

**CULTIVATING ILLEGIBILITY:  
GOVERNING THE MARGINS OF RURAL MARIJUANA PRODUCTION**

A Dissertation

Presented to the Faculty of the Graduate School

of Cornell University

In Partial Fulfillment of the Requirements for the Degree of

Doctor of Philosophy

by

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January 2017

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**CULTIVATING ILLEGIBILITY:  
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Cornell University 2017

**Abstract:** This dissertation explores how and with what effects marijuana and its subjects are governed in Nevada County, California. I argue that the governance of marijuana in Nevada County is both constituted through and generative of a politics of illegibility. Although the County is home to a robust marijuana industry that contributes directly and indirectly to the local economy, public officials know little about its impacts, and considerable effort is made to ensure that the industry remains unknowable. In contrast to state projects in which the legibility of populations, practices, and places is a critical dimension of rule (Scott 1998), the marijuana industry in Nevada County is constituted as an unknowable dimension of the local economy in order to preserve dominant ideologies that take marijuana to be both immoral and a source of social denigration. While the illegibility of the marijuana industry is partly an effect of its status as an informal economy, this status is reinforced if not solidified through practices of moral regulation and counter-hegemonic struggle.

In this dissertation, I argue that the illegibility of the marijuana industry and its subjects is cultivated through three specific practices. First, the current economic

impacts of the marijuana industry in Nevada County are divorced from the socio-economic conditions in which the industry emerged and expanded. There is no public recognition or exploration of how and why marijuana has come to play such an important role in the local economy, and no political will to explore such developments. The dehistoricization of the marijuana industry in Nevada County, I argue secondly, is an effect of dominant ideologies that render marijuana production and consumption as immoral. This is largely achieved through dichotomous representations of marijuana as either a drug, or as medicine – a practice that has consequences both for the regulation of marijuana production, and the subjectification of its producers. Finally, in their attempt to overturn the County’s urgency ordinance on medical marijuana cultivation, medical marijuana activists inadvertently reproduced dominant representations of marijuana and its subjects, and thus the illegibility of the industry. By waging their political struggles within the dominant ideological framework, activists preserved the drug-medicine dichotomy that has shaped marijuana knowledge in the region and reinforced the immorality of the marijuana economy. In doing so, they foreclosed opportunities to understand how and why marijuana has become a significant source of income for local residents, or how that income affects the local economy more broadly.

## **BIOGRAPHICAL SKETCH**

Sara E. Keene has a bachelor's degree in Anthropology (University of California, Santa Cruz), a master's degree in Development Studies (School of Oriental and African Studies), and a master's degree in Development Sociology (Cornell University). Her academic work broadly focuses on how marginalized populations are regulated and governed, and the ways in which they challenge and attempt to transform the conditions of their marginality. Sara has explored these questions in the context of the American Welfare Rights Movement, rural economic resilience in northern California, and most recently socio-economic and legal struggles over the governance of medical marijuana production in rural California.

In addition to her academic endeavors, Sara has worked on issues pertaining to child poverty and well being with the Firelight Foundation in Santa Cruz, CA and as an intern with UNICEF-India, where she focused on projects regarding sanitation and hygiene in Jharkhand, India. Teaching is central to Sara's identity as a scholar and activist and she is motivated by the potential of education to promote students' personal transformation and to effectively contribute to social change.

For Ian, Paula, and Ted

## ACKNOWLEDGMENTS

Completing a doctoral degree is never an individual accomplishment, and my experience is no exception. In the eight years I spent at Cornell, I was inspired and supported by people who are both brilliant and ethical. Foremost among these are my Committee members. I could not imagine having a more thoughtful, supportive, and intellectually engaging advisor than Phil McMichael. Phil spent many hours patiently listening as I rambled on about the various (and sometimes conflicting) directions I wanted to take my research, after which he would summarize the conversation in far clearer and more conceptually compelling terms than I could at the time. I always left his office with renewed clarity and excitement to continue exploring the intellectual puzzle I had set out to understand. While I benefitted personally from Phil's courses and mentorship, his commitment to graduate students in general is unsurpassed. He provided invaluable support to grads during periods of conflict and transition, and particularly when our department experienced a series of tragedies. Phil's support was crucial during all of these times and enabled so many of us to weather the storms we encountered throughout our years in grad school. I cannot thank him enough.

I am also deeply thankful for the mentorship provided by Wendy Wolford and Fouad Makki. Wendy provided rich and incisive feedback on my work, and ideas that will shape my thinking for years to come. She also gave me critical advice on navigating the field, and professional and intellectual opportunities as her research assistant. I learned a tremendous amount about the inner workings of the profession while assisting Wendy, and she's served as a role model for balancing scholarship, family, and personal well being in academia. For all of this, I am deeply grateful.

I am indebted to Fouad for long conversations about the implications of a politics of illegibility, both in the context of my own research and the many additional spaces where illegibility serves as a powerful form of governance. Fouad helped me to see the potential of this line of thinking, even as I questioned the direction of my work. The intellectual and moral support of all three of my committee members has been invaluable and the elements of this dissertation that are effective owe a tremendous amount to them.

Due to the nature of this study, it is difficult to fully acknowledge all of the people I met in the field who assisted me with this project. First and foremost, I am deeply indebted to “Shirley,” the Chair of ASA-NC, for supporting my research, allowing me to participate in the many facets of the organization, and so generously sharing her time and thoughts with me. I am equally grateful to all of the members of ASA-NC who spent many collective hours speaking with me, and to the residents of Nevada County who participated in surveys and interviews. I would not have made it to Nevada County had it not been for a childhood friend who moved there almost twenty years ago. She introduced me to the region, and to its complex cultural and economic history. I fell in love with the County and the people, and I owe that to her. While I cannot mention so many of the people who contributed to my doctoral project by name, I hope they all know how grateful I am for their insights and support.

While in Nevada County, I also had the pleasure of working with a local Cultural Center on an oral history project about the building of a public school in the 1970s. This project was unrelated to my own research, but it taught me a tremendous amount about the cultural history of the County, and the ways in which a small

community can accomplish significant feats. My team members for this project, Hank Meals and Jeff Adams, are a continual source of inspiration, and I value their friendship tremendously.

The impact that deep and meaningful friendships have on one's life can never be overstated. This is even truer in the context of pursuing a doctorate. I am blessed beyond measure for the friends I've made here in Ithaca – they are brilliant, compassionate, and committed to making this world a better place. Jum, Gayatri, Evren, Lumonya, Carrie, Divya, Rodrigo, Sneha, Justine, Elisa, Kasia, Ellie, Natasha, Jumay, Todd, Kelly, Eric, and Neha have supported me in innumerable ways, and enriched my life intellectually and personally. The administrative staff – Sue, Terri, Linda, Cindi, Allison, and Christi – has been so wonderful to me, and I will miss seeing them on a regular basis. And I would be remiss not to mention my wonderful neighbors on Cleveland Avenue. I am forever indebted to all of you.

In 2015, we tragically lost three members of the Cornell community: Lisa Cimbaluk, Valerie Paurus Ota, and Laurie Johnson. While I did not know Lisa well, it was heartbreaking to hear of her passing. Valerie and Laurie left lasting impressions on me, and I will carry them in my heart, always. You are missed immensely.

While graduate school has been one of my favorite occupations, I'm sure my family is relieved that I have finally finished! I am particularly grateful to my dad, Pat, for long conversations about the state of the world, to my mom, Marie, for her love and encouragement, and to my Grandma Santa, Patrick, Garner, Emma, the Baileys, Darcel, and Gil for their love and support. Sue taught me valuable lessons about life and teaching that continue to influence me. Deb and Leo, Dr. G, Evren, Lumonya,

Krista and Nalatie enrich every aspect of my life. Jum and Auntie Cleo are paragons of compassion and grace and two of the most remarkable women I have ever met; you inspire me daily. Cara has been there for me since childhood, and her enduring friendship has influenced my life in immeasurable ways. I love you all.

This dissertation would never have been written if I hadn't met two incredible community college professors in 2000, Ted Hamilton and Dr. Paula Clarke. When I first met them, I had no intention of pursuing a bachelor's degree, let alone a PhD. They elevated my expectations, gave me the tools to meet those expectations, and have been an unwavering source of love and support throughout the entire process. I cannot thank you enough.

And finally, Ian. I could not ask for a more wonderful partner in life. Your intellect, humor, love, and support have kept me going in the best and the most difficult of times. I can't imagine having completed this without you. I am forever grateful.

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## PREFACE

Nevada County stretches west to east in the shape of a pistol, with the western portion of the county being the wide grip of the handle and the eastern portion the long narrow barrel abutting Nevada State. As you enter western Nevada County off Interstate 80 at Auburn, you travel along the gold rush Route 49, traversing gentle sloping hills and small stretches of flat grazing land where cattle and other livestock roam the fading green and gold grasses that characterize this region. The landscape is periodically dotted with irrigation ponds, barns, and pockets of oak trees. In the summer, the warm Central Valley air blows through the grasses and oaks of the region bringing the distinctive smells of the arid climate and providing lift for Red Tail hawks and vultures overhead. Along the road, imagery of miners and relics of the gold rush conjure the wild west imagination – a nostalgia for open frontier and independence that has historically drawn migrants to the area, the most recent of whom, this dissertation details. Continuing on Highway 49, you slowly ascend the western slope of the Sierra Nevada Mountain Range, leaving the rolling grasslands, the oak woodlands, and entering the more densely forested pines and conifers as you reach the cultural and political center of the county, the connected towns of Grass Valley and Nevada City. The road levels and eventually dips into Grass Valley, part of which was built in a dried lakebed, now a commercial center.

From the main road, Grass Valley could be “Any Town USA” with its fast food establishments, Staples, Starbucks, Home Depot, and K-Mart. With a population of nearly 13,000, Grass Valley is a small town but might be considered the business or corporate center of western Nevada County, adjoined by its more upscale tourist

destination a few miles east of it, Nevada City. Downtown Nevada City has been preserved in its gold rush era architecture and has the distinctive feel of a gold rush tourist town. A hydraulic mining canon and accompanying rail cart (to transport ore) line the road entering town, and a replica tepee commemorating the Maidu people stands kitty corner. The National Hotel is the first building on the left as you enter downtown – a big brick hotel from the 1860s painted green with white French railings on the balconies. The hotel features a wood carved bar with the bartender dressed in a black and white suit giving the feeling of an old saloon. The décor in the hotel entrance replicates gold rush era California. Across the street is the Mineshaft Saloon, a dive bar literally built on top of a mine shaft. It is the local ‘no frills’ bar. Adjacent is a Chinese restaurant, a door connecting the two where patrons can order from both establishments – an agreement that I was told has existed for generations. Many other stores and restaurants line the two parallel streets that make up downtown Nevada City, including several antique stores, as well as upscale coffee shops, a book store, jewelry shops, imported goods, restaurants, and several more bars. While some of the stores break with gold rush and western motifs, there is the distinct impression that the town is forever hitched to this historic era. The two major festivals of the season play to these themes – Hot Summer Nights and Victorian Christmas.

Just north of Nevada City runs the Yuba River, where Highway 49 snakes through the forested hillside then opens up as it winds down the river canyon. A pull out area next to the bridge invites people to the water. In the summer, crowds of people gather under the bridge where the river pools in a large swimming area. From the Sierra snow pack the crystal clear waters of the Yuba cut through the mountains,

warming on the granite boulders lining its shores. Sections of the river drop and tumble with rapids, slowing in sections to calm pools where people come to swim, sunbathe, and play in its temperate waters. In summers that can scorch upwards of 100 degrees, the river functions as the County's cooling station. In many ways, the Yuba River is the heart and spirit of western Nevada County, attracting tourists but more importantly serving as a source of renewal for local residents. No matter how turbulent or tranquil the times, it welcomes all to its shores like a compassionate old friend. The river is revered, a natural and spiritual beauty of mythic proportion.

Continuing the journey through western Nevada County, Highway 49 ascends northward out of the river canyon to a remote but vibrant region of the County. This region can be understood both as its own entity and also as a satellite of Nevada City. The region has a complex and conflictual history. On the one hand, it houses California's largest hydraulic mining operation. The bright white and tan colors of the land seem unfathomable amongst the forested mountains, a moonscape bereft of life to the human eye. The region also served as the destination for exurban migrants associated with the back to the land movement in the 1960s and 1970s. Many residents of the area have a strong homestead sensibility with streaks of communalism running through it. These roots can still be seen in the local Cultural Center, which serves as the emblem and hub of this communal spirit, hosting art, music, and cultural events throughout the year. Gravel roads fork off of Highway 49, winding into the forests and small meadows that surround the road. Far from the town grids, this region of Nevada County has a distinctly unplanned feel to it, of settlements scattered across the land, roads jutting off the main channel like tributaries. The roads are bumpy and can be

disorienting to the newcomer. The region has long been a hub of marijuana production, with many either basing or supplementing their livelihoods on the crop. This is perfectly evident from the view of a Narcotics Task Force helicopter or Google Earth, which render visible the many marijuana gardens that dot the rural landscape.

Throughout summer there is a steady stream of tourists walking downtown, frequenting the River, or stopping over on their way to Truckee, Lake Tahoe or other High Sierra destinations. By fall there is a distinctly different crowd that arrives. On the heels of Burning Man, a stream of transient people arrive in town – “Burners,” as the Burning Man crowd is referred to, are distinctive by their dust covered cars and often festive attire. The Burners are the most visible faction of what people refer to as “trimmigrants” – the people who come to town for seasonal work in the marijuana industry. “Trimming” is post-harvest processing where people shave the marijuana flowers using small clippers – the most common brand being Fiskers – to remove loose leaves and stems from the bud until it is compact and tight. This is mostly for aesthetic purposes and market standards. Many trimmers might fit the common stereotype of the marijuana worker – dreadlock-donning “hippies.” Others are less noticeable and are not easily identified – people who are temporarily unemployed, part-time, or retired folks trying to make a little extra income through trimming. One person I met said many construction workers that couldn’t find work during the financial crisis turned to the marijuana economy to stay afloat, himself included.

In addition to the flux of migrant workers, local retailers also bear the mark of the season. During trimming season, Fiskers are featured prominently in stores, positioned in the check out aisles like snicker bars. Cash transactions become the

norm. Some stores and restaurants, in fact, only accept cash – a rarity in our contemporary credit economy. Laundromats also have an uptick in clientele during harvest season, the fresh scent of detergent subsumed by the pungent smell of marijuana resin – the oils from the flower that cake on to peoples’ hands and clothing after hours and days of trimming. Weeks after the bulk of tourists have passed, the local pizza shops, bars and cafes are miraculously filled again.

A few things struck me when I first visited Nevada County. Having grown up about two hours south in another Gold Country town, the economic vibrancy of Nevada County was in marked contrast to every other gold country town I’d seen. The number of young people socializing around town was another contrast. What made Nevada County so different? Why were all the storefronts filled (in my own hometown of Amador County, retail stores and restaurants had frequently closed, with a hot dog shop being the only place to eat on Main Street for several years)? How could people afford to eat and shop in such high-end establishments? When talking to locals about this, I heard many explanations – the vibrant tourist attractions, a robust art scene, historical preservation, proximity to Lake Tahoe, and fairly short and direct routes from Sacramento and San Francisco. All of these were certainly parts of the puzzle, but there was one explanation that caught my attention – an explanation that was discussed in hushed and often secretive tones, off the record, informal conversations. That explanation was the marijuana economy. How did this come to be such an important feature of Nevada County, and why did it seem that everyone was aware of it, but only talked about it privately?

