

Case Study #8

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The Boom and the Busts: Mendocino County's Agricultural Revolution

To Plant a Seed

California's Mendocino County is a single-industry economy. Arriving in the sixties, marijuana cultivation gained a momentum in Mendocino that local government eventually began perceive as unstoppable, filling an economic void once occupied by lumber and fishing. Remote, permissive, boasting near-perfect outdoor growing conditions and conveniently situated between San Francisco and Portland, Oregon – two cities with something of a reputation for the consumption (and nationwide distribution) of marijuana. This convergence of assets, along with the benefit of timing, have led Mendocino County to draw growers – whether seasoned professionals or hopeful amateurs – from all over the world.

The local economy has relied on the marijuana trade for decades. The Drug Enforcement Agency estimates that Mendocino, which has a population of 90,000, produces \$1 billion worth of marijuana every year; the County administrators place the figure at \$5 billion. While statistics on the drug trade are understandably difficult to verify, any figure in between the two would account for the vast majority of the county economy: the closest legal runner-up is Mendocino's grape production, worth \$113 million in 2013.¹



Figure 1: Mendocino County on the Californian North Coast



Figure 2: Redwood Logging in Mendocino County, 1890

Pre-1980, Mendocino County was almost entirely dependent on logging and fishing. In 1968, thirty-five percent of registered employment in the county was in lumber and wood products, and forty-seven percent of all wages paid came from timber companies.² The short-sighted environmental policies of timber companies endangered both of the county's traditional industries: decades of cash-grab old-growth logging had decimated fish populations and choked rivers with debris. By 1975, Mendocino County's unemployment rate was 18.3%: triple the national average.³

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Mendocino's economic vulnerability coincided with an influx of newcomers – mostly members of the San Francisco countercultural scene, determined to flee the fragmentation of hippie culture in the city. City policies had become notably less hospitable towards hippies as tensions rose: housing boards worried about unsanitary conditions, and the health department worried about meningitis and a six-fold increase in venereal disease in the countercultural mecca of Haight-Ashbury. Police increasingly cracked down on drug use in the neighbourhood.⁴ Heroin began to replace marijuana and LSD as the drug of choice in the Haight and along Telegraph Avenue, the Berkeley neighbourhood to which hippies began to drift in search of cheaper rent. The countercultural scene began to fragment, and those that didn't return to mainstream society (or drift deeper into urban drug use) began to look outside of the city, searching for a path back to a more agrarian, wholesome lifestyle. Many of them headed north into Mendocino County.

The *San Francisco Chronicle* took a rather mournful tone when it described the influx as a 'flood'. Known as the 'Back to the Land' movement, they came seeking solitude and a life more closely attuned to nature. Mendocino represented a good geographical compromise: rugged and isolated as it may have been, it was also – as the county's frustrated District Attorney Duncan James complained at the time – "just a tank of gas away from the Bay Area."⁵

The Back-to-the-Landers began to arrive in earnest in 1969, the same year in which President Nixon closed the Mexican border and inadvertently created the impetus for industrial domestic marijuana production. America's cannabis had traditionally been brought – with minimal resistance – across the border from Mexico: Operation Intercept deployed 2,000 federal agents to the southern border, the majority of which worked to search every single person, vehicle or plane coming north.⁶ It caused enormous bottlenecks at border crossings but succeeded in stemming the flow of drugs, prompting a 'pot drought' that alarmed California's hippies. Concerns about scarcity were compounded by fears of toxicity later in the 1970s during the paraquat scare, during which Mexican forces sprayed dangerous herbicides on marijuana fields. The chemical presence prompted concerns that smuggled cannabis could be poisonous to consumers, and Mexican marijuana quickly lost its allure. Demand was high, supply and consumer confidence were (relatively) low, and the scene was set for a domestic industry.

The New Deal

Mendocino County proved willing to meet the new demand for home-grown product. The early years of the industry are, for obvious reasons, hard to track: that said, it seems to have originated as a result of the Back to the Land pioneers realising that homesteading was harder than expected, compounded by the economic difficulties faced by long-term residents. The Back to the Landers knew the drug trade, having retained connections with suppliers in the Bay Area: the first recorded mentions of poorly-enforced, large-scale marijuana plantations emerged in 1976, though it wasn't until 1980 that they became the subject of any sort of scrutiny.

By the time they did, it was apparent that the locals didn't much mind. Mendocino's longer-serving, more-conservative residents had warmed to the newcomers. This is less surprising when one considers that, in many ways, they represented a popular, rugged, dirty-handed American archetype: as one interviewed homesteader said, "it's ironic... us long-haired freaks living like this. Self-determination, self-sufficiency – all those ideals America was founded on."⁷ When county bureaucrats tried to drive homesteaders away with tightly-enforced building codes, Mendocino residents closed ranks to defend them from their longest-serving enemy: heavy-handed government interference. Reports indicated that when building violations came to court, no local jury would convict the long-haired defendants.⁸

There is more to the story, however, than simply finding common ground: if blue-collar loggers did find some philosophical affinity with the Back-to-the-Landers, they also saw economic opportunity in their connection to the drug trade. One regional profile in 1980 interviewed numerous residents, generally caricatures of wholesome, all-American, heartland-by-the-ocean folks: for the most part, they were downright enthusiastic about the industry. Interviewees mentioned that land values were high, hotels were full, and store owners weren't inclined to ask difficult questions when long-haired newcomers paid large sums of cash for brand-new agricultural equipment.

