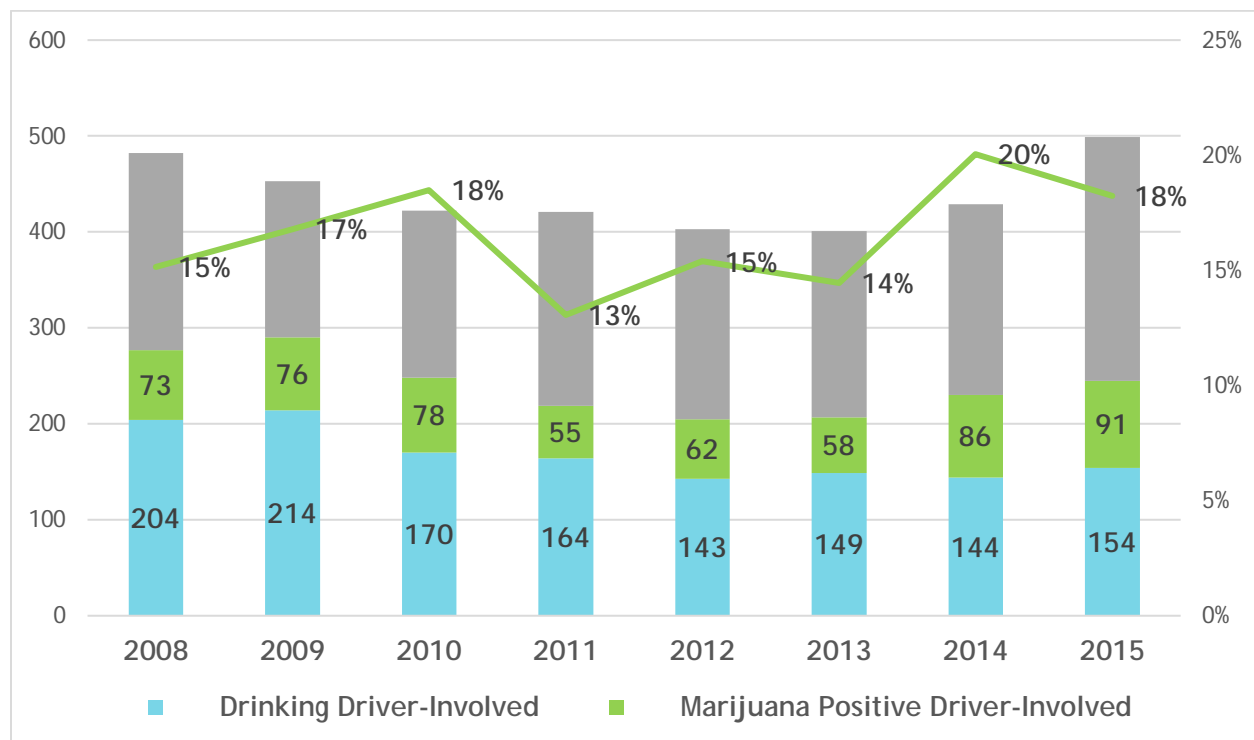
C. DUID data

Data for DUIDs is layered with complexities and nuances, making it difficult to draw conclusions. Newly legalized states implemented new DUID laws and added resources for enforcement simultaneously with implementing legalized cannabis. Since there are new laws and increased enforcement, it is generally not advisable to compare post legalization data with pre-legalization data.

Several recent studies have reached different conclusions on the effects that cannabis legalization has had on traffic accidents and fatalities. One such study by the Insurance Institute for Highway Safety found that the frequency of collision claims in states that had legalized cannabis was about three percent higher than would have been anticipated without legalization.³⁹ Another study published in the *American Journal of Public Health* found no increase in vehicle crash fatalities in Colorado and Washington, relative to similar states after legalization. A third study, also recently published in the *American Journal of Public Health*, found that traffic fatality rates *decreased* in states that legalized medical cannabis.⁴⁰

Table I below shows DUID data from Washington state, both before and after the legalization of adult-use cannabis. The number of drivers involved in fatal crashes who tested positive for THC increased from 58 in 2013 to 91 in 2015, a 57 percent increase.⁴¹ It is important to note that the data alone is not demonstrative of a causal connection between traffic accidents and the presence of THC in a person’s blood. Nonetheless, the statistic is concerning and should be closely monitored in all states where cannabis is legal in some form.

