Title: Enforcement Efforts Related to Illegal Cannabis Cultivation

Location: Citywide

Recommendation: Receive and provide direction.

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Presenter: Joe Devlin, Chief of Office of Cannabis Policy and Enforcement, (916) 808-4772, Department of Finance

Attachments:
1-Description/Analysis
2-Sacramento Fire Department, Fire Incidents
3-Policy Calendar
Description/Analysis

**Issue Detail:** At the July 18, 2017 City Council meeting, Councilmember Ashby asked staff to provide a report to Council within 30 days outlining the city’s efforts related to illegal residential cannabis cultivation. The following report summarizes the efforts of the Sacramento Police Department (SPD) in addressing illegal residential cultivation in Sacramento’s neighborhoods, the challenges to the City’s strategies, as well as recommended options from the SPD, the Office of Cannabis Policy and Enforcement and the City Attorney’s Office to effectively address this issue.

Illegal cultivation in residential neighborhoods is a public safety concern and a major nuisance. It is estimated that 1,000 homes in Sacramento have been converted or modified for illegal cannabis cultivation. These homes have been structurally and electrically modified without the appropriate permits and contain substandard modifications that do not meet residential or commercial electrical requirements, creating a fire hazard. The attached report from the Sacramento Fire Department shows the fire incidents associated with cannabis grow operations covering a two-year period (Attachment 2).

The presence of these illegal grow houses in Sacramento's neighborhoods also raise the potential for robberies and contribute to an increase in violent crime in the city. Since January 1, 2016, for instance, SPD has responded to 76 cannabis-related robberies and 51 home invasions in Sacramento.

While keeping up with the increasing number of illegal grow houses was already a challenge for the SPD, the passage of Proposition (Prop) 64 created a serious impediment. Prior to Prop 64, the department was able take enforcement actions that resulted in felony arrests and the seizure of cannabis and equipment involved in illegal cultivation. However, Prop 64 brought about certain changes in the law, including the reduction of many cannabis-related felonies and misdemeanors.

With the change in the law, SPD modified its approach, adding a series of steps to its procedures. This new process includes sending a letter to the property owner outlining the cannabis laws, and asking them to contact the Justice for Neighbors (JFN) officer for an inspection once the property has been brought into compliance. If no response is received or additional research reveals other specified criteria, SPD seeks the assistance of the City Attorney’s Office in obtaining an administrative inspection warrant for the premises. The warrant is then served through a joint operation between SPD and Code Enforcement staff, which concludes with power being shut off and administrative penalties being issued to the property owner. This approach is labor intensive, time consuming, and when compared
against the volume of identified grow houses, generates a disproportionately small degree of positive results.

In 2016, City Council’s decision to permit cannabis businesses in Sacramento started a collaborative staffing effort between Police, Fire, Buildings, Code Enforcement and City Attorney’s Office. This effort was developed with the specific mission of addressing illegal grows in the city. A total of 32.0 full-time equivalent (FTE) positions were created and tasked with administering the City’s cannabis program and the corresponding enforcement strategies associated with it. However, due to a delay in anticipated permit fees, some hiring was put on hold, including positions in SPD. In the interim, considering pre-existing SPD vacancies and the inability to immediately fill the positions, SPD has identified the following staffing options to more effectively eliminate illegal residential cultivation:

Option #1: Special Weapons and Tactics (SWAT) Team
Considerations: SWAT is one of the first resources the department utilizes for planned protests. Even as a secondary mission, their time commitment would be limited due to their primary responsibility of high-risk warrant services, callouts and required training. To date, SWAT has responded to 13 callouts, 36 high-risk search warrant entries and 15 special events. These events are in addition to their monthly training requirements.

Option #2: Form a dedicated team of 3 sergeants and 12 officers
The team would be created from existing patrol resources and patrol positions will be replaced with backfill overtime to fill the daily vacancies.
Considerations: Backfill overtime costs, losing the beat/geographical responsibility, finding coverage to fill the patrol vacancies.

The staffing recommendations were discussed with the City Manager’s Office and it was determined that the recommendation of using SWAT officers for a defined period of time, three months, followed by a dedicated team pulled from existing patrol resources, if necessary, would be the preferred strategy. The use of SWAT personnel will allow for the deployment of personnel that are highly trained and familiar with breaching reinforced locations without reducing the volume of personnel responding to emergency calls and requests for services. The expectation is that over a period of three months the volume of locations will have been reduced enough such that amount of time a dedicated team comprised of patrol units is required to continue the work will be significantly reduced, ultimately reducing the need to backfill patrol personnel on an overtime basis for an extended period of time.

In addition to these positions, a dedicated Senior Deputy City Attorney will work full-time on all cannabis-related ordinances and to handle the legal aspects of both the permitted and unpermitted sides of the industry. The City Attorney’s Office is also exploring several legal
options to more efficiently and reduce the City’s liability when destroying cannabis and seizing equipment from these enforcement actions. To that end, the City Attorney’s Office and the Office of Cannabis Policy and Enforcement are working with the office of Assemblymember Jim Cooper towards possibly sponsoring a bill that would expand the liability shield of local jurisdictions regarding the destruction of and custody of cannabis and equipment confiscated from illegal cannabis operations. The City Attorney’s Office is currently in discussions with State Legislative Council and the Assemblymember’s office. Until such a change in State law can be made, the City Attorney’s Office has provided several legal options that staff may follow that will allow for the destruction of cannabis and the seizure of growing equipment. Staff is currently evaluating the use of contractors to destroy seized cannabis following an inspection action and for cleaning and securing the property.