Interviewed for the same article, a farm advisor at California's Agricultural Centre explained to a visiting reporter that "marijuana has revived this whole area."⁹ In 1982, Mendocino's District Attorney Joe Allen gave an interview to *Newsweek* in which he said that prosecuting marijuana growers was "like killing the golden goose." He claimed that there had been little change in the community as a result of the industry:

“The only difference now is that people who would’ve been unemployed are picking up some extra money.”¹⁰

One oft-repeated urban legend in the rural county is the story of eradication teams hired by logging companies. Companies weren’t best pleased at growers setting up guerrilla farms on company land and retaliated by hiring eradication teams that would go into the woods, seek out gardens and destroy them. After marking the site on a company map they would typically simply drive a bulldozer over the plants, and rarely bothered to remove irrigation or destroy access trails. When timber companies moved on, these teams had no employment – but they did have comprehensive maps of suitable growing sites, an understanding of where irrigation should go (had it been removed at all), and a good idea of the lay of the land.

Mendocino County relished its new stimulus package, and local culture adapted to show pride in its hometown outlaws. Officials were permissive to an extent that flirted with endorsement: raids were rare, and convictions close to non-existent. The county’s Agricultural Commissioner, Ted Eriksen, made the bold decision in 1979 to include marijuana in his annual budget report. He valued it at \$90 million, making it the most valuable industry in the county. Eriksen, like so many local authorities, considered pot cultivation to be a legitimate – even vital – component of Mendocino’s economy.¹¹

Non-local legislators were, in their own words, ‘appalled’. John E. Thurman, Chairman of the California Legislature Assembly Committee on Agriculture, wrote to Eriksen to say so, adding that he was ‘hopeful that you are exercising your responsibility and notifying the proper authorities about those individuals growing marijuana.’¹² Eriksen was not.

Military Action in Marijuana Country

The county may have been permissive, but the federal government was not. In October of 1982, President Reagan delivered a radio address in which he outlined his administration’s new drug policy: he called it ‘hot pursuit’. His rhetoric was characteristically uncompromising, focussing on his concern that there existed pockets of America where drug crime ran rampant. ‘They can run, but they can’t hide’, he assured the American public.



Figure 3: *The Bell UH-1 ('Huey') military Helicopter, used here by CAMP to clear a marijuana garden (Source: California Department of Justice)*

In 1983, the California Bureau of Narcotics Enforcement (BNE) joined forces with the DEA and twenty-five other state and federal enforcement bodies (including the National Guard), to form the Campaign Against Marijuana Planting (CAMP), the largest law enforcement task force in American history. CAMP was dedicated to the eradication of marijuana cultivation in California. In its first year, it utilised 250 police officers and four military-grade UH-1 helicopters – better known as Hueys, a familiar sight to locals, plenty of whom had either served in Vietnam or been raised on footage from the war. Raiding officers carried M-16s. When publicly launching CAMP in July of 1983, press releases boasted of spy planes and commando-style raiding teams.¹³ The military comparisons that CAMP invited made even the most law-abiding residents uncomfortable.

Across the next decade, CAMP’s budget would soar – even as their arrest numbers remained low and cultivators were driven deeper into Mendocino’s dense forests. In the meantime, locals were unimpressed. CAMP’s bad PR only got worse. A class-action lawsuit was brought against

the task force in 1984; one of the plaintiffs was a blind grandmother whose 12-year-old dog had been executed by CAMP officials during a raid in which no marijuana was seized and no search warrant was produced.¹⁴

Responses to CAMP included protests, phone-call campaigns, and violence: CAMP's end of year report in 1985 noted that 'not one [cultivation-related] murder or any other act of violence was reported against a private citizen. The violence was directed at local law enforcement, government officials, and CAMP.'

Often, resistance was of a subtler nature: the phone tree became a firm tradition in Mendocino County. Growers had long preferred to operate on long logging roads, where – according to one local realtor – you were guaranteed both seclusion, and a little extra warning time in case of a raid.¹⁵ During the seventies and early eighties, it was taboo to discuss your plants with your neighbours. Residents assumed everyone was growing, and nobody discussed it. CAMP changed this. Suddenly isolated communities, strung out along backwoods dirt roads, were forced to cooperate. When choppers filled the air and trucks began bouncing up dirt roads, community law dictated that you call neighbours further up the hill to warn them of what was coming. Information sharing necessitated a certain degree of trust – but despite cooperation, grows remained small operations. This fragmentation was also preserved by CAMP's tendency to seek out gardens from the air: smaller plantations were harder to spot, and less likely to warrant subsequent investigation rather than simple eradication.