The secrecy shrouding this lucrative industry was in part due to its ambiguous

legal standing. Medical marijuana was legalized in California in 1996 but remains illegal under federal law, where it is classified as a Schedule I drug.<sup>1</sup> While State law permits the use and cultivation of marijuana for medicinal purposes, counties have the authority to regulate medical marijuana production and distribution through zoning ordinances. At the time of my research, Nevada County was in the process of implementing an urgency ordinance to restrict cultivation in the region and would later attempt to completely ban outdoor production of medical marijuana.<sup>2</sup> These ambiguities in governance left growers in a constant state of regulatory limbo and contributed to the silences surrounding the industry.

There was also stigma surrounding marijuana, rendering its cultivation a morally questionable livelihood at best. Engagement in the marijuana industry was seen as easy money, where lazy people could get rich quick, but at the same time degraded the overall character of the “community.” Combined, these explained a great deal of the secrecy surrounding the marijuana economy. However, as this dissertation argues, there is a deeper meaning to and impact of this secrecy.

The small-scale marijuana economy is difficult to study as compared to other agricultural commodity chains. Parts of the process are concealed and murky for obvious reasons, but I will sketch a picture of this industry as I was able to piece it together through my interviews and ethnographic experience. By small-scale I refer to

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<sup>1</sup> Schedule I drugs are defined by the Drug Enforcement Administration as the most dangerous of all drugs, “with no currently accepted medical use and a high potential for abuse” (DEA <https://www.dea.gov/druginfo/ds.shtml>). Heroin, LSD, and ecstasy are classified alongside marijuana in this category. Cocaine and methamphetamines are ranked as less dangerous than marijuana, classified in the Schedule II category of drugs. I provide an explanation for the federal classification of marijuana in Chapters 2 and 3, and I elaborate on the rationale behind local regulations of marijuana production in Nevada County in Chapter 4.

<sup>2</sup> Discussed in Chapter 5.

growers with fewer than 60 plants, although many had 25 plants or fewer. If calculated by the amount of land used in cultivation, these grows wouldn't even register with the USDA, being more akin to gardens than farms (most growers, in fact, described their marijuana grows as "gardens"). Outdoor growers either start their own plants by seed or acquire clones from local distributors. Though contingent on the weather, by mid- to late-May they plant their crops in the ground and add compost and other organic amendments. At this scale, growers usually rely on their own labor, but may hire labors to help with initial set-up. By October the flowers are ready for harvest, and this is the prime time when outside labor is needed.

Trimming is monotonous work. While flower buds range in size, the bulk of them, on average, are maybe the size of a quarter-in width and length. Any protruding leaf from this small bud must be trimmed tightly to the flower, and visible stems must be cut so as not to stand out. While trimming one bud may take a matter of seconds, it requires the trimmer hundreds or thousands of these finished buds to accrue a sizable weight. Trim scenes vary greatly. In some, the atmosphere is generally relaxed. Work proceeds at a steady clip, with people chatting throughout and taking regular breaks. These trimming sessions could go on for upwards of 10 hours, but are often shorter than that. Other trim operations are all work and no play – trimmers work as quickly as possible, each person trying to earn the most they possibly can for the day. No talking, just trimming from as early as they can rise until as late as they can work. After trimming for hours, one's eyes become blurry from constantly looking for small leaves and stems, and soreness fills the neck and back from standing or sitting hunched over a bag of un-trimmed marijuana. Knuckles and hands ache from the

repetitive clipping motion, the mind numbed by the repetition.

Trimmers are paid in cash, either at piece rates (which is more common) or hourly. Though rates vary, on average I found \$200 per pound of dried bud to be common, or \$20 per hour. Some trimmers may follow the harvest throughout California, going from one location to the next by word of mouth or through established connections. Some experienced trimmers may earn enough money in a few months to sustain a meager existence throughout the rest of the year. Other trimmers work occasionally to supplement their incomes. Even as laborers in this industry, workers can make more money than in any other position in minimum wage service sectors.

The marijuana industry has a visible mark on the landscape and lives of those who inhabit Nevada County. Gardens are ubiquitous throughout the County, and the industry has come to play a substantial role in the local economy, providing wealth for some and supplementing the economic needs of others who have been marginalized by economic restructuring. These are facts hidden in plain sight. Everyone knows the marijuana industry is there, but it has been rendered illegible by County officials, economic planners, residents, and medical marijuana activists alike. This dissertation explores how a politics of illegibility governs marijuana production and producers in Nevada County. This is accomplished, I argue, through the moral regulation of marijuana subjects – a project that is fundamentally collaborative in nature, though unequal in terms of its constitutive power relations.

## CHAPTER 1: INTRODUCTION

On April 24, 2012, the Nevada County Board of Supervisors convened to review an “urgency ordinance” proposed by the local sheriff to implement significant restrictions on the cultivation of medical marijuana in the County. The Board had twenty items to discuss before they would hear the proposal – the last scheduled item on the day’s agenda. After paltry public attendance at all of the prior agenda matters, the Boardroom was suddenly filled – residents and concerned citizens occupied all of the chairs in the Boardroom, with additional people crammed into the aisles and walkways surrounding the Chamber floor and filling the hallways outside the Board room. The Chairman of the Board rapped his gavel seven times before he achieved anything close to what might constitute “avoidance of disruptive activity” – the first of the Board’s “rules of conduct” in public meetings. The Chairman began by stating that before the urgency ordinance on medical marijuana cultivation would be introduced, he would like to make some general statements about boardroom etiquette. “I would imagine,” he stated, “that many of you have never attended a Board of Supervisors meeting, or a Planning Commission meeting, or a City Council meeting before. So I thought it would be very fair and polite to go over how the meeting will be conducted in accordance with California’s Open Meeting Law today.” He proceeded to describe the rules of “honor and decorum” that were expected in the Board Chambers, including signing up to make a comment, time limits on speaking, and how to “respectfully” conduct one’s self in the Chambers. “Everybody in this room, in this country, in [a] democracy, has a right to their opinion,” the Chairman noted, “whether somebody else’s opinion is completely different from your own, that’s their right. So

there will be no booing, hissing, applause, catcalls or anything like that. I have relatively short tolerance for that. So let's try to contain ourselves and we'll get through this, and I figure we should probably finish up by Thursday [laughing from the public].”

This prelude was not out of the question, given the unusually large number of people at the meeting. Nonetheless, it signaled a particular understanding of the attendees, the majority of whom were there to voice their opposition to the proposed “urgency ordinance.” Marijuana cultivators in Nevada County are used to being treated as “criminals” or “undesirable elements” of the community – labels many passionately challenged in the meeting. The implicit anticipation of “disruptive activity” was further demonstrated by the structure of the meeting. The only two scheduled presentations were to be made by the County Sheriff and his Lieutenant Sergeant. Despite the fact that a working committee comprised of law enforcement, medical marijuana advocates, and homeowners had met multiple times in the preceding weeks to propose amendments to the draft ordinance that adequately responded to the various parties’ concerns, no dissenting perspectives from within the committee were allowed formal presentations at the Board meeting.

The sergeant initiated the meeting with a PowerPoint presentation describing common marijuana growing practices in Nevada County. His first slide depicted an aerial view of a “typical garden” the Narcotics Task Force encounters in the region. The garden appeared to be tidy and well-maintained, comprised of approximately 65 plants surrounded by fencing. One member in the audience admired the photo aloud, remarking, “Oh, that’s beautiful!” The next photo the sergeant showed was what he

referred to as a “typical greenhouse” that the Task Force sees “popping up all over” the County. The structure was impeccably clean and contained approximately 40 marijuana plants, each of which was contained in pots made of organic, compostable substances (see Figure 1).<sup>3</sup> The selection of photos was curious and confusing – what about these “typical gardens” necessitated “urgent” action by the Board of Supervisors?

**Figure 1: Example of a "typical grow" found by the Nevada County Sheriff's Office**



**Source:** PowerPoint presentation by the Nevada County Sheriff's Office at the Board of Supervisor's Meeting, 4/24/12.

In the next series of slides, the sergeant proceeded to calculate the amount of marijuana present in Nevada County, and what these estimations imply in terms of marijuana consumption. “A mature plant will yield anywhere

from at least one to six pounds or more of processed marijuana,” the sergeant stated. “Over the years,” he continued, “the Narcotics Task Force has estimated that a conservative average yield per marijuana plant is three to three and a half pounds of processed marijuana per plant.”

Laughter erupted in the Boardroom.

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<sup>3</sup> This photo was excerpted from video footage of the Board meeting on April 24<sup>th</sup>, 2012, recorded by NCTV (Nevada County TV) and made publicly available on the Nevada County website. Unfortunately the resolution of the photos is poor in most cases, and as a result I could only capture a few of the photos for inclusion here.

Paying no attention to the audience's incredulity, the sergeant continued on, "This number is based on hundreds of marijuana seizures with thousands of plants seized. Since 2008, the Narcotics Task Force has seized over 147,000 illegal marijuana plants and approximately 20-22 pounds of illegal processed marijuana."

A member of the audience shouted back, "do the math!" The man was shushed by others in the audience, after which he received a warning from the Chairman of the Board: "I'm not going to stand for that very many times. We have a long, long day ahead. That's not going to help your cause. Let's just try to be respectful and get through this. Go ahead, Sergeant."

The sergeant continued with his presentation,

Therefore six plants will yield six to thirty-six pounds of processed marijuana. A conservative average would have six plants producing 18 to 21 pounds of processed marijuana. Twenty-five plants will yield twenty-five to one hundred pounds of processed marijuana. A conservative average would have 25 plants producing 75 to 87 pounds of marijuana. The average marijuana cigarette is 3.5 grams. One pound is 453.59 grams. Therefore, one pound of marijuana would provide 1,295 marijuana cigarettes. Two pounds of marijuana would provide 2,590 cigarettes; 2,590 marijuana cigarettes divided by 365 days in a year equals 7.09 joints per day. That comes out to one marijuana cigarette smoked every three hours, 23 minutes, 24 hours per day, 365 days a year. Assuming a person sleeps for 8 hours in every 24 hour period, that would equal one marijuana cigarette smoked every two hours fifteen minutes, 365 days a year.

Visibly frustrated, the audience kept silent, observing the rules of "honor and decorum." The sergeant proceeded with his presentation, followed by an explanation from the Sheriff for why passage of a cultivation ordinance was an "urgent" matter. After 15 minutes of questions from the Board directed to the Sheriff, members of the audience were invited to comment on the proposed "urgency ordinance." Two dominant narratives emerged during the nearly three and a half hours of public comment. The first, employed by local law enforcement, public officials, and a small

group of residents who self-identified as “property owners,” argued that marijuana cultivation constituted a “threat” to “public safety on public lands and now on private property” (President, California Fish and Game Wardens Association, 4.24.12) and to the “quality of life in our communities” (Sheriff, Board meeting, 4.24.12). This representation of marijuana producers drew on discourses of danger, risk and criminality. As the Sheriff described when I interviewed him, marijuana production brings “guns, violence, and other kinds of unwanted criminal activity” to the region (3.11.14).

In stark contrast, those opposed to the urgency ordinance – including growers, medical marijuana patients, and local business owners – framed marijuana in terms of “medicine” cultivated by respectable members of the community who have “legitimate” reasons for using marijuana (Board meeting, 4.24.12). As one local resident diagnosed with Stage 3 throat cancer described in the Board meeting,

I consume marijuana by eating it. That means that I use much more than someone who smokes. But this is the healthiest way for me to consume my medicine. And I use marijuana because it stimulates my hunger – I was down to 106 pounds, now I’m up to 160. It saved my life. This statute, I’m sorry to say Mr. [Sheriff], circumvents state law. There are no registration requirements in state law. This is going to cost taxpayers more money. I’m on a fixed income – I’m a cancer survivor. I’m disabled. I can’t make any more money. I can’t afford to pay any more money. We’d like the law to be upheld. This is costing the County an exorbitant amount of money... this shouldn’t have to go on. Seventy-five feet [the proposed limits for cultivation] is much too restrictive. I have three members of my family who have scrips – and it’s not for broken feet or sprained ankles. It’s for legitimate medicinal reasons. And I do live in an unincorporated area – and 75 feet is too small for three patients, who all have scrips or recommendations. Seventy-five feet isn’t going to allow me to ease my pain and suffering. I would ask that you carefully make your judgment.

While this is just one of many challenges to the ordinance that emerged in the public Board meetings, it is illustrative of the narrow ways in which

marijuana production has been publicly framed – either as a “drug” that has detrimental social impacts on the community, or as “medicine” to which caregivers and patients are guaranteed under the rights provided by California law. This discursive framing of marijuana as either a “drug” or “medicine” obscured the economic significance of marijuana in the region. Conservative estimations suggest that marijuana production generates at least \$415 million annually in Nevada County and contributes substantially to the viability of local businesses.<sup>4</sup> However, despite the economic importance of the marijuana industry, public officials, economic analysts, and medical marijuana activists in Nevada County have adamantly avoided public discussion, assessment, and planning regarding its impacts, constituting a condition in which marijuana production has become a “public secret” (c.f. Taussig 1999). On the one hand, the presence of marijuana is ubiquitous and has been widely visible in newspapers, on the radio, and in casual conversations for decades. However, in official documents, reports, and economic analyses little is actually “known” about marijuana production in the region, and public officials actively produce non-knowledge of the subject through moralistic framings of the industry and discourses of silence, ignorance, and secrecy.

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<sup>4</sup> The absolute size of the marijuana economy is incredibly difficult to measure. The figures provided here are based on annual marijuana plant seizure data from the Nevada County Sheriff’s Office between 2008 and 2013, U.S. Economic Survey data, a marijuana cultivator survey I conducted in 2014 (following Jon Gettman’s 2006 model for estimating the value of marijuana production in the United States), and interviews with business owners and marijuana cultivators conducted in 2014. See Chapter 2 for a detailed discussion of these data.

## **Exposing the Secret**

A “public secret” constitutes knowledge that is simultaneously unknown and known, if only partially (Mathews 2011) – knowledge that is generally shared, “but cannot be articulated” (Taussig 1999:5). In some cases, recognition of the secret could challenge or contradict fundamental beliefs or values amongst a particular population. The United States’ “Don’t Ask, Don’t Tell,” policy serves as an illustrative example. The image of a gay American soldier fundamentally destabilizes American beliefs about and representations of masculinity. To ignore or conceal homosexuality in the military does the discursive work of maintaining traditional notions of masculinity without having to acknowledge the contradictions of such representations. Denial and collective ignorance, in cases such as this, are critical to the construction and maintenance of the public secret (Zerubavel 2006). Exposure of the secret could also challenge, and thus threaten, deeply engrained values or interests. For instance, the framing of marijuana production as a legitimate industry in Nevada County would transform the terms of governance from that of moral regulation to a focus on economic, social, and ecological regulations. The revelation of the secret in instances such as this must be tightly suppressed so as to maintain hegemonic ideologies and current power relations. Public secrets may also be knowledge that society cannot, or is not yet willing to accept. Conceptualizing marijuana as an agricultural commodity and incorporating its production into rural economic development strategies, for instance, challenges dominant moral framings of marijuana. In this case, regulation of the knowledge surrounding the economic character and potential of marijuana production is significant, as the timing and conditions under which this public secret is

revealed have important implications for collective organizing and political outcomes.