Table I: Fatal Crashes in Washington State, 2008-2015



SOURCE: Washington Traffic Safety Commission, Fatal and Serious Injury Data, accessed at <http://wtsc.wa.gov/research-data/quarterly-target-zero-data/>

D. Summary of relevant state law provisions and potential County actions

Driving Under the Influence of Cannabis		
State Law	Considerations	Potential County Actions
<p>A person may not possess an open container or open package of cannabis or cannabis products while driving; may not smoke or ingest cannabis or cannabis products while driving; may not smoke or ingest cannabis or cannabis products while riding in the passenger seat or compartment of a motor vehicle.</p> <p>[Health & Safety Code § 11362.3]</p>	<ul style="list-style-type: none"> No standard for cannabis impairment is identified 	<ul style="list-style-type: none"> Ensure adequate number and availability of DREs to investigate and prosecute DUID cases Partner with cannabis retailers to deliver information to consumers about the dangers of driving under the influence of cannabis
<p>\$3 million in cannabis tax revenue shall be distributed annually to the Department of the California Highway Patrol beginning with the 2018–19 fiscal year until the 2022–23 fiscal year to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies.</p> <p>[Rev. & Tax. Code § 34019(c)]</p>	<ul style="list-style-type: none"> Unclear when standards or policy recommendations will be available 	
<p>Cannabis tax revenue will be placed in a State and Local Government Law Enforcement Account (est. \$100-200 million annually) to be disbursed by CHP to fund education, prevention, and enforcement of laws related to impaired driving.</p> <p>[Rev. & Tax. Code § 34019(f)(3)(A)]</p>	<ul style="list-style-type: none"> Local governments that ban personal cultivation or commercial cultivation or retail operations are ineligible to receive grants 	<ul style="list-style-type: none"> Apply for any available grant funding to support highway safety enforcement Initiate DUID education programs to highlight the dangers of driving under the influence of cannabis
<p>The Department of Motor Vehicles shall establish an impaired driving task force to develop recommendations for best practices, protocols, proposed legislation, and other policies that will address the issue of impaired driving, including driving under the influence of cannabis and controlled substances. The task force shall also examine the use of technology, including field testing technologies and validated field sobriety tests, to identify drivers under the influence of prescription drugs, cannabis, and controlled substances.</p> <p>[Veh. Code § 2429.7]</p>	<ul style="list-style-type: none"> Recommendations are not required until January 1, 2021 	<ul style="list-style-type: none"> Seek to participate as appropriate on the state task force to provide expertise and local County perspective

Discussion Questions for DUIDs

1. What steps should the County take to ensure it is ready and able to investigate and prosecute laws preventing driving under the influence of cannabis? Do you have any concerns about the prosecution of cannabis DUIDs?
2. What types of education campaigns could the County implement that would be effective to deter driving under the influence of cannabis? What groups should those campaigns target?
3. How can retailers help consumers understand the risks associated with driving under the influence of cannabis?

IV. OVERCONSUMPTION

A. Issue background

The effects of consuming cannabis vary from person to person, and are dependent on the type and amount consumed, as well as the method of consumption.⁴² In addition, the potency of dried cannabis flower has increased,⁴³ as has the popularity of edible cannabis products.⁴⁴ While no reported case of a fatal overdose has occurred,⁴⁵ hospitalizations and calls to poison control are not uncommon and have increased with adult-use legalization,⁴⁶ and some reports of acute mental disturbances resulting in injury or suicide have been reported.⁴⁷

As adult-use cannabis becomes legal in California, regulators must pay close attention to the ways in which cannabis and cannabis products are being consumed and track hospital admissions and poison control calls on an ongoing basis to determine the effect of legalization on those who consume cannabis.

B. California law labeling and dosing of cannabis products

Appropriate labeling and dosing practices for cannabis and cannabis products could help reduce the chances that a person will consume too much cannabis.