In the late 1980s, this phone tree became more sophisticated and centralised. Concerned citizens called Humboldt's Civil Liberties Monitoring Project (CLMP), which would anonymously pass information to community radio station KMUD, which in turn broadcasted live location updates of CAMP raiders in bulletins ostensibly serving as traffic warnings and community notices. These notices never quite ceased. CLMP program director Marianne Knorzer told NPR in 2010 that the radio feature was "quite benign". "We're not broadcasting their whole operation... We're just giving the public an awareness that there are ten trucks heading down a very narrow road with one-lane portions of it, with tight turns."¹⁶ Tellingly, the same reports never occurred for civilian trucks. The community closed ranks, cooperated, and created informal institutions intended to protect them from CAMP.

By 1996, the marijuana eradication crusade had become an embarrassment. Once loudly touted by state and federal legislators as evidence of their tough-on-crime credentials, its end-of-year reports – and especially its budgets – became secretive. The same year, California voted in favour of Proposition 215. Also known as the Compassionate Use Act, it legalised medical marijuana use under state (but not federal) law. Public sentiment had turned. California legislators, previously fervent in their tough-on-crime rhetoric, suddenly became very quiet about the marijuana problem on the North Coast.

Medical marijuana legislation actually offered few legal protections for growers. Not only was it still federally illegal, but the process through which one became a legally-recognised medical grower was so impenetrable and misunderstood that virtually nobody was operating within the law. Even the few that behaved themselves frequently found themselves raided by federal authorities. Generally, what mattered was that growers looked good. A good-faith attempt at filling out the paperwork was largely enough to keep the heat off, so long as growers avoided involvement in other criminal activities and didn't cause neighbours to complain – the principal cause of arrest warrants.

More than anything, Proposition 215 legitimised the industry; it became far easier for Mendocino County officials to work increasingly closely with local growers. Previously, local drug policies relied on a quiet implied permissiveness. However, the passage of 215 caused an expansion of cultivation, without a concurrent increase in tax revenue (even profitable medical marijuana operations qualified as non-profits, making their revenue untaxable). This shift prompted ever-bolder, ever-more-conciliatory policies from local authorities: during the regulatory grey area between 1996 (the state-wide legalisation of medical marijuana) and 2016 (the state-wide legalisation of recreational marijuana), the county slowly developed their own fragmented regulatory structure for their biggest cash crop.

Measure G and Autonomous Regulation

This process began in 2000, when county residents voted to pass Measure G. This was a local ordinance that allowed (without any official legal framework) cultivators to grow up to twenty-five plants with no license, so long as they were for medical use – a stipulation that was difficult to prove and seldom enforced. The measure also demanded that the Mendocino County Sheriff's Office make prosecution of cultivation their lowest priority.¹⁷ One plant, grown outdoors on a nine-month cycle in typical Mendocino growing conditions, can yield between five and ten pounds – prices at the time hovered between two and three thousand dollars per pound.

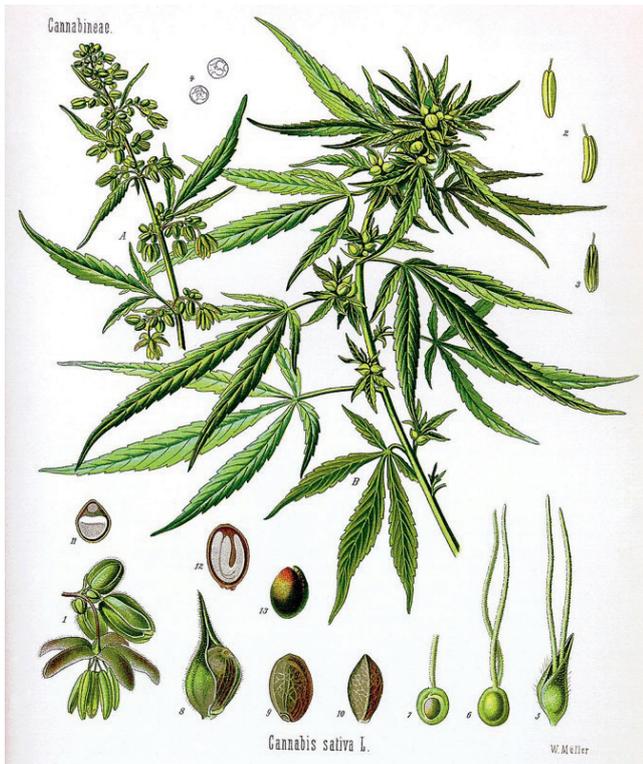


Figure 4: Mendocino County's cash crop

A garden of twenty-five could be tended to without legal repercussion – and could easily be worth a quarter of a million dollars annually to a competent grower. Writer Peter Hecht recounted Sheriff Allman's frustration with the new directive, noting that he 'fumed as some guy would tell him he needed 175 pounds of pot for his bum shoulder.'¹⁸ With Measure G, Mendocino County became the most permissive cultivation region in the entire US. This was the first instance in which Mendocino set its own enforcement agenda. With Measure G, county law was in direct violation of both state and federal law.