Since the City started accepting applications for cultivation in April, and manufacturing and testing in May, 114 applications for a Conditional Use Permit (CUP) have been received. Staff is expecting the number of applications to exceed 200 if/when the City allows delivery-only dispensaries, distribution and creates tiered manufacturing permits. The CUP process is a lengthy and often complicated process, and the unprecedented volume of applications creates a significant staffing challenge for the Community Development Department. To address this, staff is considering the use of contract resources, including Planners and Building Inspectors to reduce the current backlog and expedite the CUP review process.

Lastly, staff has put forward recommended changes to the City Code to reduce the number of cannabis plants that may be grown in a residential home from 400 square feet, to six plants per home. As part of that same proposed ordinance change is the addition of a fine of $500 per plant above the six-plant limit.

**Policy Considerations:** The City Council has authorized 32.0 FTE positions funded through Business Operating Permit (BOP) fees. However, while there was an influx of applications for a Conditional Use Permit (CUP), which is the first permit required to operate a cannabis business in Sacramento, the City has not received the anticipated revenues from BOP fees. Applicants, it appears, do not typically apply for a BOP immediately with the filing of their CUP applications.

However, while BOP fees are gradually coming in, several of the previously approved positions need to be filled immediately, primarily to augment the existing efforts in addressing illegal residential cultivation, but also to begin enforcement of the permitted cannabis businesses.

Staff believes that it could be possible to achieve initial BOP revenue projections, especially with the possibility of new permitting opportunities such as delivery-only dispensaries,
distribution and tiered manufacturing, which are all anticipated to take shape before the end of the calendar year, as reflected in the attached Policy Calendar (Attachment 3).

As mentioned above, also submitted for City Council consideration as a separate agenda item is a proposed ordinance repealing the City’s current ordinance allowing residential cultivation of medical cannabis in up to 400 sq. ft. of indoor property. The proposed ordinance will replace 400 sq. ft. allowance with six living plants, whether grown for medical purpose or otherwise. The proposed ordinance will also add administrative penalties of $500 per plant to create a significant financial impact on property owners that are cultivating outside the limit.

The current 400 sq. ft. grow space allowance creates the potential for diversion, and limiting the number of plants residents can grow inside their home is a significant step towards curtailing illegal residential cultivation.

Finally, at today’s Law and Legislation Committee meeting, staff also sought the Committee’s directions regarding a potential ordinance restricting the sale of butane, a highly volatile solvent used in the manufacturing of cannabis concentrates whose use in an uncontrolled environment has resulted in disastrous incidents such as fire, explosions, and serious bodily injury.

The above-mentioned efforts are collectively aimed at eliminating illegal operations as a strategic step to create a strong foundation for a regulated cannabis industry in the city.

**Economic Impacts:** Not applicable

**Environmental Considerations:** Not applicable

**Sustainability:** Not applicable

**Commission/Committee Action:** Not applicable

**Rationale for Recommendation:** Over the past year, the City of Sacramento has taken responsible steps in regulating the cannabis industry. Addressing illegal residential cultivation is a key component of that process by protecting our neighborhoods and averting the potential of products being diverted into the illicit market. Limiting residential cultivation to six plants, whether grown for medical purpose or otherwise, and adding a significant amount of administrative fees for violations is expected to help curb illegal residential cultivation.

Restricting access to butane, a hazardous substance used in illegal manufacturing also complements the city’s efforts to curb the proliferation of the cannabis underground economy.
Fully addressing the problem requires many components: a dedicated staffing capacity; coordinated efforts between SPD, Building and Code personnel, the City Attorney’s Office and the Office of Cannabis Policy and Enforcement; a strategic partnership with legislators, and hopefully a change in existing law. Some of these components are currently in place and already creating a positive impact.

However, additional actions and policy direction from City Council may be necessary, and may provide staff with a more definitive and long-term capacity to resolve the issue, and achieve the goal of eradicating the illicit market and implementing a fully regulated cannabis industry in Sacramento.

**Financial Considerations:** On March 7, 2017, City Council adopted the BOP Program Startup Fees which were expected to cover the cost of administering of the City’s Cannabis Program, but more importantly, the enforcement efforts associated with illegal cultivation as well as providing the necessary enforcement actions to permitted businesses.

To date, BOP fees have not reached the projected levels due to a number of factors, impacting the ability to pay for all authorized staffing. However, with enforcement now requiring a higher level of priority, filling the above-mentioned positions will cost $1,136,526. This includes: 2.0 FTE Building Inspectors at $356,894, 2.0 FTE Code Enforcement Officers at $398,889, 1.0 FTE at $165,700, and 1 FTE Senior Deputy City Attorney at $215,043.