California law currently requires that labels include:

- the amount of THC in milligrams per servings,
- servings per package, and
- the amount of THC in milligrams for the total package.⁴⁸

Edible cannabis products must be:

- Produced and sold in concentrations not exceeding 10 milligrams of THC per serving;
- Delineated or scored into standardized serving sizes if the cannabis product contains more than one serving and is in solid form;

- Homogenized to ensure uniform disbursement of THC throughout the product; and
- Provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product.⁴⁹

C. Summary of relevant state law provisions and potential County actions

Overconsumption		
State Law	Considerations	Potential County Actions
<p>Labels for cannabis and cannabis products must include the amount of THC in milligrams per servings, servings per package, and the amount of THC in milligrams for the total package.</p> <p>[Bus. and Prof. Code § 26120(c)(5)]</p> <p>Edible cannabis products must be:</p> <ul style="list-style-type: none"> • Produced and sold in concentrations not exceeding 10 milligrams of THC per serving • Delineated or scored into standardized serving sizes if the cannabis product contains more than one serving and is in solid form • Homogenized to ensure uniform disbursement of THC throughout the product • Provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product <p>[Bus. & Prof. Code § 26130(c)(2)-(4), (6)]</p>	<ul style="list-style-type: none"> • Local regulations applying stricter regulations to product manufacturing and labeling may be difficult to enforce, as products are expected to be distributed throughout the state and in cities within the County which may have different rules than the County 	<ul style="list-style-type: none"> • Implement education programs to alert consumers about the risks of overconsumption • Provide information to tourists and new cannabis users about regulating cannabis intake • Partner with cannabis retailers to spread message about the risks of overconsumption • Work with emergency response teams, hospitals, and poison control centers to track calls for service and hospitalizations associated with cannabis overconsumption or injury

Discussion Questions for Overconsumption

1. Are there any labeling and/or manufacturing requirements that the County could implement locally that would not disincentivize the production or sale of cannabis and cannabis products within the County?
2. What types of education campaigns could the County implement that would be effective to reduce overconsumption? What groups should those campaigns target?
3. How can retailers help consumers understand the risks associated with the overconsumption of cannabis?

V. THE ROLE OF EDUCATION FOR CANNABIS CONSUMERS

Colorado and Oregon have initiated branded and widely distributed consumer education campaigns in an effort to inform consumers about the state of cannabis laws in their respective jurisdictions, and to reduce DUIDs and cannabis overconsumption, among other objectives. Figure I below demonstrates some of the ways each state attempts to reach consumers. Similar public education campaigns may be necessary in California by state agencies. Local governments can also participate in education efforts or brand their own campaigns to reach their constituents. Careful attention to culturally competent and multilingual messaging is necessary to ensure the broadest possible reach of any education campaign.

Figure I: Examples of cannabis messaging and consumer education campaigns in Colorado and Oregon

GOOD TO KNOW

MARIJUANA IN COLORADO

LIKE CLIMBING A 14ER, IT'S GOOD TO KNOW WHAT YOU'RE GETTING INTO.

LEARN THE LAWS

YOU HAVE TO BE 21
You must be 21 or older to purchase, possess or use retail marijuana. Adults 21+ can buy and possess up to 1 oz of retail marijuana at a time.

ONLY USE ON PRIVATE PROPERTY
It's illegal to use marijuana in public places, like bars, parks, campsites, sidewalks and all federal land, including national parks.

DRIVE HIGH, GET A DUI
It's illegal to open and use marijuana in a car. Wait at least six hours before driving if you're smoking and eight if you're ingesting.

THE UNIVERSAL SYMBOL
You'll know if the product you're consuming contains THC if you see this symbol on the packaging or on the product itself.

BE CAREFUL WHEN CONSUMING

CONSUMPTION 101
What's enough for one person may be too much for another. A single serving for edibles is 10 mg THC, so start with a low dose and wait four hours before taking more. Also, avoid mixing marijuana with alcohol or medication because the effects can be dangerous and unpredictable.