Though Prop 215's passage in 1996 failed to cause an explosion of growing in the county, Measure G succeeded. Growers quickly exploited a loophole never made explicit in Measure G: twenty-five plants could be grown per medical marijuana patient, but patients could sign their growing rights over to a representative able to grow on their behalf. Cultivators quickly cottoned on, displaying several medical marijuana referrals and growing large numbers of plants. 'Copy cards' became notorious – photocopied lists of medical patients,

none of whom knew which 'designated caregiver' was growing their pot, which could be offered to officials in the event of a raid. These lists were passed from grower to grower. Observers described (largely fraudulent) 'lists of sometimes hundreds of medical-marijuana patients to justify thousands of plants.'¹⁹ The region developed a national reputation: in 2006, popular marijuana-themed publication *High Times* published an article which cast the Emerald Triangle – not without good reason – as the place all up-and-coming growers should be. County Supervisor Jim Wattenburger attributed a subsequent proliferation of growers to this article.²⁰

Legal authorities – whether local, state or federal – never attempted to step in, despite Measure G's essential illegality. The attempt at enshrining extra-legal cultivation within County legal structures represented a dramatic compromise, and a desire on the part of law enforcement to avoid the economic difficulties presented by cracking down on growers.

Measure B: Antitrust Policy on the Black Market

The explosion of cultivation prompted an out-of-regional-character move in 2008, when the county voted in favour of Measure B. Measure B reduced the number of permitted plants from 25 to six, bringing the county back in line with the California state guidelines.²¹ At first glance, this rejection of permissive growing laws might suggest a change of heart within county residents – or at least be a sign of division. It's certainly true that plenty of voters worried that Measure G had led to an influx of new growers concerned not with the community or environment, but with raw profit. That said, Measure B was hardly a condemnation of the entire industry: instead, it can be better understood as an antitrust measure.

Measure B was largely intended to prevent large-scale grows, but local discourse steered clear of indicting smaller producers. One pundit, writing in local newspaper *The Anderson Valley Advertiser*, claimed that 'the backyard grower, good ol' Mom and Pop Mortgage-Fighter as portrayed in the ecotopian fairy tale, has been totally subsumed by criminal syndicates, home invasion thugs and a generally ugly underside that didn't use to exist in the county to the ominous annual extent it exists now.'²² It is important to note this writer's reluctance to condemn the industry itself: the county worried about attracting criminal elements, but was careful to differentiate between non-local 'thugs' and the friendlier spectre of Mendocino's 'backyard grower'. It remained important for the county to recognise the fundamental difference between serious black-market criminals and local profiteers.

In 2010, Mendocino experienced a 53% rise in marijuana cases, coinciding with the introduction

of Measure B.²³ The measure's introduction led to a brief period of more intense enforcement: in 2010, eradication teams destroyed over 600,000 plants, an all-time high for the county. However, this enforcement didn't last: seizures dropped rapidly as officials realised that neither law enforcers nor the court system could handle the pressure. In 2012, fewer than 200,000 plants were eradicated. In 2013, this number dropped below 100,000.²⁴ Once again, Mendocino County bowed to the social and economic leverage of the marijuana industry.

Crucially, the number one cause for property search in Mendocino County since 1996 has been neighbour complaints – even during periods of high enforcement, such as the one prompted by Measure B. This pattern suggests that authorities preferred not to go out looking for growers to bust, instead allowing the community to self-regulate. As long as a grower maintained good relations with their neighbours and decent standing within their communities, they were largely safe from harm.

The other major priority for county officials seeking to regulate the drug trade was to prevent the formation of major producers in the region. Measure B was essentially the first of Mendocino's antitrust measures: the clear delineation between major criminal syndicates and cultivating residents represented a local desire to prevent monopolies: for the next decade, county policies served to discourage cartelisation and syndicalism in the marijuana industry. While a certain amount of cooperation between growers was accepted (and sensible), county policy placed an emphasis on forgiveness for smaller outfits with lower margins that helped to ensure fragmentation. This anti-monopolism helped to keep revenue within the community: it is likely that it reflected a general concern about profits travelling up the ladder and out of the county, should vertical integration become the dominant mode of organisation in Mendocino's marijuana trade.

There exists a historical precedent for this: in regulation of vice districts in the late-Nineteenth and early-Twentieth centuries, a major concern of reformists was the desire to prevent vertical integration and monopolism. It was believed that to allow a prostitution racket to form a monopoly would be to allow it to develop an excessive power over public policy and capacity for exploitation, as well as allowing major operators to suck (admittedly ill-gotten) gains out of the community.²⁵

The Lintott Memo

The first of these antitrust measures came from then-District Attorney Meredith Lintott – though it was likely driven as much by a desire to cut enforcement costs as it was an intention to regulate the structure of the drug trade.

A year after Measure B passed, an internal memo from the District Attorney's Office leaked to the *Ukiah Daily Journal*. In it, then-DA Meredith Lintott informed officials that 'cases submitted for prosecution where the total plant count is under 200 plants and/or the total amount of processed marijuana involved is less than 20 pounds shall be rejected.' Lintott's memo also set out enforcement priorities: 'factors to consider... separate from the plant count, are whether weapons were involved, whether any children were on scene, whether the marijuana was clearly intended for sale, whether the arrestee has a criminal history.'