The public secrecy of the marijuana industry in Nevada County embodies all of these dimensions, for reasons I will elaborate later. However, it is useful to point out that while the specific contexts may vary, public secrets do important discursive work in securing hegemonic ideologies and particular constellations of power. As Taussig reminds us, “it is precisely the role of secrecy, specifically public secrecy, to control and hence to harness the great powers of contradiction so that ideology can function” (1999: 268). Public secrecy, in this sense, is productive, constituting the boundaries of what is and is not sayable at any given moment in time (Foucault 1980). And while public secrets may constitute various forms of ignorance, they are not simply a product of inadvertent neglect or oversight. The maintenance of a public secret requires complicity in its concealment – a group not only knows what not to “know,” but tacitly agrees not to expose the knowledge. In Nevada County this is achieved through the actions of public officials in how they regulate marijuana production in the County; economic analysts’ refusal to measure or include the monetary impacts of the marijuana industry on the local economy as they formulate their five- and ten-year plans for economic development; and activists’ strategic contestation of local regulations within the confines of the pre-existing discursive regime. Public secrets are not only maintained through such everyday practices, but these practices are critical to governance more broadly, illuminating the co-constitutive relationship between knowledge and non-knowledge (Mathews 2011: 240) and the collaborative and performative character of governance.

It is precisely the act of performing secrecy – of actively reproducing non-

knowledge – that makes public secrets so powerful. People who live in Nevada County, for instance, *know* that marijuana production is widespread in the region. One can't not know. Every week, at the very least, there is an article in the local newspaper about some dimension of marijuana – from its impact on land use and sales to concerns over the environmental consequences of marijuana production; from fears associated with migrants workers who converge in the County during harvest season for employment in marijuana gardens, to concerns over school-aged children's access to marijuana. The presence of marijuana in Nevada County is thus not unknown – on the contrary, it is ubiquitous. But the contours of knowledge surrounding its economic impacts – its acknowledgement *as an industry* – is tightly regulated and obscured by local authorities, organizations, and political activists, practices I take up in the subsequent chapters of this dissertation.

While silences surrounding the economic dimension of marijuana production are indeed constitutive of a discursive regime, these silences are periodically interrupted by instances of revelation – moments in which the exposure of the secret temporarily challenges the sanctity of its concealment and its status as non-knowledge. Such moments do not necessarily or fundamentally threaten the status of a public secret as such, but they do important work to reveal spaces of vulnerability and counter-hegemonic narratives. The Board meeting witnessed one of these rare moments of revelation in which two residents of Nevada County highlighted the economic significance of marijuana production, noting that they and/or their businesses would not have survived recent economic downturns were it not for a robust local marijuana industry. One resident asked the Board, “So now what are we

going to do? Now that people depend on [the marijuana industry] financially? I climb trees – I’ve got callouses all over my hands. And who do you think hires me?” A local business owner reiterated these concerns in a rare public statement of its kind,

I moved to Nevada County 25 years ago when I joined my business partner and formed [a civil engineering company]. During that time we’ve experienced and survived a number of economic downturns. I’m not here to render my opinion about marijuana usage, however, I am stating a fact that our business has endured because it services [marijuana cultivators]. We estimate approximately 30% of our 2011 business income came from [marijuana] cultivation and providing services to [cultivators].... The services we performed are surveying, preparation of grading plans, erosion control plans, drainage plans, testing structural engineering, and building plans. And as far as the criminal element goes, I agree [with the previous speaker] – these people are hiring us because they’re responsible and [want] to do the right thing. So bottom line, in my opinion, if this overly restrictive ordinance is passed, there’s a distinct possibility, given the current economic climate, that we may have to close our doors, after being in business for 37 years. I’m one of a handful of business owners that believe the economic impact of imposing this ordinance would be devastating (Board meeting, 4.24.12).

Although marginal amongst the many arguments against the ordinance, these comments drew the economic impacts of marijuana production out of the shadows, if only momentarily. The response to the revelation of the public secret, however, was continued silence. This silence, however, should not be interpreted as a lack of interest amongst business owners and concerned residents, or passive consent of local officials’ negative stance towards marijuana. While conducting my local business survey, for instance, numerous business owners expressed frustration over the lack of attention paid by public officials to the impacts of the marijuana industry on the local economy and welcomed my attempt to try to conduct an impact assessment. A manager of one local business stated that on several occasions he had attempted to meet with the Executive Director of the County’s primary organization responsible for local economic assessment and planning to discuss the impact of marijuana production

in the County and was repeatedly turned down, and later simply ignored (interview, 6.9.14).

Many business owners and organizations expressed considerable interest in the economic impacts of the marijuana industry, but were wary of asking questions publicly, as they did not want to be associated as a supporter of or (in)directly involved in the industry. This was the case for one Chamber of Commerce organization in the County, whose President of the Board asked me to share the data I received from my business survey, but told me the Board had voted against assisting me with distribution of the survey to their members because, “[marijuana] is a very political “hot topic” issue which [the Board] would prefer to not have the Chamber’s name attached to in any form” (email correspondence, 3.24.14).

While another local Chamber of Commerce and one Downtown Merchants’ Association enthusiastically distributed an online version of my business survey to their members, the remaining business networks and organizations were unwilling to do so. Perhaps the most hostile response I received regarding my efforts to better understand the local marijuana industry came from government officials (most notably the local Sheriff) and the Executive Director of the aforementioned economic assessment and planning organization. In response to my local business survey, he stated,

*I’m not interested in this issue [of the economic impacts of the marijuana industry in Nevada County] at all. This is something you should be working with the Chamber of Commerce on.”* I explained that the various Chambers had suggested that his organization was the most appropriate place to conduct the kind of research I had proposed. He countered, *“Like I said, I have absolutely no interest in this issue. We are in the process of proposing a long-term economic development plan and this [referring to my business survey] isn’t something we’re focusing on.”* When I tried to explain that the survey

was intended to generate data that would broaden our understanding of the economic profile of the County, he insisted that he wanted “*nothing to do with it.*”

For a variety of reasons, then, community members are often complicit in maintaining the silence surrounding the economic impacts of the marijuana industry. While the aforementioned comments by business owners at the Board meeting may seem inconsequential, given both their rarity and the lack of public debate generated by their utterance, I highlight them because they serve to unmask the public secret of the marijuana industry, if only momentarily, and they illuminate the extensive work that must be done to maintain its status as non-knowledge. This discursive work is achieved through what I call a ‘politics of illegibility.’ Marijuana cultivators and the social and economic spaces in which they operate are being governed not solely through practices of state simplification and legibility – as literature on state formation, rule and resistance would suggest (c.f. Scott 1998) – but rather through the active production of non-knowledge surrounding the marijuana industry. Through discourses and policies, critical dimensions of marijuana production remain shrouded in secrecy – a status that is critical to its governance in Nevada County. However, the veil of secrecy is not entirely opaque, as I’ve described above. Non-knowledge about the marijuana industry has to be actively maintained and regulated. Instead of collecting and analyzing detailed estimates of the economic impacts of marijuana in the region, for instance – data which are in fact surprisingly accessible to County officials and economic analysts – local government officials and economic planners actively (and at times aggressively) avoid such data. Medical marijuana activists also actively avoided any discussion of the economic dimensions of marijuana production

during their political campaign to overturn the ordinance, despite the fact that in private conversations they acknowledged the economic significance of the industry to the local economy (fieldnotes, 2012). Through such practices, marijuana production is governed through moral regulation, rendering the economic dimensions of marijuana production in Nevada County illegible – a process I analyze in depth in Chapter 3. The moment of exposure in the Board meeting whereby local residents publicly acknowledged the economic impacts of the marijuana industry both revealed the power of a discursive regime premised on the cultivation of illegibility, as well as the fragility of the industry’s status as a public secret.

This dissertation examines conflicts and contestations over marijuana in Nevada County as a way of understanding governance at society’s margins – the social, economic, and legal spaces in which subjects are constituted, regulated, and disciplined (Das 2004). Though my analysis is grounded in a particular ethnographic context – namely, marijuana production in a small, rural county in northern California – my dissertation has broader theoretical implications for how we understand knowledge and power in marginal spaces. In contrast to many analyses that employ a top-down approach to understandings of power, my dissertation looks at the ways in which rule is accomplished through everyday interactions between state and non-state actors (c.f. Joseph and Nugent 1994). I use the analytics of “public secrecy” and a “politics of illegibility” to argue that governance is not only about rendering populations and territories legible, but is also about rendering certain populations, activities, and territories *illegible* when deemed morally transgressive.

Following Philip Abrams, I aim to better understand governance not as an

imposition of something we call “the state,” but through ongoing practices that reinforce and reproduce moral authority and moral regulation (1988; see also Corrigan and Sayer 1985). In this context, I conceive of governance as a series of shifting and ever-developing negotiations. This is not to say that such negotiations take place on a level playing field. Quite the contrary, as I demonstrate in this dissertation. However, to only speak of the ways in which “the state” imposes its will or force on “its” subjects is to obscure the everyday ways in which rule, as an historically- and geographically-specific relation of power, is achieved (Joseph and Nugent 1994; Sharma and Gupta 2006; Mathews 2011). The construction of laws and social norms does not happen in a vacuum. There are acting agents – state officials, community leaders, business owners, local residents, journalists, and marijuana cultivators – who define the contours of legal and social conventions, often under conditions not of their own making. How we understand these actions, and the ideologies that inform them, as part and parcel of the historical moments in which they are situated is critical to an understanding of how the governance of marijuana is achieved in Nevada County. As I demonstrate throughout, the construction of the marijuana industry in Nevada County as illegible is a collaborative endeavor, even if such collaborations are contradictory or unintended. Although government officials and medical marijuana activists were often fundamentally opposed in their positions on marijuana production, for instance, they both participated in the construction and maintenance of the marijuana industry as illegible, though from very different vantage points.

## **Dissertation Structure and Methods**

In the pages that follow, I examine three developments around marijuana knowledge and governance in Nevada County, each of which illustrates how and with what effects a politics of illegibility operates in Nevada County. In Chapter 2, I trace the development of the region's marijuana industry, focusing on how a combination of rural restructuring, legal transformations and ambiguities, and practices of moral regulation have shaped marijuana knowledge and governance. Here I show how the construction of the marijuana industry as an illegible sector is conditioned by its status as both an informal *and* an immoral economy. This status – and the processes through which the industry is constituted as such – obscures the historical development of the industry, including how and why it came to play an important economic role in Nevada County.

With this historical framework in mind, Chapter 3 analyzes the passage of Ordinance 2349, an “urgency ordinance” designed to impose immediate and stringent restrictions on the cultivation of medical marijuana in Nevada County. Despite widespread public opposition, Ordinance 2349 was adopted by the Board of Supervisors on May 8, 2012 in a 4-1 vote and made effective immediately. The Board's decision hinged upon, and was rationalized through, the claim that “nuisances” associated with marijuana production had suddenly posed significant and immediate threats to property owners, and thus required an “urgent” response. I unpack nuisance discourse by analyzing the relationship between the historical construction of the marijuana subject – a process that began in the early 20<sup>th</sup> century – and contemporary forms of governing marijuana production. Using the concept of

moral regulation, I show how the subjectification of marijuana growers relies upon conspicuous silences and/or misinformation regarding the marijuana industry in order to maintain the “immoral” status of growers.

The Board’s decision instigated a robust and impassioned medical marijuana movement – a movement that has only gained strength in the months since I have returned from the field. In Chapter 4 I focus on the formation of a local chapter of Americans for Safe Access – a national medical marijuana advocacy group – and its attempts to overturn the ordinance through a ballot initiative that, if approved by voters, would have implemented an alternative ordinance much closer to California State minimum standards of regulating medical marijuana production than the regulations imposed by the County Supervisors. The group was ultimately unsuccessful in passing their ballot initiative, but their efforts illuminate how the production of illegibility fundamentally relies upon struggles surrounding the moral and ideological content of marijuana knowledge. Although activists privately acknowledge the economic significance of marijuana – both for them as producers, and the County at large – the movement necessarily reproduced the illegibility of marijuana in order to make their political demands morally palatable to the general public. In doing so, they reinforced the discursive marginalization of marijuana as either a “drug” or as “medicine,” at the expense of understanding the product as a complex agricultural commodity in the local economy. In this chapter I analyze Americans for Safe Access-Nevada County’s actions as a hegemonic struggle over the moral and ideological representations and regulation of marijuana.

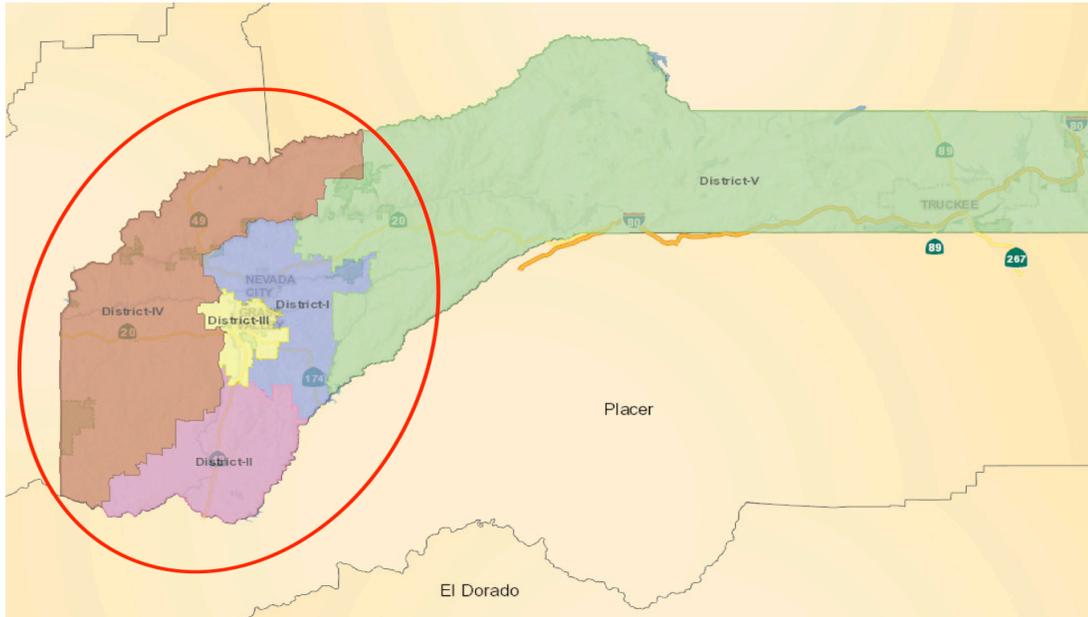
**Figure 2: Nevada County, California**



This dissertation is based on two continuous years of ethnographic research in Nevada County (2012-2014), focusing primarily on the western region of the county (see Figures 2 and 3). When I set out for the field, I sought to understand three major processes: 1) the historical development of the marijuana industry and its economic impacts on the local economy;

2) modes of governing marijuana production and its subjects; and 3) subjective understandings and representations of marijuana. To answer the first question, I conducted analyses of current and historical County planning and economic impact assessment documents and census data, and content analysis of newspapers and local publications. These documents provided a rich historical context through which to understand economic change in Nevada County and representations of marijuana production over time. My content analysis was complemented by 42 oral histories with multi-generational residents and recent migrants to the region to gain a sense of both the subjective meanings of these changes, and to fill in the historical gaps in the archival records. These interviews were conducted by a long-time resident/local

**Figure 3: Western Nevada County (circled)**



historian of the area and the director of a local Cultural Center. To understand the impacts of marijuana production on the local economy, I conducted two anonymous surveys in the region: a local business survey for which I received 75 responses, and a cannabis cultivator survey completed by 31 cultivators in Nevada County. These surveys were informed methodologically by a similar survey conducted in Oregon (Crawford 2014), and a national analysis of the economic impacts of marijuana production in the United States (Gettman 2006).