BE COURTEOUS WITH SECONDHAND SMOKE
Marijuana has many of the same cancer-causing chemicals as tobacco smoke, so be considerate and don't smoke around children, pregnant women or anyone who doesn't want to be exposed.

KNOW THE HEALTH EFFECTS
People who smoke marijuana daily or near daily may have a cough, bronchitis, mucus or wheezing. Heavy use of marijuana can damage your memory, which can last a week or more after the last time you used.

TIPS FOR TOURISTS

KNOW WHERE TO USE
Be sure to check the rules where you're staying. Hotels, rental car companies and other property owners can ban the use and possession of marijuana on their property.

DISPOSE OF IT SAFELY
Trash leftover marijuana in a secured container and out of sight, like in a large dumpster. Don't leave your extras in hotel rooms or rental cars.

KEEP IT IN COLORADO
It's illegal to have marijuana at Denver International Airport, and since you can't take it out of state, dispose of it safely when you leave.

If you feel like you may have used too much, call the poison control hotline at 1-800-222-1222. Learn about marijuana laws and health effects at GoodToKnowColorado.com.

COLORADO

Source: "Good to Know Colorado" (www.goodtoknowcolorado.com)



Source: Colorado Department of Transportation

Educate Before You Recreate

In Oregon, it's legal for adults 21 and older to purchase, possess and use recreational marijuana... but there are limits.

<h1 style="font-size: 2em;">21+</h1> <p>You can possess, use and buy recreational marijuana if you are 21 and older. If you are younger, it's illegal.</p>	 <p>OLCC-licensed retail stores may sell marijuana to recreational users or OMMP patients. You may also grow your own or receive it as a gift.</p>	 <p>There are limits to how much recreational marijuana you may possess, both in public or in private.</p>
 <p>Gifting and giveaways by individuals is allowed, but may not include any financial consideration.</p>	 <p>WHAT'S LEGAL? Educate Before You Recreate</p> <p>WHATSLEGALEOREGON.COM</p>	 <p>Driving under the influence of marijuana remains illegal. Please be responsible.</p>
 <p>Adults 21 and older can use recreational marijuana at home or on private property. You can't use recreational marijuana in public places.</p>	 <p>You cannot take marijuana in or out of the state, even to other states where it is legal.</p>	 <p>Oregon is committed to creating a well-regulated industry, and to preventing underage marijuana use.</p>

Source: "What's Legal Oregon" (www.whatslegaloregon.com)

Discussion Questions for Consumer Education

1. What aspects of Colorado's and Oregon's branded consumer education campaigns do you think are effective? How can the County use those ideas to create its own messaging and education campaigns?
2. What suggestions would you have to ensure that education and messaging are culturally sensitive and reach diverse communities within the County?
3. What specific messages to consumers would like the County to prioritize?

SECTION 2:

Cannabis Cultivation for Personal Use

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I. PERSONAL-USE CANNABIS CULTIVATION UNDER CALIFORNIA LAW

A. Personal medical-use cultivation

Cultivation for personal medical use has been permitted in California since voters approved Proposition 215 in 1996. Medical cannabis can be grown by “qualified patients,” or by “primary caregivers” on behalf of “qualified patients.”⁵⁰ A “qualified patient” is a person with a serious medical condition who has received a valid doctor’s recommendation to use cannabis as treatment for the medical condition.⁵¹ A “primary caregiver” is a person who is designated by a qualified patient and who assumes responsibility for the patient’s housing, health, or safety.⁵²

State law establishes the following limitations on personal medical-use cultivation:

- Each qualified patient may grow up to six mature or twelve immature plants.
- A primary caregiver may grow up to six mature or twelve immature plants per qualified patient, for up to five patients.⁵³

Counties and cities can restrict or outright prohibit cannabis cultivation for personal medical use.⁵⁴

B. Adult-use cannabis cultivation

As of November 2016, when California voters approved Proposition 64, cannabis cultivation for personal use by adults age 21 and over is legal under California law. State law establishes the following limitations on cannabis cultivation for personal medical use:

- Adults 21 years of age and older may grow up to six plants per residence (not per person).
- Plants can be grown indoors or outdoors, provided they are in a locked space and are not visible from a public place.
- Harvested cannabis must be kept in a secured area out of the public view.⁵⁵

Unlike with personal medical cultivation, Proposition 64 limits the ability of counties and

cities to restrict cannabis cultivation for personal use by adults.⁵⁶

Counties and cities can ban outdoor personal cultivation but not indoor personal cultivation, and counties and cities that ban outdoor personal cultivation are disqualified from receiving state grants to assist with law enforcement, fire protection, and other local programs related to the implementation of cannabis regulations.⁵⁷

Additionally, local regulations for personal cannabis cultivation adopted by counties and cities must be “reasonable.”⁵⁸ State law does not define when a regulation is “reasonable” as it relates to personal cannabis cultivation.

II. CONCERNS ASSOCIATED WITH PERSONAL CANNABIS CULTIVATION

Personal cannabis cultivation presents some challenges for regulators that could warrant the adoption of “reasonable regulations.” These challenges include:

- Potential access of cannabis by children and young people;
- The potential for friction between neighbors if disagreements about cannabis cultivation arise;
- Crime associated with the theft of cannabis cultivated for personal use;
- Sale of cannabis cultivated for personal use through unlicensed channels; and
- Air quality issues, mold, and fire hazards associated with the cultivation of cannabis indoors.

III. SUMMARY OF COUNTY RULES REGARDING PERSONAL CULTIVATION

In June 2017, the County adopted rules for personal cultivation. The County rules are the same for medical and personal cultivation, and establish a limit of six plants per residence or “dwelling unit,” as defined in the County’s zoning code.

The County’s personal cultivation rules are summarized in the chart below and explained in additional detail on the County Department of Regional Planning’s website.⁵⁹

Personal Cultivation	
Residence Type	County Rules
Single-family residences not located within 600 feet of a school (K-12), park, library, day care (including preschools), or youth center (such as youth clubs and video arcades)	<ul style="list-style-type: none"> • Maximum six plants per residence • Plants must not be visible from a public road, private drive, or fire lane • Cultivation may be indoors or outdoors • Outdoor cultivation must be enclosed within a six-foot-high wood fence or masonry wall; plants cannot be taller than the fence or wall • Plants grown outdoors must be 10 feet or farther from all lot lines

Personal Cultivation	
Residence Type	County Rules
<ul style="list-style-type: none"> • Single-family residences located within 600 feet of a school, park, library, day care, or youth center • Multi-family residences and attached condominiums 	<ul style="list-style-type: none"> • Maximum six plants per residence • Cultivation must be indoors • Plants must not be visible from a public road, private drive, or fire lane

Discussion Questions for Personal Cultivation

1. Do the County's personal cultivation rules appropriately balance the concerns identified above with personal cultivation? If not, what would you change and why?
2. Do you agree that outdoor personal cultivation should be prohibited near schools, parks, libraries, day cares, and youth centers? Should outdoor personal cultivation be prohibited near other places?
3. Are you concerned that regulations for personal cultivation might make it harder for a medical cannabis patient to grow cannabis to treat a serious illness, such as cancer?

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¹ For a more detailed discussion of the “Cole Memorandum” and the status of cannabis under federal law, refer to the Los Angeles County Advisory Working Group on Cannabis Regulation’s Week One Preparation Packet (Kickoff and Orientation), Section 3: Federal, State, and Local Law Concerning Cannabis, pages 15-17, available at <http://ceo.lacounty.gov/pdf/Advisory%20Working%20Group%20-%20Week%20One%20FINAL.pdf>.

² California State Treasurer John Chiang, “Cannabis Banking Work Group,” accessed at: <http://treasurer.ca.gov/cbwg/index.asp>.

³ California State Treasurer John Chiang, “Fact Sheet: Banking the Cannabis Industry,” accessed at <http://treasurer.ca.gov/cbwg/resources/factsheet.pdf>.