The counterintuitive move to reduce marijuana arrests was a result of the unwillingness (and, at times, inability) of local officials to meaningfully pursue most growers. Though the county's residents were relatively wealthy, the industry was untaxable: county revenue remained cripplingly low, and enforcement costs were climbing. In 2009, Mendocino found itself in a \$7 million deficit.²⁶ Even if the will to target cultivators had existed (itself a doubtful proposition), economic pragmatism undermined local enforcement.

When reached for comment by a local paper, Lintott stressed that prosecutions would continue to be handled on a case-by-case basis, explaining that she had told law enforcement 'that if they send her a marijuana case that gets rejected under these guidelines and they feel it's a case that really should be prosecuted, they can come to her and make their case.'²⁷ The realities of enforcement in Mendocino County are important to consider here. Measure B allowed some growers to be prosecuted, but enforcement priorities were still the critical factor that determined a cultivator's fate: economic limitations compelled authorities to only target those growers that were perceived to be a more immediate threat to community safety.

In practice, tougher regulations meant that non-locals and the less-scrupulous, more-industrious profiteers

would be targeted, but county residents that still operated within the realm of socially acceptable behaviour had little to fear. The community continued to self-regulate, and – according to journalist Trish Regan, writing in 2011 – it was ‘still considered legal to grow in the Emerald Triangle.’²⁸ Mendocino County preferred informal protections for smaller-time growers, which allowed locals (assuming that they were established, relatively responsible, and well-liked enough within the community) to continue operating, while allowing for targeted prosecutions of undesirable growers.

The Allman Ordinance

Mendocino County Sheriff Tom Allman went further than Lintott. While DA Lintott’s memo represented a capitulation to budgetary concerns, Allman saw a way to alleviate the financial difficulties of the Sheriff’s Office by introducing measures intended to foster a positive relationship with local growers. In 2010, he introduced Ordinance 9:31, which allowed the Sheriff’s Office to sell fifty-dollar zip-ties to growers to be affixed to their plants. Plants with zip-ties were considered licensed medical marijuana plants (yet again, without any legal framework to support the decision), and growers who didn’t exceed ninety-nine marked plants avoided prosecution.

According to county budgetary reports, between 2011 and 2013 the zip-tie program raised \$2,153,982.²⁹ Forty thousand plants were tagged in 2011 alone. There were two main advantages to Allman’s system: the first was that it brought the Sheriff into contact with growers, allowing him to regulate the negative externalities of the trade through a certain degree of oversight. The second was a matter of personal survival: Ordinance 9:31 allowed Allman to stave off budget cuts and reduce planned county deputy layoffs from eleven to five.

While ensuring gentle local law enforcement, Allman publicly expressed doubts regarding the hostile nature of federal anti-drug operations. “I don’t like Black Hawks in my county, I really don’t”, he told a room full of county residents in 2010.³⁰ As well as a fundraising effort, Allman’s marijuana ordinance appeared to be an attempt to bridge the divide between Mendocino’s outlaw population and the enforcement priorities of the federal government by creating the illusion of a legal framework. Allman’s policy illustrated the difference between de facto and de jure law in Mendocino County: state and federal legal bodies may have continued to mandate strict enforcement, but they were quickly and profoundly undermined by the District Attorney and Sheriff. Local officials were keenly aware of the economic obstacles involved in regulating marijuana cultivation, the reliance of the community upon the industry, and the compromises that enforcement would require. These compromises tended to rely on the peripheral behaviours and local reputations of growers.

Lintott’s memo and Allman’s ordinance enormously reduced plant seizures in Mendocino. A brief attempt at returning to prohibitive policy had proved a failure, and law enforcement instead worked to reduce the strain on the system. Seizures continued to plummet. Lintott’s leaked memo was successful in reducing enforcement costs, though it appeared to embolden growers: Sheriffs found themselves busting increasingly conspicuous grows, featuring hundreds of plants in residential areas.³¹

C. David Eyster and the Mendocino Payment Program

Previous concessions to the industry from County authorities were based on financial incentives to the local community, as well as a desire to reduce expenditure. However, lower budgets and additional untaxed income in residents’ pockets were not enough to keep a depression-prone county afloat during a recession. Building on Allman’s Ordinance, it was new District Attorney C. David Eyster who implemented most ambitious semi-formal regulatory structure yet for the local black market.

When Eyster took office in 2011, he inherited 500 open felony marijuana cases. Enforcement agencies were operating well over budget, and cultivation cases were taking an average of fifteen months to process – a period during which felony defendants often found themselves unable to find employment, typically returning to growing as a means of supporting themselves.³² By that point, he told the *LA Times*, marijuana cases were ‘overwhelming’ the county. ‘The system hadn’t broken yet’, he said, ‘but it was dangerously close.’³³

Eyster reworked a defunct, thirty-year-old piece of welfare legislation named Health & Safety Code Section 11470.2, quickly christened the Mendocino Payment Program. Originally intended to allow for restitutions to be paid in exchange for leniency in welfare fraud cases, Eyster began to apply it very differently, permitting growers to pay large sums to the District Attorney Office – typically \$50

per plant and \$500 per processed pound seized, as well as additional payments to reclaim seized assets such as property and vehicles. In exchange, felony cultivation charges were typically downgraded to misdemeanours. After pleading guilty and paying the DA, the growers avoided prison and the prosecutors avoided a lengthy, expensive court case.³⁴ When Eyster believed that the growers operated in a way that could be considered ‘close to legal’ – typically when growing medical marijuana as designated caregivers, without necessarily having all the proper permits – he authorised the crop as medical marijuana and allowed the growers to return to business as usual.