I examined the second and third questions through analysis of recorded County Board meetings; in-depth interviews; and content analysis of current local newspaper articles, online blogs, and websites. I also conducted ethnographic observations in official County meetings; medical marijuana activists' meetings, events, and political campaigning; community forums on social and economic development; and observation of marijuana production and processing on farms in the region. Many of

the insights I gleaned from the field emerged from informal discussions with growers, business owners, and Nevada County residents at public meetings, marijuana gardens, and medical marijuana advocacy events.

Every research project reflects a particular slice of the problem it is examining, and this project is no exception. Growers in Nevada County are ideologically, politically, and economically diverse,<sup>5</sup> and my research does not reflect a representative sample of these growers. The majority of growers with whom I worked, interviewed, and developed friendships with were affiliated with Americans for Safe Access-Nevada County (ASA-NC) and thus reflect a particular sub-set of growers. Though ASA-NC members were politically diverse, representing every party and position on the political spectrum, they were by and large united<sup>6</sup> in their efforts to make marijuana production a more legitimate and respectable industry in Nevada

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<sup>5</sup> The vast majority of growers in Nevada County are white, but their cultural, economic, and political interests vary significantly. They reflect Weisheit's (1992) classification of marijuana growers in Illinois as hustlers, pragmatists, and communal growers. The entrepreneurial and profit-motivated hustlers are largely reflective of recent waves of migrants who came to Nevada County for the sole purpose of making as much money as they can by growing marijuana. Many of these growers are in the County only during the growing season and spend the remainder of the year (and their money) elsewhere. Long-time residents and growers often lamented the presence of these migrants, arguing that they do not invest in the communities and neighborhoods in which they live and do little to contribute to the County (see Keene 2015b). In Weisheit's study, this group was presumed to comprise the smallest number of overall growers, but accounted for the highest levels of production and income generated (1992: 42). Pragmatists – or those who engage in the marijuana industry out of economic necessity – and communal growers – those who produce for personal consumption, have small-scale operations, and are more flexible in the price of their product (Weisheit 1992: 45-47) – reflected the majority of the growers with whom I worked, and likely the most sizeable proportion of producers and laborers in the local industry. This observation is similar to that of Weisheit in his own study (ibid). For more on the diversity of growers in Nevada County, see Keene 2015b.

<sup>6</sup> In the two years I worked with ASA-NC, there were only two people who expressed opposition to the legalization of marijuana production and consumption, and this was entirely due to the anticipated decline in prices that would likely accompany legalization. The vast majority of those who attended ASA-NC meetings and participated in the organization's events were vocal proponents of legalization on both moral and economic grounds. On the one hand, these growers do not see marijuana as posing a threat to public welfare and recognize the devastating impact criminalization has had on urban communities and particularly on people of color. On the other hand, ASA-NC members aspire to full recognition of marijuana production as a respectable livelihood. These growers are not opposed to paying taxes on their income, so long as they receive the benefits accorded to any other formal industry.

County. I worked closely with ASA-NC members and leadership in their efforts to overturn the ordinance – I regularly attended ASA-NC meetings and participated in various public activities, including gathering signatures for their petition, serving on ASA-NC’s strategic planning committee, and organizing volunteers for campaign events. As an “engaged observer” (Sanford and Angel-Ajani 2006), I learned a great deal about the politics of marijuana production in Nevada County, as well as the damaging effects of regulatory regimes premised on moral regulation. These convictions were only strengthened by the interviews I conducted with County officials, law enforcement, and local business leaders.

My ethnographic observations were accompanied by 47 in-depth, semi-structured interviews with medical marijuana activists and cultivators (several of whom I interviewed multiple times), local law enforcement agents, County officials, non-profit directors, and business owners. These observations and interviews allowed me to understand the different and often conflicting discourses, representations, and practices of governing (medical) marijuana in Nevada County. Importantly, they also illuminated how silence and non-knowledge (Foucault 1978; Taussig 1999; Mathews 2011) are produced around important aspects of the marijuana industry. I further explored state and federal practices of governing (medical) marijuana through archival research of legal documents pertaining to marijuana regulation, discipline, and prohibition in California and the nation at large. Here I explored how categories of legality and modes of governing marijuana have changed over time and the impacts of the ambiguous and contradictory character of laws and policies. I used these documents to situate discourses and practices of marijuana governance in Nevada

County. I have anonymized the names of people I interviewed and those who participated in the life history project noted earlier. However, there is an exception to this rule. The officials interviewed for this project, while not always referred to by name, are easily identifiable due to their public visibility and official status. I have thus not attempted to conceal their identities. Neither have I concealed the identities of those who participated in the public Board meetings or who wrote or were written about in the local newspaper. All of these sources are publicly available, and I see no reason to conceal information that is already part of the public record.

In addition to explaining how I conducted my research for this dissertation, I feel it is important to say something about where I personally fit into this project. I grew up in Amador County, three counties immediately south of Nevada County. In terms of their economic histories, Amador and Nevada counties are quite similar – both were popular destinations during the California Gold Rush and many of those who settled in these counties since that time built their lives and livelihoods upon the ranching, mining, and timber industries (Duane 1999). However, culturally, politically, and economically, Amador and Nevada counties have developed in distinctly different ways. Most notably, Nevada County’s cultural renaissance in the 1960s did much to shape the future of the region (Smith 2004). In the midst of economic stagnation, a group of new arrivals to Nevada County (including back to the landers, as well as a range of other artisans) committed themselves to reviving the community through the preservation of historic buildings and the cultivation of a vibrant arts culture. Within a decade, a small group of individuals (including several wealthy benefactors and with some support from an emergent and small-scale

marijuana industry) managed to cultivate strong artistic institutions, support local artists, and establish a number of new local businesses. These features of the community have been central to the overall character of Nevada County and differ considerably from those of Amador in terms of access to arts, culture, and institutions of higher education (Nevada County has a local community college), the vibrancy of downtown areas, and the strength of the local tourist industry. My initial interest in this dissertation project emerged from a desire to understand how and why Nevada County seemed so different from Amador. I found my answer, at least in part, in the significance of Nevada County's marijuana industry.

My personal connections to northern California and the Sierra Nevada have also instilled a general interest in the meanings residents make of their rural lives and identities, and how people have managed to stay in rural regions, despite the ongoing impacts of economic restructuring in these areas. Rural economies have been declining for decades, particularly in the wake of mine closures and the demise of local timber industries; in Nevada County, economic vulnerability is one of the most significant challenges identified by local leaders. This is why it is all the more striking that the presence of a robust marijuana industry – facilitated by an ideal climate and the highly specialized knowledge of long-time producers – is consistently ignored, obscured, or concealed by government officials and non-governmental actors alike. Such practices are widespread, and reflect a kind of moral regulation premised on decades of propaganda and fear mongering surrounding marijuana consumption and cultivation. Many of the non-profit leaders with whom I spoke, for instance, explicitly acknowledged the economic significance of the local marijuana industry and the need

for a greater understanding of its impacts and economic potential in Nevada County. However, none of them was willing to take up the issue in their respective organizations. Because marijuana has been so severely stigmatized, particularly since the era of “reefer madness” in the 1930s (M. Lee 2012), even broaching the topic makes many fearful of being publicly associated with marijuana.

Of course, the illegal status of marijuana production has also had much to do with its economic success. Nevertheless, even as a legal industry, marijuana has tremendous economic potential. According to the ArcView Group, the legal marijuana industry “expanded 74% [in 2014] to reach \$2.7 billion in combined retail and wholesale sales, [firmly establishing] itself as the fastest growing industry in America” (2015: 12). A small-scale marijuana industry in this context could prove to be an important component of a diversified economic portfolio in rural regions, potentially similar to that of the wine and craft brewing industries in the Sierra Nevada foothills (see Chapter 2 for an economic impact assessment of marijuana production in Nevada County). As states continue to legalize recreational marijuana and the federal government moves closer to re-scheduling marijuana (if not ultimately legalizing its production and consumption), a politics of illegibility takes on new significance in rural regions. The potential for small-scale, *terroir* marijuana industries in rural areas becomes increasingly compromised without coordination and support from County officials and economic planners, particularly as corporations attempt to enter into and shape the future of legal marijuana markets. These issues are of preeminent importance when considering the potential of small-scale marijuana production in the current context of rural economic decline. Marijuana production could become a

viable component of economic development in rural California, but this depends significantly on the status of its social and political legibility.

### **Governing the Margins: Power and Knowledge in Spaces of Ambiguity**

The governable space of marijuana, to borrow from Nikolas Rose (1999), is characterized by legal, social, and economic marginality. Despite the legalization of medical marijuana in 1996 with the passage of California's Proposition 215, the cultivation of marijuana continues to occupy a marginal legal status in the State: it is classified as a Schedule I drug at the federal level with felony penalties for cultivation, distribution, and possession, and California State laws defining and regulating the plant as "medicine" are ambiguous at best. As stipulated by the Compassionate Use Act of 1996 (Health and Safety Code 11362.5), a doctor can recommend medical marijuana for absolutely any ailment, and there are no specifications around how medical marijuana may be grown, transported, or distributed (HSC 11362.5; Weisheit 2011). Some of these vagaries were addressed by the passage of Senate Bill 420, which broadened Proposition 215 to include measures of protection for patients transporting medical marijuana; allowed for the formation of patient "collectives" or cooperatives" (including dispensaries); implemented a voluntary ID system for medical marijuana patients; and established state guidelines on the number of plants to which each patient is entitled (NORML 2013). While it is still illegal to sell medical marijuana under SB 420, caregivers, or those who cultivate medical marijuana for an "eligible [and] qualified patient," may receive "reasonable compensation incurred for

services provided... to enable [the patient] to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services” (ibid: 11). Senate Bill 420 (SB 420) also established more detailed specifications of what constitutes a “serious medical condition” for which physicians may recommend medical marijuana as treatment, but the language is still sufficiently vague as to warrant a recommendation for virtually any “medical” condition (SB 420 2003: 4). Despite these attempts to clarify State laws regulating medical marijuana, ambiguities in the laws themselves remain. These are further complicated by the fact that cities and counties have the authority to regulate the plant’s cultivation, processing, and distribution through nuisance and zoning ordinances. Of the 58 counties in California, 35 have implemented local ordinances to regulate medical marijuana production; 80 California cities have done the same (NORML 2015). These juridical and regulatory ambiguities and contradictions are not lost on California producers, who have for years devised a range of strategies to conceal marijuana production – from “winding it throughout Manzanita bushes” in the 1960s and 1970s (interview, 7.14.13) to “hid[ing] the crop 40 feet up in a California live oak” in the early 1980s (Rendon 2012: 57). Cultivating marijuana in spaces of geographic and legal marginality has had a range of consequences, from the increase of large-scale grows in national forests (Simon 2008; Mallery 2010; Byik 2015) and environmental impacts on local watersheds (Gabriel et al. 2012; Thompson et al. 2014; Bauer et al 2015), to the creation of a culture of secrecy and mistrust within communities (Raphael 1985; fieldnotes, 2013).

Marijuana is also socially marginal, although this status is currently in flux.

Gallup surveys showed that in 1969, only 12% of the American population supported the legalization of marijuana, while 84% thought marijuana should be illegal (Dimock et al 2013: 1). In stark contrast, surveys conducted by the Pew Research center in 2013 found the discrepancy between those in favor of and those opposed to marijuana legalization to be much smaller, with 52% of the American public in support of legalization, and 45% who believed marijuana should remain illegal (ibid). This reversal in public opinion has been bolstered by substantial coverage of marijuana politics in mainstream media. On July 27, 2014, the *New York Times*' Editorial Board took a public stance on marijuana legalization, attributing their support of federal legalization to the social costs associated with prohibition; scientific evidence that “addiction and dependence [associated with marijuana] are relatively minor problems, especially compared with alcohol and tobacco;” and the need for responsible and just policies to regulate marijuana. The editorial was accompanied by a six-part series of articles addressing various dimensions of the costs of prohibition and prescriptions for regulating marijuana. A range of popular magazines has also featured marijuana in their cover stories, including *Time* magazine, *Fortune* magazine, *The Atlantic*, and *The Nation*, among others. In addition to dozens of articles on the topic, *The Nation* recently published a special issue devoted entirely to marijuana (November 18, 2013). Debates around the legal status of marijuana have also made their way into national political debates, with all of the current presidential candidates speaking directly to the issue (MPP 2015).

Perhaps one of the most prominent questions circulating in the popular press, social media, and online blogs is the economic potential associated with legalizing

recreational marijuana, particularly in the wake of recent legislation passed in the states of Colorado, Washington, Oregon, Alaska, as well as in Washington D.C. (although Congress has prohibited the latter’s City Council from legalizing or regulating marijuana consumption and distribution). Analysts are reporting windfall profits from marijuana sales, with projections exceeding \$10.8 billion by 2019 (ArcView Group 2015: 46). However, the industry is currently compromised by a lack of access to banking services. American banks are regulated by the Federal Reserve Bank systems, and because marijuana production, consumption, and distribution are prohibited at the federal level, it is illegal for any bank to provide services to marijuana-related companies, regardless if marijuana is legal in their respective states.<sup>7</sup>

As with other informal, illegal, and/or illicit goods and activities, knowledge about the cultivation of marijuana and its socio-economic impacts is speculative and fragmented at best – also contributing to the overall ambiguity surrounding the crop. Some of the best data available have been pieced together using a variety of indirect measures, including federal surveys, Drug Enforcement Administration (DEA) data on marijuana plant seizures, average plant yield, and regional crop values. Based on these data, Jon Gettman estimated domestic marijuana production to be worth \$35.8 billion in 2006 – at that time, the “largest cash crop in the United States, more valuable than

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<sup>7</sup> The response from growers with regard to legalization is mixed. Until recently, many growers have been opposed to legalization, as they benefit from the high prices afforded by illegality (for more on this, see the discussion in Chapter 4 on how Campaign Against Marijuana Planting’s eradication efforts have acted as a price support system for marijuana). However, with increasing numbers of aspiring producers moving to regions like Nevada County to grow marijuana, prices have fallen considerably over the last five years, leading some growers to shift their position from opposing to supporting full legalization of cannabis. This is particularly true amongst members of Americans for Safe Access-Nevada County, who as I noted earlier are largely in favor of legalization on both moral and economic grounds.

corn and wheat combined” (2006: 3). In Colorado – where recreational marijuana was legalized in 2012 – revenue from taxes and licensing and application fees reached nearly \$76.2 million in 2014, and \$98.3 million from January 1 to September 31 in 2015 (Colorado Department of Revenue 2014). Revenue from marijuana sales also benefitted local governments in Colorado, which in 2015 (January through September) were allocated \$6.2 million from State revenue (ibid). While this is not to say that marijuana production is a panacea for state and regional budgets, these numbers are certainly significant.