BOP fees collected to date are $1.2 million and the FY2017/18 Approved Budget includes the flexibility to direct Business Operations Tax receipts received above budget to fund this program in the absence of sufficient BOP revenue. Staff anticipates that BOP and BOT fees will be sufficient to fund existing staff in the Cannabis and Enforcement Division and the enforcement positions identified above. Staff will continue to monitor BOP and BOT revenues and will provide additional information to Council as it becomes available.

**Local Business Enterprise (LBE):** Not applicable
# Fire Incidents Associated with Marijuana Grow Operations

**Reporting Period:**
August 2015 to August 9, 2017

<table>
<thead>
<tr>
<th>Station District</th>
<th>Incident Date</th>
<th>Address</th>
<th>Unit</th>
<th>Zip</th>
<th>Property Use</th>
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<tbody>
<tr>
<td>Station 10</td>
<td>07/07/2017</td>
<td>5830 POWER INN RD</td>
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<td>95824</td>
<td>419 1 or 2 family dwelling</td>
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<td>Station 56</td>
<td>06/23/2017</td>
<td>5717 50TH AVE</td>
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<td>95828</td>
<td>419 1 or 2 family dwelling</td>
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<td>Station 6</td>
<td>05/22/2017</td>
<td>5017 MASCOT AVE</td>
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<td>95822</td>
<td>419 1 or 2 family dwelling</td>
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<td>Station 56</td>
<td>04/12/2017</td>
<td>2265 ARLISS WAY</td>
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<td>95822</td>
<td>419 1 or 2 family dwelling</td>
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<td>Station 20</td>
<td>03/19/2017</td>
<td>736 LAMPASAS AVE</td>
<td>#3</td>
<td>95815</td>
<td>429 Multifamily dwellings</td>
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<td>Station 51</td>
<td>03/10/2017</td>
<td>8408 SUNRISE WOODS</td>
<td>WAY</td>
<td>95823</td>
<td>419 1 or 2 family dwelling</td>
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<td>Station 56</td>
<td>02/22/2017</td>
<td>5748 MENDOCINO BLVD</td>
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<td>95824</td>
<td>419 1 or 2 family dwelling</td>
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<td>Station 20</td>
<td>12/19/2016</td>
<td>1500 FRIENZA AVE</td>
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<td>95815</td>
<td>502 Commercial Marijuana Cultivation</td>
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<td>Station 57</td>
<td>12/07/2016</td>
<td>15 FLAUM CT</td>
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<td>95823</td>
<td>400 Residential, other</td>
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<td>Station 5</td>
<td>10/27/2016</td>
<td>513 BROADWAY</td>
<td></td>
<td>95818</td>
<td>549 Specialty shop</td>
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<td>Station 57</td>
<td>08/16/2016</td>
<td>7932 REINDEER WAY</td>
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<td>95823</td>
<td>419 1 or 2 family dwelling</td>
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</tbody>
</table>

## Fires by Property Use

- 400 Residential, other: 1 (9%)
- 419 1 or 2 family dwelling: 7 (9%)
- 429 Multifamily dwellings: 1 (9%)
- 502 Commercial Marijuana Cultivation: 3 (9%)
- 549 Specialty shop: 1 (9%)

## Fires per Year

- 2016: 4
- 2017: 7

## Fires by Station District

- Station 10: 1
- Station 20: 2
- Station 5: 1
- Station 51: 1
- Station 56: 3
- Station 57: 2
- Station 6: 1
### TENTATIVE POLICY CALENDAR FOR 2017

<table>
<thead>
<tr>
<th>Item</th>
<th>L&amp;L</th>
<th>PDC</th>
<th>B&amp;A</th>
<th>Council</th>
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<tbody>
<tr>
<td>Title 5 Cleanup</td>
<td>7/25</td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td>Residential Cultivation</td>
<td>7/25</td>
<td>N/A</td>
<td>N/A</td>
<td>8/29</td>
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<tr>
<td>Butane Sale Restriction</td>
<td>8/22</td>
<td>N/A</td>
<td>N/A</td>
<td>10/3</td>
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<tr>
<td><strong>Cannabis Production:</strong> a) Distribution; b) Ethanol Exemption; c) Cannabis CUPs; d) Tiered Manufacturing; e) Remove CUP for Testing</td>
<td>7/25 (Ethanol 8/22)</td>
<td>9/21</td>
<td>10/3</td>
<td>10/24</td>
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<tr>
<td>Adult Use - Retail</td>
<td>8/22</td>
<td>10/12</td>
<td>11/7</td>
<td>11/21</td>
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<tr>
<td>Dispensaries: a) Add Delivery; b) Cap on Storefront/Ability to Re-issue Permits; c) Distance Reqmt; d) Background Checks</td>
<td>7/25</td>
<td>10/26</td>
<td>11/7</td>
<td>11/21</td>
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<td><strong>2018</strong></td>
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<td>Microbusinesses</td>
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<td>Adult Use - Onsite Consumption</td>
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<td>Adult Use - Temporary Event Permits</td>
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<td>Ancillary/ Misc Business Permits</td>
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-All dates are subject to change-