There have been some astonishing examples of its application: one Mendocino County resident named Matthew Ryan Anderson was charged with the possession of some two thousand pounds of processed marijuana, with a local street value of three to four million dollars (a sum that could be easily be doubled if it was taken across state lines). He was required to pay one hundred thousand dollars in restitution under Eyster’s payment program; his sentence was suspended, and he never set foot inside jail.³⁵ Anderson’s case was anomalous, though, because he was still charged with a felony, which in California has further implications: you can no longer own firearms, for example, or run for most electable positions. Most defendants in the plea program paid to secure a misdemeanour charge, which carried next to no restrictions on their subsequent behaviour. In order to ‘eliminate corruption’, Eyster personally calculated the fine for each defendant.

In 2011, the year of its inception, the payment program netted \$561,413. In 2012, it was worth almost twice as much, bringing in \$1,044,157. It has brought in more than a million dollars in revenue each year since, with the program worth \$1,791,324 in 2014.³⁶ The same four-year period netted close to a million extra dollars in asset forfeiture, 90 per cent of which came directly from the marijuana trade – usually signed over in the same trials as payments into the 11470.2 program. In a small, rural county with a population of ninety thousand, these sums represented a substantial revenue stream.

Besides the tiny percentage reinvested in the maintenance of the program, this revenue was directed straight towards the Sheriff’s Department, and used to minimise the negative externalities of the drug trade. As the Sheriff’s Department’s share grew, more programs were introduced to offset the severe pollution caused by unregulated agriculture. Further funding went to youth centres in the county capitol of Ukiah, and anti-gang initiatives across Mendocino. The program also streamlined the overstretched judicial services in the County: between 2010 and 2013, the amount of time it took a marijuana case to clear was cut from fifteen months to three.³⁷

Taxation and Representation

The payment program acted as a rudimentary taxation system for Mendocino’s marijuana industry – a natural development from Allman’s zip tie program. No option for restitution existed in cases that involve children, public lands trespass, theft and damage of environmental resources (including water, soil and electricity), or violence. County records also noted that ‘those who successfully participate in the program may be able to receive automatic expungement of their case records after two years.’³⁸ The program aimed to continue (and expedite) felony prosecutions for the more problematic growers in the community, while avoiding strict enforcement for those the public found more palatable.

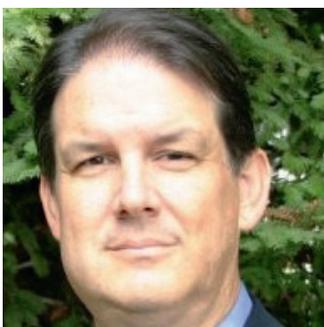


Figure 5: District Attorney
C. David Eyster

Like Lintott’s memo and Allman’s ordinance, Eyster’s payment plan suggested a desire to continue to target growers associated with organised crime, violence, and environmental damage, while implying an acceptance of certain levels of cultivation. Eyster’s relative acceptance of criminal behaviour was driven by the same forces that compelled other permissive strategies: economic pragmatism, forced by the industry’s local ubiquity. Calculations indicated in 2014 that marijuana-related local spending was around \$675 million per year – more than double Mendocino’s combined income from tourism, timber, wine grapes, farming, cattle ranching, and commercial fishing.³⁹

Besides economic responsibility, a driving factor behind the payment plan was the local respectability of Mendocino’s growers: one payment case overseen by Eyster saw Kyle Stornetta, the scion of a prominent local dairy family, as a defendant. The Stornettas are considered old money, so established that Point Arena’s most scenic public lands bear their name.⁴⁰ Though the Stornetta fortune was made in traditional agriculture, at least some members of the family diversified their portfolio:

in 2014, Kyle Stornetta was caught with 914 plants, as well as two and a half processed pounds, across two locations. After paying the District Attorney's Office \$42,600, his felony charge was reduced to a misdemeanor. Stornetta walked free from a case that would have resulted in decades of jail time, had it been tried virtually anywhere else in the nation. A local journalist that printed the transcript of the case offered his own postscript:

If the DA prosecuted all the pot cases he gets in a county where pot is the number one ag export crop, well, the real question is, what smells more, getting some cash for law enforcement out of these crooks or losing public cash prosecuting them? People who can pay \$42,600 cash fines can stay in court for a long time.⁴¹

Since the end of CAMP's heyday, drug enforcement has been far more lenient in Mendocino County than elsewhere in California. As noted, this is a result of economic and cultural pressure, but the Stornetta case highlights another factor that likely contributes to the gentle treatment of local outlaws: demographics. Middle-class growers are rife, and diversity is not necessarily the region's strong suit. The county has a black population of approximately one percent, and citizens from all backgrounds have been visibly involved in the drug trade since the late 1970s.⁴² The whiteness of the region likely played a role not only in the permissiveness of local authorities, but in the laissez-faire attitude of the federal government since 1996.