Despite the substantial revenue generated through legal, quasi-legal, and illegal marijuana production domestically, little attention has been paid to the local effects of these industries in the regions presumably most affected by marijuana production. In Nevada County, as noted above, the marijuana industry generates a minimum of \$415 million annually to the local economy. These figures are substantial, considering that local agricultural production as a whole for this region generated \$23.3 million in 2013 (Nevada County Executive Office 2015). Marijuana is by far the largest agricultural product in Nevada County, exceeding the production value of nursery stock, fruit and vegetables, wine grapes, pasture and rangeland, and cattle and calves, combined. Furthermore, if one compares the revenue generated from marijuana production to the total value of the local economy, the marijuana industry is equivalent to nearly 15% of the formal economy (see Dallas 2011: 19). The figures for marijuana production are also significant in that Nevada County suffers from inadequate formal economic opportunities for many of its residents. As livelihoods once dependent on primary commodity production have been replaced by those of recreation and tourism,

consumer services, and high-tech, the service sector has grown to be the most significant source of employment in Nevada County, accounting for nearly three-quarters of the formal economy (Nevada County Executive Office 2015: 21). While some jobs located in the service sector pay relatively well and may include benefits, the majority of these jobs are characterized by low wages, seasonal or temporary employment, and no benefits.

Given the impact of the marijuana industry on local businesses and livelihoods in Nevada County, it is surprising that public officials and local economic analysts have paid so little attention to the specific features, practices, and effects of marijuana production, as I will show below. More importantly, these groups, and their adversaries, have adamantly avoided public discussion, assessment, and planning regarding the impacts of the marijuana industry. The question is, why? Part of the answer lies in the particular character of marijuana's marginality.

As a geographic concept, the margins invoke opposing or dichotomous spatial categories (Shields 1991), such as the relationship between the West/the Rest, colonizer/colonized, traditional/modern, core/periphery, Global North/South, etc. While Tsing's point that these binaries often reproduce problematic assumptions about those who are marginalized, ranging from stage-oriented and linear understandings of development to notions of a passive and static 'Other,' lacking agency and existing in a timeless vacuum (1993), they also neglect the various ways marginality operates within dominant, or 'core' regions. In her critique of the reproduction of a "fantasized gulf between the West and the Other" in anthropological narratives, Tsing (ibid: 13) differentiates between two problematic orientations to the Other. On the one hand,

romanticized accounts of the Other reflect scholars' and activists' longing for a idealized past - cultures existing in "pristine isolation" and ecological harmony with their surroundings (ibid). This contrasts with alternative representations of the Other as "marginal "hillbillies," [which disturbs] the urban consciousness in quite a different way... [imposing] universalizing standards" of morality and civility on the Other (ibid: 7). Though the former may be anthropologists' attempt to counter notions of the non-West as 'backward' or as 'savages' needing to be civilized, modernized, or developed, both reproduce empirically inaccurate and politically dangerous accounts of non-Western peoples. I extend this critique to an understanding of marginalization *within* the West, and how representations and governance of marijuana and its subjects are constituted. Unlike the non-western subjects of ethnographic accounts, marijuana subjects are not romanticized. They fall into Tsing's second representational category of the Other. Through moralizing discourses of behavior and belonging, the marijuana subject in Nevada County is constructed as a threat to community health and well-being, and its status as an illegible economic subject paradoxically renders those who occupy this discursive category as outsiders within state practices.

Moving beyond the dichotomous categories described above, I find Tsing's conception of marginality as a space through which to analyze "distinctive and unequal subject positions within common fields of power and knowledge" (1993: xi) particularly useful. Importantly, this conceptualization treats the margins as both a site of "discursive construction" and subject formation, as well as spaces through which counter-hegemonic struggles can be, and are, waged (Tsing 1994: 279). To appropriate from Philip Abrams (1982), margins operate as spaces of structuring – spaces in which

the interplay of structure and agency, and the indeterminacy of associated outcomes, is negotiated. More recent analyses of marginality have taken up these issues of structure and agency in relation to state formation and everyday life. Das and Poole's edited collection of essays in *Anthropology in the Margins of the State* (2004a), for instance, looks at how marginal experiences and practices – informal economic activities, regulatory regimes, and extra-legal rent extraction, etc. – are central to the functioning of 'formal' state activities. The everyday experiences at the margins, then, are not simply outside the purview of something we call 'the state,' but rather integral to state formation (see also Auyero et al. 2014). This is what I mean by the notion of 'outsiders within': marijuana producers are explicitly targeted as subjects of local regulation, yet their economic practices as agricultural producers are simultaneously concealed.

In legal and socio-political terms, then, marijuana's governable space resembles at least one of Das and Poole's conceptions of state margins: that of the illegibility of marijuana cultivators and the industry in which many participate (Das and Poole 2004b: 9). However, whereas Das and Poole see illegibility as practices and spaces through which "the state is continually both experienced *and undone*" (ibid: 10, my emphasis), I see illegibility in more productive terms. It is precisely through a politics of illegibility that the socio-political margins of marijuana are constituted and governed. In other words, the margins of marijuana governance are given meaning through their constitution as an illegible space. It is not simply that marijuana and its producers have been excluded from formal state governance, but that the terms of their inclusion have been defined by their illegibility. To render marijuana production

legible as an economic activity would be to explicitly recognize its significance in a region that has deemed such practices morally indefensible. Furthermore, whereas Das and Poole see state margins as “peripheries or territories in which the state has yet to penetrate” (Asad 2004: 279), I am interested in precisely how these areas are governed, not only by “the state,” but through collaborative practices and performances by state officials, residents, business owners, medical marijuana activists, *et cetera*. The spaces of marginality that I examine, therefore, are not void of “the state;” I am interested instead in how the illegibility of these spaces constitutes their governability.

### **Knowing What Not to Know: Governance and the Politics of Illegibility**

*Perhaps we should abandon the belief that power makes mad and that, by the same token, the renunciation of power is one of the conditions of knowledge. We should admit rather that power produces knowledge (and not simply by encouraging it because it serves power or by applying it because it is useful); that power and knowledge directly imply on another; that there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations.*

~ Michel Foucault, *Discipline & Punish*, 1977: 27

Non-knowledge, in the form of silence, secrecy, and/or ignorance, is perhaps one of society’s most powerful forms of discourse, yet one that is deeply challenging to both locate and study. Non-knowledge is everywhere, but we are conditioned not to see it. On the micro-level of familial relations, this may constitute silences surrounding mental illness, suicide, or under-age pregnancy within a family. Non-knowledge is also generated at more macro-levels, requiring widespread social

complicity in maintaining ignorance or silences. Foucault's discussion of the multiplication and diffusion of ways to avoid discussing sex in the West serves as an illustrative example. The establishment of sex as a sinful act that could be absolved only through confession produced an entire discursive regime constituted through deafening silences. "What is peculiar to modern societies," Foucault writes, "is not that they consigned sex to a shadow existence, but that they dedicated themselves to speaking of it *ad infinitum*, while exploiting it as *the secret*" (Foucault 1978: 35, emphasis in original).

The constitution of secrecy and silence as empty spaces, or the appearance of non-knowledge as a space of absence, thus belies its productive character. Silence and secrecy, like other forms of knowledge, generates a whole series of effects in the "real world" (Foucault 1980: 131; Dauenhauer 1980), from the "manufacturing of uncertainty" by the tobacco industry to cast doubt on the health risks associated with tobacco use (Michaels 2008: 91; Christensen 2008), to deliberate silences in sixteenth century maps to maintain "confidentiality about the... operations of state armies... to disguise the thrust of external colonization, and... to stifle opposition within domestic populations when developing administrative and judicial systems" (Harley 1988: 60), and many other examples in between (see, for instance, Watts 2003; McGoey 2007). Far from being separate from public knowledge, secrecy, silence, and ignorance are integral to the knowledge-power relationship. Citing Georg Simmel's contention that "secrecy magnifies reality," Taussig highlights this mutually constitutive relationship between knowledge and non-knowledge as "creating a world split between a visible exterior and an invisible depth that determines the exterior" (1999: 56). If we are to

take seriously Foucault's claim cited above that, "there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations," (1977: 27), then the power of secrecy resides precisely in its status as a form of knowledge.

While Foucault did not differentiate between knowledge and non-knowledge – Foucault treated silences as an undifferentiated form of knowledge embodied in discursive regimes of truth (1978) – I find the delineation of these terms to be useful. In distinguishing between knowledge and non-knowledge, I am able to explore how different forms of knowledge operate in a field of power relations, bringing the productive character of the power-knowledge nexus into sharper relief. This distinction also allows me to analyze agency in a way that is largely absent from Foucault's work. Foucault provides invaluable tools for understanding the effects of discursive silences, yet he offers little instruction in understanding how actual people participate in the production and circulation of these discourses. It takes active and continual discursive work to maintain the secrecy of public knowledge, so whereas Foucault's archeological method is unconcerned with "the consciousness... of speaking subjects" and refrains from "referring the facts of discourse to the will... of their authors" (Foucault 1991: 59), I seek to understand both the discursive effects of public secrets, and the structuring (c.f. Abrams 1988) that must take place for the production of a politics of illegibility. It is the particular assemblage of discursive practices, technologies of governance, and enactments of social will (c.f. Deleuze and Guattari 1987; Rose 1999) that both produce a politics of illegibility, and allow it to operate as a mode of governance.

Governance, as an analytical framework or, as Rose states (1999: 21) a perspective, has come to occupy an important place in state theory, and owes much to Foucault's emphasis on the relationship between knowledge and power and the de-centering of the state (1977, 1978, 1980, 1991). By de-centering, I do not mean to say that Foucault wholly rejected any notion of the state (see Rose 1999), but rather that he saw power in much more pervasive terms. Foucault encouraged a re-thinking of power as diffuse, de-centered, and relational, rather than as an objective force located in states, institutions, or economic systems. This approach to studying political power – i.e. moving beyond the state without abandoning a notion of state power – marked a considerable shift in state theory. As Timothy Mitchell (1999) demonstrates, state theories have undergone several transformations. In the 1950s, political science sought to abandon the state as an object of analysis, preferring the supposedly more empirically measurable category of “political systems” (Mitchell 1999). This approach was supplanted in the late 1970s and early 1980s by calls to “bring back” the state as an analytical focus, epitomized in the work of Evans, Rueschemeyer, and Skocpol (1985).

Globalization provoked a challenge to both of these earlier formulations of state theory, producing arguments that state territories and sovereignty are becoming diminished on account of the accelerated global movement of capital, people, and ideas and the rise of intergovernmental organizations, such as the United Nations and the World Trade Organization (Ömae 1990; Reich 1992; Horsman and Marshall 1994; Robinson 2003). While many of these works emerged out of economics and political science, the “cultural turn” generated another field of research responding to the

effects of globalization on state theory (c.f. Steinmetz 1999). Attentive to the cultural forms and processes constituted through and constitutive of new forms of state formation, these scholars challenged “systems” (abandonment of the state) and “statist” (bringing back the state) approaches to the study of the state (Mitchell 1999), as well as the “withering state” arguments that emerged in the 1990s by focusing first on the cultural dimensions of governance and rule, and second by emphasizing the historical production of relations of rule. Rather than taking “the state” as an *a priori* object of study, scholars sought to understand the conditions under which “the state” comes to be constructed in specific geographic and historical contexts (Sharma and Gupta 1996). “The place of the state” as Rose describes, could not longer be taken for granted, but rather “[became] a question for empirical investigation” (Rose 1999: 18; Mitchell 1999; Trouillot 2001). Such theorists challenged dominant state theories in a variety of ways, from conceiving of the state not as a thing but an idea that operates as a powerful form of moral regulation (Abrams 1988); to examining how discourses shape specific state, economy, and society relations in a globalized context (Ferguson 1994; Mitchell 2002) to understanding the everyday practices that comprise state formation (Joseph and Nugent 1994); and to studying the gendered and patriarchal construction of state power (Brown 1995). Through these alternative approaches to political power, scholars denaturalize the state and suggest more nuanced, even banal forms of power that are essential to governance and rule. I speak of governance here deliberately, as these approaches marked a methodological shift away from a centralized form of power codified in something called “the state” to historical analyses of government and the production of state practices (Rose 1999). Like

Foucault, scholars of governance do not denounce the presence, strategies, or practices of states – either as an institutional system, complex of actors, or idea – but they do not see political power as exclusively within the realm of the state, nor do they see the most powerful forms of rule as *necessarily* emanating from a centralized state form.

In my own analysis of the governance of the marijuana industry in Nevada County, I am interested both in the everyday ways in which rule is enacted, as well as how these regular enactments intersect with broader state practices. I seek to understand power relations as an historically specific assemblage of state and local laws, cultural representations, state and non-state actors, and, of course, marijuana itself. The illegibility of marijuana subjects and the industry in which they participate is produced through a suite of discourses, practices, and technologies that are made meaningful on a local level, but articulate directly with broader social processes. This approach both builds upon and complicates important scholarship on state formation, rule and resistance – particularly James Scott’s work on legibility (1998). The relationship between power and knowledge is central to Scott’s analysis of statecraft in *Seeing Like a State* (1998). As Scott persuasively argues, the key to state power in the twentieth century was not to “successfully represent the actual activity of the society” (ibid: 3) but rather to render society discoverable (i.e. legible) according to the state’s desired image – utopian visions Scott refers to as “high modernism.” To do this, states created social and territorial maps of society premised on statistical knowledge, illuminating some aspects while obscuring others. Through the rationality of scientific authority, states administratively ordered nature and society through state simplifications used to justify interventions for social and economic “improvement.”

society, Scott argues, “became an object that the state might manage and transform with a view toward perfecting it” (ibid: 92).

Scott’s work on legibility and statecraft has contributed substantially to understandings of the power-knowledge nexus in relations of rule. However, three aspects of Scott’s scholarship require critical attention. First, although knowledge plays a central role in how Scott understands political power, his analysis is highly state-centered, thus obscuring the array of actors involved in the enactment of state visions, and presenting too neat and coherent of an image of statecraft and its “failures.” In contrast to the all-seeing, autonomous, and omnipresent state posited in Scott’s analysis, rule is often messy, tenuous, and performative in character (Gupta 1995; Jasanoff 2004; Li 2005; Mathews 2008, 2011). It is problematic – and often empirically inaccurate – to reduce state projects to top-down processes of domination in which the subjects of such projects are passive and inert. As Scott himself notes in earlier work (1985), those in subordinate positions often find ways to contest – or collude with – state power, even if such actions do not fundamentally transform power relations. Thus, state power itself is better thought of as relational – co-produced by state officials and subjects of the state in ways that do not necessarily conform to or even reinforce official discourses and narratives.