⁴ James Rufus Koren, “Why some pot businesses hide their cash — and others truck it straight to a federal vault,” *Los Angeles Times* (July 7, 2017). Accessed at: <http://www.latimes.com/business/la-fi-cannabis-banking-20170707-story.html>

⁵ James Rufus Koren, “Why some pot businesses hide their cash — and others truck it straight to a federal vault,” *supra*.

⁶ Fees associated with cannabis banking and a lack of access to capital and startup loans tend to impact small and minority-owned businesses more than other businesses. This issue will be taken up in the week seven preparation packet on equity and economic development.

⁷ Cal. Bus. & Prof. Code § 26180.5.

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¹⁴ HIDTA Report, *supra*, page 136.

¹⁵ HIDTA Report, *supra*, pages 137-138.

¹⁶ Smart Approaches to Marijuana, “Lessons Learned after 4 Years of Marijuana Legalization” (October 2016), page 24, accessed at <https://learnaboutsam.org/wp-content/uploads/2016/11/SAM-report-on-CO-and-WA-issued-31-Oct-2016.pdf>.

¹⁷ HIDTA Report, *supra*, page 133 (“Some of the data reported in this section is because there have been so many inquiries on the particular subject, such as crime and suicides. This is not to infer that the data is due to the legalization of marijuana.”)

¹⁸ It is important to note that adult-use cannabis legalization has occurred very recently. Like Colorado, Washington legalized adult-use cannabis in 2012 and the first retail stores opened there in 2014. Oregon legalized adult-use cannabis in 2014 and the first retail stores opened there in 2015. As such, conclusions about the impact of cannabis legalization on crime rates should be considered preliminary.

¹⁹ Angela Dillis, et al., “Dose of Reality: The Effect of State Marijuana Legalizations,” Cato Institute Policy Analysis No. 799 (September 2016), pages 14-17, accessed at <https://object.cato.org/sites/cato.org/files/pubs/pdf/pa799.pdf>.

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²¹ Colorado Early Findings, *supra*, pages 26-27.

²² Colorado Early Findings, *supra*, pages 26-27.

²³ Tom Y. Chang, et al., “Going to pot? The impact of dispensary closures on crime,” *Journal of Urban Economics*, Vol. 100 (2017), pages 120-136, accessed at <http://escholarship.org/uc/item/97r97669#page-1>.

²⁴ Tom Y. Chang, *supra*, pages 134-135.

²⁵ Bridget Freisthler, et al., “From Medical to Recreational Marijuana Sales: Marijuana Outlets and Crime in an Era of Changing Marijuana Legalization,” *The Journal of Primary Prevention*, Vol. 38(3) (June 2017), pages 249-263, accessed at <https://link.springer.com/article/10.1007/s10935-017-0472-9>.

²⁶ Bridget Freisthler, *supra*.

²⁷ See, e.g., Kristen Wyatt, “Pot-shop killing in Colorado raises security fears,” *U.S. News & World Report* (June 22, 2016), accessed at <https://www.usnews.com/news/business/articles/2016-06-22/pot-shop-killing-in-colorado-raises-security-fears>; “Armed gunmen who raided Have a Heart cannabis store and tied up workers are arrested after manager watched robbery on his live feed at home and rang 911,” *Daily Mail* (August 10, 2016), accessed at <http://www.dailymail.co.uk/news/article-3733264/Armed-gunmen-storm-Seattle-marijuana-dispensary-leaving-employees-tied-floor-manager-watching-feed-live-home-called-police.html>; “Police searching for suspects after robbery at marijuana dispensary in NE Portland,” *Fox 12 Oregon* (September 19, 2016), accessed at <http://www.kptv.com/story/33124975/marijuana-dispensary-in-ne-portland-robbed-police-searching-for-suspects>.

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³⁰ Cal. Bus. & Prof. Code §§ 26067-26069.

³¹ Cal. Bus. & Prof. Code § 26069(d).

³² Cal. Rev. & Tax. Code § 34019(f)(3)(D).

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³⁶ James C. Fell, et al., “The effectiveness of a 0.05 blood alcohol concentration (BAC) limit for driving in the United States,” *Addiction*, Vol. 109(6) (2014), pages 869-874, accessed at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4448946/>

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