Criminals versus Lawbreakers

The Mendocino Payment Program followed the pattern seen again and again in the county's history: it was used to prosecute undesirable elements within the community, while law enforcement continued to avoid criminalising locals. Some locals were considered less likely to be responsible for the negative externalities of the drug trade – and more deserving of profiting from it. It is worth considering the importance of class: Mendocino County is a region where drug crime has long been as important to old-money families as to hard-up back-to-the-land hippies, and this shared economic priority has created a cultural consensus.

When asked in 2016 about selection criteria for involvement in the payment plan, Eyster prefaced the list with a curious assertion: that there's "a difference between lawbreakers and criminals." Lawbreakers, he explained, were not fundamentally bad people – they were decent locals who happened to grow a little pot. Criminals were the ones he sought to prosecute – essentially, those causing peripheral harm to the community. Mendocino, he believed, had "no shortage of good people growing pot".⁴³ He was happy to keep those people on the streets, in exchange for a financial contribution that could help keep their county afloat. Though the rhetorical separation of criminals and lawbreakers was very much in keeping with Mendocino's history of drug enforcement, it seemed a strange argument from a public official whose job was to prosecute both groups.

Eyster said explicitly that he considered the program to be a success, stating in his response to the Mendocino County Grand Jury report on the payment program that 'the program has exceeded original hopes and expectations.'⁴⁴ Besides the alleviated burden on law enforcement and the judicial system, he argued that it had reduced crime overall. The marijuana recidivism rate for those participating in the program was ten percent, whereas the average county recidivism rate is forty percent. The county budget was finally balanced.

In its report on the Payment Program, the Grand Jury noted that 'the marijuana restitution program has proven effective in meeting its intended goals' and that 'County government as a whole benefits from an additional source of revenue.' Its final recommendation was that 'the DA continue the marijuana restitution program'.⁴⁵ No official statement was ever made by either state or federal authorities, but the program continued to operate and expand: at some point, it became reasonable to assume that silence implied permission.

Eyster's Payment Plan bore all the classic hallmarks of Mendocino drug policy. It relied upon a degree of flexibility, allowing undesirable (that is, overly-successful, violent, or irresponsible) growers to be prosecuted, while protecting locals and those willing to contribute to county coffers. It implied a tacit acceptance of the trade, and an acceptance of the community's reliance upon it, though this was tempered by a desire to regulate some of its more problematic externalities – particularly by preventing excessive growth or cartelisation. It also demonstrated the importance of economic pragmatism. Eyster's recognition that traditional tax revenue had proved insufficient, and his subsequent desire to essentially tax an illicit

substance, represent quite the capitulation to the cultural and fiscal might of the drug trade. Even after full recreational legalisation in California, the payment program continued to be the legal avenue of choice for unregulated cultivators caught growing in Mendocino County.

Integrating Mendocino

In 2016 Proposition 64 passed with 57.1% of the popular vote, legalising recreational marijuana across the state. California became permissive for essentially the same reasons as Mendocino County, if without the same urgency: a combination of economic pragmatism and cultural development, and an ability to exploit fragmented regional legal systems. California had noticed the huge boost in tax revenue gained by other legal states – marijuana taxes were worth over \$130.4 million in Colorado in 2015, and \$193.6 million the year after that.⁴⁶ Marijuana use had become culturally acceptable, to the point of ubiquity. An article in the *Orange County Register* urged citizens to vote in favour of Proposition 64: ‘Do we as friends and neighbours want to continue criminalizing the behaviour of so many of our fellow Californians?’, it asked.⁴⁷ It’s also worth noting that the visibility of white, affluent marijuana users was on the rise – as in Mendocino, an awareness of middle- and upper-class involvement in marijuana legitimised its use, and by extension its production. Finally, California had taken notice, as Mendocino’s subversive elements had before it, of an air of permissiveness: the federal government had made it clear that they would not interfere with states’ decisions on marijuana reform.

As one might expect, Mendocino County voted yes on 64 – however, the percentage was several points lower than the state average, at 54.3%.⁴⁸ For such a historically-permissive – even enthusiastic – region, the county appeared reluctant to vote for the decriminalisation of their community. This reticence was born of self-preservation. Residents saw the writing on the wall: the old guard had not forgotten the departure of lumber and fishing, or the bullish economy and geographic accessibility of neighbouring Sonoma County. Mendocino County residents are (for the most part) no longer criminals, but they are also not optimistic. The informal regulations imposed by county officials had long encouraged small operations: the business landscape featured some degree of horizontal and vertical cooperation, but authorities deliberately and effectively discouraged integration.