The second limitation of Scott’s work on legibility is its reliance on the opposition of expert knowledge and local, or practical knowledge – what Scott refers to as “*mētis*” (1998: 309-341). Li has provided a compelling critique of this dimension of Scott’s work, arguing that Scott’s claims neglect “the conjunctures at which complexity and local knowledge are sustained” through state projects, as well as the

presumption that local knowledge is either eliminated through state projects of simplification, or that *mētis* operates in fundamental opposition to state knowledge (2005: 388). I would like to add to this critique the danger of valorizing local knowledge and presuming that all forms of local knowledge are inherently ecologically and socially beneficial. *Mētis*, for Scott, is defined in terms of experiential knowledge and skills that are developed for a particular task (1998: 315). Such knowledge and skills allow people not only to anticipate particular challenges associated with the task at hand, but also to react in ways that allow them to survive, whether in the form of agricultural knowledge and skills held by Native Americans prior to colonization, or firefighters' experience fighting different kinds of fires (Scott 1998: 313-314).

This formulation of local knowledge is highly problematic in two important ways. First, it is problematic to essentialize *mētis* – local knowledge is often constituted of diverse perspectives and reflects an array of economic and political interests. Debates over the kinds of knowledge and skills that are appropriate to the local economy in Nevada County serve as but one example of the multiple forms of (often conflicting) knowledge that are practiced at the local level. More importantly, however, is that local knowledge is practiced within multi-scalar relations of power. This insight marks a second limitation of Scott's analysis of *mētis*: in addition to essentializing local knowledge, Scott also depoliticizes local knowledge. While I am sympathetic to Scott's concerns about the effects of imperialism and state domination at the "local" level, I also find it problematic to construct a romanticized notion of non-state actors without attempting to understand the conflicts, debates, and disputes

that occur within and between the spatial categories we delineate as local, global, national, state, etc. Thus, to assume that *mētis* inherently leads to “institutions that are... multifunctional, plastic, diverse and adaptable” (ibid: 353) is to neglect the unevenness of power relations at the local level, and the ways in which power is negotiated through an array of practices and by a range of actors across spatial scales. Instead of presuming that local knowledge automatically translates into resilience or security, as Scott seems to claim, it seems more useful to interrogate how and with what effects local knowledge is enacted as part and parcel of broader social and scalar processes (see, for example, Wolford and Keene 2015; Keene 2015a).

Finally, Scott’s emphasis on “seeing” obscures the ways in which *not* seeing is also central to relations of rule. This is a problem not only in Scott’s work, but in Rose’s work as well. Despite his concerted effort to de-center the state through an analytics of government, Rose (1999) employs an understanding of knowledge that neglects the role of silence and non-knowledge, or practices of concealing, obfuscating, and/or ignoring. Although Rose draws considerably from Foucault’s work on governance, governmentality, and moral order, he says little about Foucault’s discussion of discursive silences (c.f. Foucault 1978). For instance, in his book, *Powers of Freedom*, Rose uses Christopher Croft’s print, “The Governor Loves to Go Mapping” to illustrate “the ways in which spaces are made presentable and representable in the hope that they might become docile and amenable to government. To govern,” Rose states, “*it is necessary to render visible the space over which government is to be exercised*” (1999: 36, emphasis added). This conceptualization of governable space is remarkably similar to that advanced in Scott’s conception of

legibility, despite Rose's emphasis on the everyday ways in which governable spaces are constituted. The point I want to make here is that while 'seeing' or rendering visible is an important dimension of governance – that is, governance premised on legibility – the exclusive emphasis on “seeing” obscures other forms of equally powerful, if not hidden, forms of government. In this dissertation, I employ the notion of a politics of illegibility to shed light on forms of governance premised on actively *not seeing*.

In doing so, I do not wish to suggest that an analytics of illegibility should replace that of legibility. Quite the contrary. It is important, as I demonstrate in this dissertation, to understand how particular conditions, practices, and subjects come to be rendered legible *and* illegible. The intersection of knowledge and non-knowledge – and the assemblage of discourses, technologies, and actors involved in such an intersection – is critical to how we understand governance, social struggles, and political transformation. Specific forms of knowledge surrounding the marijuana subject, for instance, were mobilized by the Nevada County Board of Supervisors as a way of rationalizing regulatory decisions around marijuana production. Far from being constructed exclusively by the Board, these images and representations were historically constituted through a confluence of practices dating back to the 1930s, including Federal Bureau of Narcotics director Harry Anslinger's legislative assault on marijuana and the proliferation of highly racist propaganda that portrayed marijuana as “the most violence-causing drug in the history of mankind” (Lee 2012: 62; see Chapter 3 for a more extensive discussion of the historical construction of the marijuana subject). In implementing discourses of nuisance and urgency, County

officials drew on a powerful regime of truth that has circulated amongst the American body politic for decades. As I demonstrate in greater detail in Chapter 3, these discourses serve as a form of moral regulation through which the silencing of the marijuana industry is rationalized. This is where the relationship between the known and unknown becomes particularly important, as the discourses surrounding the marijuana subject – the “truths” constituting the governable space of marijuana production (c.f. Rose 1999) – serve as justification for ignoring and concealing the economic significance of the marijuana industry in Nevada County.

In this dissertation, I argue that the illegibility of the marijuana industry and its subjects is cultivated through three specific practices. First, the current economic impacts of the marijuana industry in Nevada County are divorced from the socio-economic conditions in which the industry emerged and expanded. There is no public recognition or exploration of how and why marijuana has come to play such an important role in the local economy, and certainly no political will to explore such developments. Part of this selective ignorance can be explained by marijuana’s status as an informal sector – informality, by definition, confers opacity, making measurement and assessment of such industries more difficult than in formal sectors. But these challenges can and have been overcome (see for instance Gettman 2006). The dehistoricization of the marijuana industry in Nevada County is more appropriately understood as an effect of dominant ideologies that render marijuana production and consumption immoral.

This brings me to the second way in which illegibility of the marijuana industry is produced in the County. The representation of marijuana as either a drug or

medicine renders its production and consumption in exclusively moral terms – a practice that has consequences both for the regulation of marijuana production, and the subjectification of its producers. The agricultural and economic dimensions of marijuana are rendered undiscussable in this framing. Moral framings of marijuana are then reinforced through political practices at the County level, and even amongst medical marijuana activists. As I show in Chapter 3, the Sheriff’s presentation to the Board of Supervisors when introducing the need for an urgency ordinance provides a series of fragmented images of marijuana gardens that obscure the temporal and physical contexts of marijuana production, as well as its economic effects within the County. These decontextualized representations reinforce moralistic framings of marijuana production that are in turn reproduced in popular and social media, from local newspaper and radio reports to online blogs and facebook postings.

Finally, in their attempt to overturn the County’s urgency ordinance on medical marijuana cultivation, medical marijuana activists inadvertently reproduced dominant representations of marijuana and its subjects, and thus the illegibility of the industry. By waging their political struggles within the dominant ideological framework, activists preserved the drug-medicine dichotomy that has shaped marijuana knowledge in the region and reinforced the immorality of the marijuana economy. In doing so, they foreclosed any opportunities to understand how and why marijuana has become a significant source of income for local residents, or how that income affects the local economy more broadly.

I should be clear that my aim in this dissertation is not to place a normative judgment on marijuana production, but rather to understand how marijuana and its

subjects have come to be framed in moralistic ways and the effects of such practices. In the pages that follow, I explore the cultural, economic, discursive, and political dimensions of marijuana in the region, demonstrating how marijuana governance has both relied upon and reproduced the illegibility of the marijuana industry in Nevada County.

### **A Note on Terminology**

I deliberately use the term “marijuana” in this research for several reasons. First, although local activists are increasingly employing the more scientific (and less racially inflective) term “cannabis” to describe the medicine and/or crop for which they are advocating, the term “marijuana” is that which is most commonly used by the people with whom I interacted and interviewed to describe the plant and its flowers, including local residents and business owners, law enforcement officials, County Supervisors, and a majority of the medical marijuana activists with whom I worked. The term “marijuana” is also codified in official documents surrounding the governance of the plant’s production and consumption, and is the dominant term used in local newspapers and publications.

Second, the historical significance of the term “marijuana” is critical to the analysis provided in the pages of this dissertation. “Marijuana” is a politically and racially charged word that was employed specifically to advance the interests of prohibitionists, as I elaborate in Chapter 3. While the term has taken on different meanings among its proponents, for many “marijuana” continues to embody meanings

associated with years of propaganda meant to demonize the plant. These meanings are precisely what shape and animate practices of governing marijuana production in Nevada County, and I retain the word in part to explore the effects of its constitutive discourses.

## CHAPTER 2: THE MAKING OF A RURAL MARIJUANA INDUSTRY

The illegibility of the marijuana industry has taken decades to construct – a history that is often obscured in official representations of marijuana and its cultivators. Marijuana first emerged as a cultural and economic practice in Nevada County in the 1960s and 1970s with the arrival of a group of exurban migrants who came to the region as part of the back to the land movement. In this period, marijuana production occurred on a relatively small scale, serving both social and economic functions in the communities in which it was grown. The meanings of marijuana, however, have been deeply contested since its introduction to the region; marijuana began as, and continues to be, a powerful site of moral regulation. The arrival of “hippies” – as the exurban migrants of the 1960s and 1970s were often referred to<sup>8</sup> – coincided with an intense moment of rural restructuring that left many long-term residents without stable forms of employment, or identity. The dearth of economic opportunities in the region fueled a deep resentment toward exurban newcomers, first on account of their unconventional lifestyles – nudity, ambiguous gender relations, sexual promiscuity, and experimentation with drugs fundamentally challenged “traditional” values and practices – and second because of what long-term residents

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<sup>8</sup> The term “hippie” is socially and politically complex. While this was a self-referential term for many exurban migrants who came to Nevada County in the 1960s and 1970s, others adamantly eschew the label. In its most positive sense, the term “hippie” was meant to connote freedom from social mores premised on traditional gender roles, occupational identities, and consumer-oriented desires, emphasizing instead a lifestyle premised on playfulness, socio-ecological harmony, and “living in the moment.” These same values were interpreted derogatorily by “mainstream society” to imply laziness, irresponsibility, and a lack of moral character. Attentive to the negative connotations of the term “hippie,” and wanting to distinguish themselves as “intellectuals” rather than “flower children,” a group of exurban migrants in Nevada County preferred the term “back to the landers” to identify themselves. I have chosen to use the latter term to refer to exurban migrants who came to the County in the 1960s and 1970s, as it is a less morally charged, and still descriptively accurate term for all of the “newcomers.” I use “hippie” discursively to analyze how this population was perceived and socially and politically regulated.

perceived to be a weak work ethic reflected in “hippies” attitude toward mainstream employment and the reliance of some on marijuana production for economic sustenance. While marijuana was not initially the predominant source of moral opposition to “hippies” in Nevada County (concerns over this population’s work ethic was arguably the greatest source of moral concern, see Chandler 1972: 69-84<sup>9</sup>), perceptions of “hippies” as posing a fundamental threat to the moral fabric of the community bled into concerns over the role of marijuana production in the County in later years.

Between the 1980s and the 2000s, marijuana took on new meanings and practices as a result of ongoing forms of economic restructuring, regulatory changes associated with the legalization of medical marijuana in California in 1996, and demographic changes associated with amenity-driven migration in the 1990s and 2000s. The combination of these changes would prove to be significant to the overall economic character of Nevada County and the politics of marijuana governance. The decline of the extractive industries was nearly complete by the 1980s, and a service-oriented economy had become dominant by the 1990s. At the same time, the proportion of residents over the age of 65 grew significantly in the 1990s and 2000s, as did reliance on transfer payments as a proportion of per capita income in Nevada County. This new population of exurban migrants was disconnected from the

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<sup>9</sup> While writing this dissertation, I stumbled across a citation for Daniel Chandler’s 1972 dissertation on the relationship between “hippies” and “straights” in Nevada County. This dissertation has been tremendously helpful, particularly in confirming and giving greater historical depth to the key arguments I am making in my own work regarding moral regulation. Many of the discourses around “hippies” that dominated politics and public perceptions of exurban migrants in Nevada County in the 1970s are remarkably similar to those surrounding marijuana growers today. While I introduce some of these connections in this chapter, I elaborate on these subject-making practices and forms of moral regulation in Chapter 3.

historical conflicts between so-called “hippies” and “straights” that defined Nevada County in the 1960s and 1970s (Chandler 1972), but they were nevertheless influenced by decades of “reefer madness” propaganda that associated marijuana with moral ineptitude, criminality, and violence. As fears over the socio-cultural threats posed by “hippies” began to wane, they were replaced by new discourses that represented marijuana growers as a nuisance at best, and violent criminals at worst.

In this chapter, I detail the confluence of cultural, economic, and political transformations that gave rise to a robust marijuana industry in Nevada County, and how these changes have shaped current economic conditions and regulatory practices in the region. I argue that the construction of the marijuana industry as an illegible sector depends on two interrelated conditions. First, marijuana’s status as an informal economy renders the industry invisible to the State and local officials. Second, the moral regulation of marijuana cultivators – initially as “hippies” and more recently as “growers” – has obscured the broader contexts in which marijuana emerged and expanded as a source of economic sustenance.

### **‘Back to the Land’ and the Origins of Marijuana Production in Nevada County**

If the current character of marijuana production in Nevada County is defined by its economic contributions to the region, the origins of marijuana were first and foremost cultural in character; the economics of the crop were secondary to the socio-cultural goals marijuana production facilitated. In the back to the land era, marijuana was situated in a broader project of anti-capitalist resistance, and its production served

to facilitate this goal – for a time.

The practice of going back to the land dates back to the late 1800s and was largely a response to “the boom-bust cycle of industrial capitalism” (Brown 2011: 27). High prices of rent, food, and other basic needs in the cities were exacerbated by cyclical financial crises, provoking many (low) wage laborers to seek refuge in the countryside (ibid; White 1980). “The land,” in this sense, provided a strategic alternative to the uncertainties and dependencies associated with capitalist organization, predicated upon a notion of security rooted in subsistence rather than accumulation. This framing was embodied in popular writings of the time as a desire to live a “simple life” premised on self-sufficiency, low consumption, and limited dependence on the capitalist market. While the back to the land movement of the 1960s and 1970s drew on narratives harking back to the 1800s – including those of Philip Hubert in *Liberty and a Living* (1889), Henry David Thoreau in *Walden* (1854), and Charles Wagner’s *Simple Life*, (1904) – participants were strongly influenced by contemporary events, including the Vietnam War and movements for civil rights, gender and sexual equality, and the environment (Brown 2011; Boal et al. 2012). Their notions of the ‘simple life’ were intertwined with, and informed by, a new environmentalism premised on concerns with resource management, environmental degradation, energy use, and “sustainability.” Experiments in subsistence and communalism were enacted as a critique of contemporary conditions, as well as a way to demonstrate that alternative kinds of social and economic life were possible (Hofberg 2012).

The notion of a “good” or “simple” life came up repeatedly in my

conversations with back to the landers in Nevada County. Many referenced Helen and Scott Nearing's arguments about how to live "sanely and simply in a troubled world" (1970) as driving factors in their own exodus from the city to "the land."<sup>10</sup> The back to the landers who came to Nevada County were predominantly white and most moved to Nevada County in their twenties and thirties. They arrived from a range of locations across the United States, but most migrated from the San Francisco Bay Area between the years of 1963 and 1981. Some had been actively engaged in political projects in the Bay Area, and a number of interviewees had participated in various forms of experiments in communal living.

Although racially and generationally homogenous, back to the landers had variable class backgrounds. Some were solidly middle class, having received a university education in everything from philosophy to mechanical engineering. Barry, a man in his mid-sixties with a bachelor's degree in theater, saved enough money to "pretty much live for a couple of years [on the land] without having to worry about working" (interview, 2.23.12). Others came with virtually nothing. Trudy, a petite, but strong and outspoken woman in her early sixties described arriving in a very remote area of Nevada County when she was 18 years old with "two children and the clothes on her back" (interview, 3.13.12). When asked if she had any previous job training or college experience, she replied, "I went to the school of hard knocks... No I didn't even finish [high school]. I think I went to nine different schools in ten years," before

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<sup>10</sup> In *Living the Good Life*, the Nearings write, "...our sense of responsibility as teachers, and as members of the human race, compelled us to do what we could... have a part in formulating the principles and practices of an alternative social system... We were against the accumulation of profit and unearned income by non-producers, and we wanted to make our living with our own hands, yet with time and leisure for avocational pursuits. We wanted to replace regimentation and coercion with respect for life. Instead of exploitation, we wanted a use economy" (1970: ix-x).

taking up residence in San Francisco's Golden Gate Park – at the age of 14 (ibid).

Popular representations of back to the landers often presume financial security and thus the privilege to choose an alternative lifestyle.<sup>11</sup> Many of the back to the landers who came to Nevada County, however, described arriving with little money and no assets, yet aspirations for community and self-sufficiency. These back to the landers “chose” to relocate to the land, but this choice carried considerably more risk and challenge for some than others. Despite their experiential and class-based differences, back to the landers shared a common desire to escape urbanity and create more community-centered lives and livelihoods on the land – and they crossed class divides to do so. A key dimension of homesteading – the primary goal of most back to the landers – was to build one's own home<sup>12</sup> with locally-sourced materials and labor. People re-used as many materials as possible – including those from a local landfill and abandoned cabins from Nevada County's mining heyday (interview, March 2012) – and the “community,”<sup>13</sup> comprised predominantly (but not exclusively) of other back to the landers, donated their craftsmanship and labor to such endeavors. Building one another's homes was repeatedly invoked as central to “community building,” alongside regular social events such as potlucks, small-scale theater productions, and bi-annual celebrations (fieldnotes, 2012-13). As Kenneth, who moved to the region in 1972 with his family, described,

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<sup>11</sup> See Brown's discussion of this (2011: 202-209).

<sup>12</sup> Back to the landers erected a range of dwellings – both on property that was owned and rented – from domes and ten-foot square cabins, to elegant Japanese-style structures. Class differences were undoubtedly visible in the kinds of dwellings one built, but the presence of a broad spectrum of the community in contributing labor to the construction was consistent in most people's experiences.

<sup>13</sup> The question of who belongs to the “community” is complex, reflecting tensions between “oldtimers” and “newcomers” that have been reproduced, though with different meanings, even now. I discuss these issues in greater depth below.

[Community-building] was revolutionary in that sense... I think most people came out of the '60s with the idea that revolution was important and that revolutions were possible. And whether you associated yourself with actual revolutionary movements... or felt there was another way of doing it through counter-cultural developments, it certainly was an attempt to revolutionize and change the world... And it contrasted with what was going on in the general society (interview, September 2012).

Other residents discussed the experimentation involved in building alternative communities and economies – re-emphasizing the centrality of “community” in projects of what Wilbur calls “radical ruralism” (2013). Raymond, a man in his seventies, stated,

I moved out here in 1969 with my family... You know, articles about the hippies – the media – tend to look at the era as strictly self-indulgent, and a fashion. But it wasn't just about that. It was about the Civil Rights movement, peace, gender equality. The media always neglects that part of it. We were setting in motion a kind of experimentation... the community always pitched in to fix floors [referring to the local cultural center], help build each other's houses, do road work, etc. ... We wanted to live life on our own terms – that's always been a goal. But not as individuals – as a community. It's complex. There are all these strong individuals, but we all subscribed to being part of a community (interview, July 2013).

The meaning and significance of community was invoked frequently in interviews with back to the landers, highlighting a shift from the individualism of capitalist relations to an understanding of economies as being embedded in social practices (Polanyi 1944). Community, in this sense, becomes a political space governed by social relationships as opposed to the atomizing relations of the formal economy and/or of the state (Gibson-Graham 2006). In this way, it is also about a re-enchantment of life, as compared to the anomie and alienation of modern capitalist society, and an attempt to create more egalitarian relationships. Community-building efforts sought to break down social barriers, diminish hierarchies, and promote inclusivity and collaboration. Carl, who was just a year out of college when he moved

to the region as part of the back to the land movement, stated,

Well, I think that if we had any success, I think one of the things that was helpful in toning down the rhetoric was having some cooperative projects and actually trying to work together and complete those projects. That took it out of just ‘who’s the boss, who’s the follower?’ And just trying to be as respectful as you can of other people and pursuing these common goals with projects and completing them (interview, July 2012).

These conceptualizations of the ongoing production of “community” as a revolutionary practice stand in stark contrast with many scholarly interpretations of the counter culture movement. Wallerstein, for instance, argues that the counter culture movement “was part of revolutionary euphoria,” but for all practical purposes was politically insignificant ([1968] 1989: 436). Such a framing necessarily emphasizes the concrete outcomes of collective action, without understanding the more nuanced effects of the visions, processes, and practices that comprise social struggles. An alternative framing of the counter culture movement, as Stuart Hall reminds us, attends to the significance of utopian aspirations, not solely in terms of their material accomplishments, but also in their articulation of political possibilities ([1967] 2007). Hall argues that the counter culture provided conceptual alternatives to the plethora of problems at the time by giving “primacy in *praxis* to the place and role of ‘consciousness’ in restructuring the environment” ([1967] 2007: 155). He goes on to describe how the “possible solutions” articulated through the counter culture movement were,

as yet utopian, for the societal context in which real solutions could be offered to real, emergent problems is precisely what, in the confrontation between the movement and the system, is being contested. Yet it is in Utopia that future possibilities are rehearsed... It may be that all this is a utopian dream. But it is of such dreams that the revolutionary project is made ([1967] 2007: 166-167).

Back to the landers, in this sense, were implementing a “philosophy of praxis” (Gramsci 1971) in which ideological alternatives to capitalist relations were constructed as the basis for a re-articulation of cultural values. In turn, these new values and ideologies become the premise for a coherent and cohesive collective consciousness, or a new collective “intellectual-moral order” (Boggs 1978: 33). For back to the landers in Nevada County, living off the land was simultaneously a critique of the alienating effects of urban consumer culture and capitalist relations, *and* an alternative to dominant ideologies and practices. Activities such as communal forms of childcare; collective workdays and social provisioning; renewable energy consumption; and communal living, home-building, and property ownership were all enacted against what Katsiaficas (2006) calls the “colonization of everyday life.” In contrast to a logic of accumulation whereby such basic human activities are “made into arenas of financial gain” (ibid: 362), back to the landers re-appropriated these activities through the discursive and material revaluing of non-commodified social relations and ecological processes.<sup>14</sup> More than just revolutionary potential, the daily enactment of counter-cultural visions and practices served as an everyday form of resistance to capitalist hegemony, both in terms of back to the landers’ intentions, and the symbolic and ideological content of their actions (see Scott 1986: 22).

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<sup>14</sup> Importantly, I want to be careful not to romanticize or essentialize back to the land movements. They have taken a wide range of forms and orientations throughout the United States, to say nothing of the diversity of back to the land movements abroad (see Halfacree 2007). Indeed, some “radical” rural projects” have engaged in exclusivist and racist politics and have exhibited what Wilbur describes as “militant libertarianism” (2013: 150). However, while not without their faults, these orientations are largely absent amongst the back to the landers I interviewed in Nevada County. As these people drew their inspiration largely from counter culture ideologies and a rejection of racial, sexual, and class-based oppression (amongst others), their project was situated in a broader critique of social inequality and exclusion, as well as environmental concerns – what Halfacre (2007; see also Wilbur 2013) has described as “radical ruralism.”

Back to the landers' cultural and political project was situated both literally and figuratively on the land. On one hand, the land provided the ecological foundation for cultural change – rural parcels served as the basis of homesteading practices and subsistence agriculture. The land also served as a metaphorical form of resistance: the imaginary of “the land” provided a framework through which non-capitalist social relations could be formed. Cultivating a sense of place on the land provided a shared sense of identity and social cohesion that was reproduced and ritualized in annual events, community gatherings, and published documents (fieldnotes, 2013-14). While they may not have instigated widespread social change, these social experiments illuminated the potentials or possibilities of radical change. As Wilbur states,

Back-to-the-land migration is not a formula for working-class revolution, collective seizure of the means of production, universal gender parity or an end, in itself, to discrimination or inequality. What the phenomenon instead reveals is the gradual opening of imagined and realized possibilities, of preconceived and spontaneous action that chips away (however incrementally) at structures that support coercive and hierarchical relationships. This is performed through active disengagement from those structures, such as formal employment, and by the attempt to create alternatives... Through their ethical or ideological principles, as well as material practices, back-to-the-landers collectively inscribe certain values on the countryside, such as environmental sustainability, cooperative labour, or voluntary simplicity... (2013: 157).

In addition to creating new forms of social and ecological relationships, a redefinition of economic practices themselves was also central to the political project of the back to the landers. Self-provisioning and the establishment of local, land-based economies served a means of limiting consumption and transforming cultural and economic relations. However, economic self-sufficiency proved to be much more challenging for the rural newcomers than they initially anticipated – particularly those of modest economic means. The virtual collapse of the mining sector in the 1950s and

steady decline of the timber industry in the 1960s and 1970s left people in the region with few employment opportunities. Population growth had stagnated, and in some years declined, and despite the aesthetic beauty of the region and potential for recreational activities, there was neither the infrastructure nor the income base to support a vibrant tourist industry. Although back to the landers – in their quest for simplicity and self-sufficiency – sought minimal involvement in the mainstream economy, many of them also struggled to survive economically. As Raymond recalls,

I bought land [just outside of Nevada County] in '73... we really felt that Nature would correct all the ills [associated with urban life]. We left a lot out, though! Like how to make a living – we didn't really talk a lot about that. The only employment opportunity was the School. My first job, I was a teacher's aide. All the people who worked at the school had college backgrounds. We had to do a little of everything – we worked for the Forest Service, did some BLM contracts, etc. (interview, July 2013).

Many of the back to the landers patched together various forms of employment to make ends meet. Residents emphasized a commitment to “the simple life” and limited consumption – thus, they worked in the mainstream economy only as much as was needed to sustain themselves on the most basic level. Several excerpts from interviews with back to the landers illustrate both the challenges of rural living, and a commitment to principles of minimal consumption, sustainability, and self-provisioning:

[Nevada County] was a very dynamic place [in the '60s, '70s, and '80s]. People were trying to do a little farming and doing this and that, and there was a little dope-growing going on at the same time, on a pretty small scale really. Nothing major... there was mainly a lot of just getting by and trying alternative things, alternative crops and whatever you could grow and pretty much just trying to make that [work]... [to] make your home life kind of decent and then also trying to do community stuff like build a school, you know, and keep an eye on the issues of the day. It keeps you pretty busy, really. It's a full-time job, you know, doing all those things” (Interview with Donald, July 2012).

I think everybody was generally a lot poorer [in Nevada County] those days [the late '70s]. People would move up here and just love the area and stay here a month or two and have to move back down to where they could get work in the valley. In those days, a lot of people came and went mostly because they couldn't work it into the economy. [Interviewer: What was the economy?] Well, then it was logging I guess more than anything. Some building. There was a gradual building trend. We never had an explosion of building like some areas, but yeah, what else was there? There wasn't too much else. Most people went to town for work [a 30-minute drive each way]. Some of them even all the way [to the city], in the beginning. And I was a general contractor in those days. I mostly commuted to town (Interview with Frank, April 2012).

Although land was relatively inexpensive at the time, due to the remoteness of the region and the dearth of economic opportunities, many back to the landers struggled to sustain their alternative lifestyle. Limited economic options, combined with the difficulties of establishing homesteads in regions with inclement weather and minimal infrastructure characterized many back to the landers' experiences. Tim, a man in his late-forties who moved to Nevada County with his family when he was a child, described the challenges of homesteading with minimal economic resources,

It was pretty rustic when I was little. There was that camping period, then my parents got a school bus so we lived in a school bus for several years. They had bought a piece of raw land and they were doing the homesteading thing and back to the land people, you know? And so we lived in this school bus for a few years while they built a house. And they built a log cabin with logs cut from the land. The chainsaw was the only power tool, so it was all hand tools, you know, the hand-crank drills that they got in the thrift store, hand saws and people were learning how to sharpen the old hand saws and chisels. No generator. There was running water, but when we moved into the house that was a big deal, living in a log cabin. Big step up from the school bus. But we still didn't have any hot running water until I went to high school, so that would've been 1980 or something like that. We didn't have telephone for a very long time either, so everybody had CB radios. We didn't even have a CB radio. We had to go to our neighbor's to use their CB radio (interview, May 2012).

Families developed a broad range of strategies to cope with economic uncertainty, and growing marijuana to supplement their modest incomes became an

important source of revenue for some residents.<sup>15</sup> As Ed, a back to the lander now in his mid-sixties who arrived in Nevada County in 1973 described, “it’s the only way that we could have survived” (interview, February 2012).<sup>16</sup> But beyond individual survival, marijuana production contributed to economic development in the region more broadly. From art and food cooperatives to solar companies (interview, April 2012), many residents were able to establish businesses in Nevada County through seed money generated from marijuana production. These “alternative” businesses were congruent with the values espoused by the back to the landers – for example, businesses that took the form of worker-owned cooperatives and livelihoods that emphasized individual, social, and ecological health. As Ray described, “in the ‘70s, there were all these [marijuana] operations... but on a small scale. We took our small fortunes and invested it in businesses – solar businesses, food businesses. Many of the businesses around here got their start from seed money from growing pot that was then invested” (interview, July 2013).

While back to the landers’ limited engagement in the mainstream economy was partly informed by a critique of capitalism and its logic of consumption, they also wanted to spend more time engaged in community-driven activities than in “the system,” as many interviewees referred to the mainstream, capitalist economy. Marijuana production allowed them the autonomy, time, and economic security to direct their efforts to the work of community-building. Indeed, homesteading took

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<sup>15</sup> Marijuana also had social and symbolic value amongst back to the landers. Trudy expressed this sentiment clearly: “We were all pot smokers [in those days]... And [if you had a joint], everybody would come to the circle. And I think that was a really important thing about pot that I don’t think is talked about enough. The joint – that’s what it was: it *joined* people” (interview, March 2012).

<sup>16</sup> There were significant risks associated with cultivating marijuana in the 1970s – and even more so in the 1980s when Campaign Against Marijuana Production (CAMP) raids were initiated. I discuss these dimensions of marijuana production in the following section.

considerable time and social investment; common narratives in the interviews emphasized regular communal meals, community workdays, community-based forest management and trail-building projects, and communal childcare and education.<sup>17</sup>

Marijuana, in these contexts, was constituted as a moral economy amongst back to the landers (see Keene 2015b), facilitating their broader social goals of building anti-capitalist forms of community and social solidarity through the consumption and distribution of marijuana.