A shift towards vertical integration reshaped the industry: small cannabis businesses cropped up in Mendocino County as the legalisation movement gained momentum, but soon began to disappear. The Green Room, a successful Mendocino dispensary, flourished in the legally-murky era of medical legalisation – but could not survive Proposition 64 due to the sheer complexity of California’s nascent marijuana regulations. The complexity and unfamiliarity of regulations proved prohibitive for small outfits: to survive, the dispensary owner would have needed extensive legal advice and, most likely, an in-house compliance team. This would have been impractical to the point of being prohibitive. However, GSRX Industries – the Texas-based corporation that purchased the Green Room – had the resources to navigate the impenetrable bureaucracy surrounding the legal pot market.⁴⁹

Vertical integration offered the most logical solution to the particular problems posed by California’s regulations. Observers, however, pointed out that vertical integration is rare in almost all mature industrial sectors: PI Financial analyst Jason Zandberg insisted that the trend towards integration was forced by regulations, and that horizontal integration was far more likely to dominate the market longer-term: due to issues of scale it would become “more efficient to have all of the participants in the market specialize in retail, cultivation and so on.” Large-scale distributors entered the market, counting on this long-term shift: Flow Kana, for instance, was touted as ‘the Sunkist of pot’. With no resources devoted to either production or end retail, it claimed to expect revenues of up to \$2.26 billion by 2022.⁵⁰

Despite the difficulties of navigating regulations without large-scale integration, economists have often pointed out that behemoths have limited survivability. Columbia University law professor Tim Wu pointed to the problem of ‘diseconomies of scale’: past a certain point, he argued, ‘bigger is no longer better’. Inefficiencies creep in with increasingly-complex mechanisms of oversight and management – particularly in vertically integrated companies, where maintaining cooperation

between different levels of the business becomes problematic. Horizontally integrated companies, in which businesses can increasingly specialise in one element of the supply chain, are less prone to diseconomies of scale.⁵¹

The conglomeration of an atomised underground industry was not a historical first. Following the repeal of alcohol prohibition, the number of breweries in the United States exploded. The boom didn't last long – while it reached 766 in 1935, there were fewer than 100 breweries left by the late 1970s. Larger manufacturers leveraged smaller industry players out of the business, leading to a general centralisation of alcohol production and distribution. The strict regulations on alcohol production in the wake of Prohibition resemble those levied against marijuana businesses. The cost of compliance was prohibitively high for smaller outfits: it wasn't until the 1980s that regulations relaxed, creating the potential for a profit margin on the part of smaller craft brewers: at the beginning of 2018, there was an all-time high of over 6000 breweries in the US.⁵²

Competition and Survival

Recreational legalisation offered Mendocino County an uncertain future. Even if vertical integration didn't finally alienate the fragmented, rural business landscape, its geographic and economic peculiarities still counted against it. Had marijuana been a legal crop, it would likely never have acquired the same regional power. Though Mendocino has an excellent growing climate, it was its inaccessible topography, economic vulnerability, and small, tight-knit rural community that allowed cannabis cultivation to become such a dominant local force; notoriously lax law enforcement and guaranteed seclusion rarely attract legitimate investment. The same characteristics that once attracted the black market then served to drive the legal market away.



Figure 6: *Mendocino Cannabis Industry Association logo (courtesy of MCLA)*

After all, Mendocino never existed in a vacuum. Just as the region's agricultural revolution was a response to economic stimuli from the southern border, America's neighbour to the north helped to prompt industry shifts. Canada's decision to roll out nationwide legalisation was a likely factor in the decision made by individual American states to follow suit. It offered not only a regulatory blueprint, but a political precedent. Incidentally, British Columbia's earlier shift towards lax regulations was initially rumoured to bother Washington State, with which it shared a border: BC's relative disinterest in the controversy may have been related to the fact that a substantial percentage of the product grown in Canada was intended to satisfy consumer demand in the US. Immediately after Canada's legalisation took effect America's stance of federal prohibition prevented sale across borders, but Canadian producers took note of the opportunities that may begin to present themselves. Mendocino faced stiff competition as a producing region: it lost business not only to more accessible regions of California, but to the industrialised regions in the Northeastern US; competition with other industrialised nations was another challenge that the backwoods region was ill-equipped to face.

The shift left only one asset for the county's growers to leverage, and that was their long-standing, hard-fought reputation for excellent marijuana. Growers hoping to cultivate a 'craft weed' image for the county joined the Mendocino Cannabis Industry Association to preserve and further develop their reputation. Others looked to the success of rural wine-producing regions in France for a blueprint of how to maintain value in the face of industrialisation: vintners in Bordeaux and Champagne have long been able to maintain their reputation based on geography via an appellations system, which legally defines geographical indication used to identify where grapes were grown. Accordingly, the Mendocino Appellations Project aimed to identify 11 rural regions of Mendocino in which quality cannabis was grown, and label product accordingly.⁵³ The hope was that craft cannabis would eventually have the same cache and connoisseur appeal as fine wines, and attract consumers willing to pay more for the geographic prestige. In the aftermath of legalisation, Mendocino worked hard to capitalise on its black-market credentials – but the immediate result was that Mendocino's economic void began to yawn open once again.

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