The meanings and practices associated with marijuana production in Nevada County are similar to those in other rural regions of California during the same time period. Like the exurban migrants who came to Nevada County, back to the landers who settled in the northwest coast of California “were willing to try almost anything to find a means of staying [there],” as Raphael has documented (1985: 43), and the remoteness of both regions was conducive to informal activities, both in the case for marijuana production, as well as earlier practices of smuggling alcohol during Prohibition (ibid). Marijuana production throughout rural northern California in the back-to-the-land-era also served broader community goals, as my informants described and as the literature on the topic corroborates,

Marijuana made possible a quiet rural renaissance in Northern California, where some 30,000 pot growers took part in the largest illicit agricultural movement in American history. Cannabis was good medicine for the local economy... Thanks to the donations from anonymous pot growers, volunteer fire departments had new equipment and community theater productions were amply funded (Lee 2012: 178).

Nevertheless, the economic functions and cultural meanings of marijuana – as

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<sup>17</sup> I haven't the space to elaborate here, but the community also collaborated to build and administer a local public school in the region.

well as the broader political project of back to the landers more generally – were neither understood nor valued amongst the general population in Nevada County. Moralistic framing of “hippies” – the popular term for exurban migrants in this period – were pervasive in articles and letters to the editor in the local paper, as well as in the halls of the County Board room. At one point, the Board of Supervisors attempted to pass a “hippie ordinance” that would allow them, “to control the large numbers of long-haired types that frequented the streets and streams during warm weather each year... [and] apply for welfare” (*The Union*, February 4, 1971, cited in Chandler 1972: 18).

Attempts to prohibit a group of people from public venues on account of their appearance, dress, or moral sensibilities were and are illegal, as the Sheriff at the time noted (Chandler 1972: 21). They reflect, however, the extent to which County officials and segments of the public go to protect the status quo and the perceived values and behaviors through which dominant social norms are constituted. Indeed, there are important parallels between the attempted passage of the “hippie ordinance” in 1971 and the “urgent” cultivation ordinance passed in 2012, as I elaborate in Chapter 3. It is not coincidental that the language used to represent the “hippies” in the 1960s and 1970s bears strong resemblance to contemporary discourses surrounding marijuana producers in Nevada County, many of whom have no connection to the counter culture or back to the land movements. Representations of “hippies” as dirty and dangerous (Chandler 1972) set the foundation for cultural conceptions of marijuana growers decades later, as I demonstrate in greater detail in Chapter 4.

While marijuana production generated a degree of economic security for back

to the landers to experiment with alternative forms of sociality and community, this security was always tenuous due to the legal and moral status of marijuana.

### **Expansion: The “Dark Years”**

Initially cultivated by back to the landers on a small-scale for both cultural purposes and as a form of supplemental income, by the 1980s marijuana was beginning to expand into a large-scale informal economy. Years of propaganda demonizing marijuana, the United States’ international and domestic “war on drugs,” and an increase in marijuana prices – largely as a result of intensified policing of the crop and its cultivators – conditioned the consolidation and expansion of an informal marijuana industry. In this section, I focus on how shifts in surveillance and policing strategies, demographics, and values associated with marijuana production – including the value of marijuana itself – converged to produce a new assemblage of marijuana production and governance that began in the 1980s and continues today.

#### *The “War on Drugs” in the U.S. and Beyond*

As I discuss in Chapter 3, the moral and legal assault on marijuana in the United States began in the 1930s. But contemporary methods of governing and policing marijuana production can be most directly traced to the United States’ “war on drugs,” initiated by President Richard Nixon in 1971<sup>18</sup> and expanded by President

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<sup>18</sup> Nixon’s war on drugs was officially waged on June 17, 1971, but he began enacting this war several years earlier. First under Nixon and later by Reagan, the U.S. government used a combination of political and economic influence to pressure the Mexican government into implementing large-scale

Ronald Reagan in the 1980s. Domestic production of marijuana “increased, proliferated, and prospered” in the 1980s as a result of federal eradication efforts in Latin America, and then domestically (Gettman 1995: 161). The DEA, itself, noted the increase in domestic production following its war on drugs in Mexico, stating that:

...in 1982, 38% more domestic marihuana was eradicated than was previously believed to exist. Although a total U.S. marihuana production figure is not easily determined, the statistics obtained from this program reveal, without doubt, that the United States is becoming a major source for the drug (DEA 1982, cited in Gettman 1995: 162).

According to the DEA, domestic production of marijuana increased by 15% between 1982 and 1992 (ibid). California became a key source of increased production, cultivating as much as 79% of the domestic supply (Corva 2014: 72). In response to the expansion of domestic production, Reagan ratcheted up the stakes in the federal campaign against marijuana as the first Commander in Chief to use the national military to wage war on its own citizens. In 1981, Reagan pushed the Military Cooperation with Law Enforcement Act through Congress, “a proposed amendment to the Posse Comitatus Act that would carve out a much larger role for the military in the drug war” (Balko 2013: 145). The Act gave the military approval to indirectly support federal law enforcement in drug-related matters and, after being expanded in the following year, allowed “soldiers to both arrest and conduct searches of U.S. citizens” (ibid). As Lee notes,

In the name of domestic security, Reagan rationalized cutting social programs and channeling funds into military hardware (helicopters, tanks, high-tech surveillance equipment) and paramilitary training for SWAT teams and other police units, whose main task entailed serving drug-related search warrants in

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eradication programs to diminish the amount of marijuana crossing the American border (Corva 2014). As word spread that the Mexican government was spraying paraquat (an herbicide that is toxic to leafy plants, animals, and humans) on marijuana crops as part of eradication efforts, health-conscious U.S. consumers redirected their attention to domestically produced marijuana (Gettman 1995; Corva 2014).

cities and towns across the country (2012: 160).

These efforts were codified in the Campaign Against Marijuana Planting (CAMP), a collaborative marijuana eradication project funded by the federal government and implemented in conjunction with numerous agencies, including the DEA, FBI, National Guard, State Highway Patrol, State Sheriffs' offices, and National Forest Service, among others (Lee 2012; Official CAMP Reports 1983-1996 and 2000-2009). The program was initiated in California, and the State continues to provide the highest number of plant seizures in the nation.

*Policing the "Outlaws": Representations and Realities of Rural Marijuana Production*

The Campaign Against Marijuana Planting (CAMP) emerged as a powerful response to increases in domestic marijuana production. Its mission was simple: to "significantly diminish the cultivation of cannabis (the marijuana plant) and the trafficking of marijuana in the State of California" through the physical eradication of plants and charges made against marijuana offenders (CAMP Final Report, 1983: 5). The program was initiated in the tri-county region known as the Emerald Triangle – Humboldt, Trinity, and Mendocino counties – where the greatest marijuana growing operations were in effect (or, at the very least, the region that had garnered the most media attention for pot production).<sup>19</sup> CAMP raids were the material expression of

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<sup>19</sup> Local legend in Nevada County has it that Nevada County – not the Emerald Triangle – was the inspiration for CAMP raids, and the first region where helicopters were used to survey marijuana production (interview, 3.24.16). Jerry Brown had been re-elected governor of California in 1978, and at the time owned land in Nevada County. In an attempt to derail his career, recently elected Attorney

years of demonizing discourses and representations of marijuana.

While the targets of CAMP operations were initially large-scale grows (Baum 1996), CAMP officials soon focused their attention on any and all grows in northern California. No producer was too small to feel the wrath of CAMP officials, and regardless of the size of the grow or who the growers were, CAMP raids were incredibly violent experiences. As Balko describes, by 1984, just one year after CAMP's inception,

...officials were already targeting increasingly smaller growers... [and] the helicopters had to fly at lower and lower altitudes to spot smaller batches of plants... The officials running the operation made no bones about the paramilitary tactics they were using. They considered the area they were raiding to be war zones... Anyone coming anywhere near a raid operation was subject to detainment, usually at gunpoint (2013: 148).

Back to the landers I interviewed in Nevada County confirmed Balko's assessment of CAMP raids. In one case, an interviewee recounted an incident in which CAMP troops stormed his neighbor's house and threw everyone down to the floor, with their hands clasped behind their backs. Despite the fact that there were fewer than 20 marijuana plants on the property, and no one in the household had a criminal record, the entire family was held at gunpoint by CAMP officials, including the children (interview, 3.24.14). Violent raids on small-scale growers such as these were common in northern California, including in Nevada County, and part of a concerted strategy amongst CAMP officials. Aerial surveillance marked a new moment in marijuana governance, as grows were made increasingly visible to law enforcement

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General, Republican George Deukmejian, is said to have arranged for a California Highway Patrol helicopter to fly over Brown's land in an attempt to catch him with marijuana plants on the land, and thus destroy his political career. According to one Nevada County local, "While they were disappointed to find Governor Brown's hands clean, what they did see amazed them, as for the first time there was a clear aerial view of just how much cultivation was taking place locally" (Webb 2015).

through helicopter flyovers and infrared sensors. Indeed, the spectre of the helicopter itself became an important tool of self-governance. Both regular flyovers and direct encounters with the DEA not only instilled tremendous fear in a population of growers, but instigated a heightened culture of silence and secrecy amongst marijuana producers.

Images and conceptualizations of marijuana growers as enemy combatants and cultivation spaces as “war zones” are fully consistent with the demonizing rhetoric of marijuana that began in the 1930s. Marijuana producers were (and arguably continue to be) seen as threats to the body politic, necessitating various degrees of ‘war’ to make the nation safe and secure. The rhetoric of war as an antidote to U.S. insecurity is all too familiar in American politics – foreign and domestic alike. American has waged war on poverty (and arguably a war on welfare that followed), war on crime, and war on terror, amongst others. Most of these “wars” have resulted in new forms of subjectification that expose particular members of society to heightened surveillance and discipline, and the drug war is no exception (Corva 2008). If we look beyond the normative representations of marijuana producers, however, we find that many of the people who engage in marijuana production or distribution do so because they lack viable economic opportunities in the mainstream economy (Weisheit 1992). As Lee notes,

What started out as an outdoor hobby pursued by hippies and organic gardeners in Northern California became an economic lifeline for an estimated 100,000 to 150,000 commercial pot growers scattered throughout the country in the mid-1980s. Growing *sinsimella*<sup>20</sup> made dollars as well as

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<sup>20</sup> *Sinsemilla* literally means (in Spanish) “without seeds.” Unfertilized female marijuana plants produce buds with the highest concentration of tetrahydrocannabinol (THC), the psychoactive component in marijuana flowers. The method of separating male from female plants was rediscovered in the 1960s by

sense for American farmers struggling to keep afloat at a time when one-third of family farms in the United States was being driven into insolvency by political decisions made in Washington, which rigged the game in favor of a few agribusinesses giants. Out of desperation, some Midwest farmers started planting marijuana to save their farms from foreclosure. This practice also caught on among farmers in Kentucky, the Ozarks, eastern Oklahoma, and parts of the Deep South (2012: 179-180).

I found similar conditions amongst the growers I interviewed in Nevada County as well, as I will expand upon in the following section. But the key point is that the “war on drugs” – and marijuana in particular – has had perverse effects. On the one hand, it has created a new class of criminal subjects (who, by and large, are non-violent offenders) that has flooded the prison system, costing taxpayers billions of dollars a year to keep them there.<sup>21</sup> When we consider that marijuana production expands most in times of economic recession (Weisheit 1992), arguably the war on drugs is also a war on the most economically and socially vulnerable, as the State shuttles these people – the vast majority of whom are Black and Hispanic (Alexander

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connoisseur growers in the U.S. and rapidly became the pot of choice amongst American consumers for its more powerful psychoactive effects.

<sup>21</sup> The consequences of a decades-long “war on drugs” have been dire, as Michelle Alexander pointedly demonstrates: “Convictions for drug offenses are the single most important cause of the explosion in incarceration rates in the United States. Drug offenses alone account for two-thirds of the rise in the federal inmate population and more than half of the rise in state prisoners between 1985 and 2000. Approximately a half-million people are in prison or jail for a drug offense today, compared to an estimated 41,100 in 1980 – an increase of 1,100 percent. Drug arrests have tripled since 1980. As a result more than 31 million people have been arrested for drug offenses since the drug war began... arrests for marijuana possession – a drug less harmful than tobacco or alcohol – accounted for nearly 80 percent of the growth in drug arrests in the 1990s” (2011: 60). It is ironic, to put it mildly, that marijuana production emerged as a source of anti-capitalist resistance and has become one of the most prominent means of capital accumulation – both for predominantly White growers, and a highly racist prison system. In 2011, the two largest privately owned prison facilities received a total of \$3.3 billion for holding state and federal prisoners (S. Lee 2012) – profits that are facilitated by the \$260 billion U.S. taxpayers spend on criminal justice annually (Chettiar 2015). Such accumulation of wealth is particularly staggering when considering that: violent crimes have decreased by half in the last 25 years, at the same time as incarceration rates have nearly doubled (ibid);<sup>21</sup> the majority of those incarcerated in the U.S. have been charged with non-violent crimes and have no history of violent offenses (Alexander 2012: 60); and that overcrowding in U.S. prisons has become so egregious and inhumane as to prompt the American Civil Liberties Union to submit a report to the Office of the High Commissioner of Human Rights (2015). In effect, private companies such as Correction Corporation of America and The Geo Group Inc. are reaping billions on non-violent drug offenders – predominantly people of color and those from working-class backgrounds – and destroying lives and families in the process.

2012; Cowen and Siciliano 2012; DPA 2016) – from their communities to prison.

## **Out of the Margins? Transforming the Informal Marijuana Industry in Nevada County**

Surveillance and police repression were the driving forces behind the expansion of the marijuana industry in the 1980s. The prohibition of marijuana, combined with the United States' aggressive assault on marijuana growers and consumers under CAMP, has done much to promote a vibrant and lucrative domestic marijuana industry in California (Lee 2012; Corva 2014; Polson 2015). By controlling the supply of domestic marijuana and heightening the risks associated with production, the federal government effectively implemented a marijuana price support system, thus attracting increasing numbers of prospective growers to northern California. A pound of high grade (*sinsemilla*), domestically-produced marijuana fetched between \$1,000 and \$2,000 in the 1960s and 1970s (Raphael 1985: 46).<sup>22</sup> In the 1980s, *sinsemilla* was averaging between \$1,400 and \$2,200 per pound (Lee 2012: 178), and by the 1990s this same quantity was worth between \$3,000 and \$6,000 per pound (Gettman 1995: 164<sup>23</sup>).

The growth of the industry in the 1990s, however, was largely shaped by legislative transformations in California and demographic and economic transitions in

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<sup>22</sup> Low-grade, commercial marijuana fetched much lower prices – typically from \$200 to \$400 per pound (Raphael 1985). In a fascinating account of student journalism in the 1970s, the *Yale Daily News* reported that prices of marijuana were on the rise across Ivy League institutions. According to their reporting, the price per pound of marijuana ranged from \$130 at Brown, to \$280 at Harvard – up 7% from the prior year (Watson 1971). Although the authors do not note the quality of the marijuana, it is likely these Ivy League students were consuming commercial grade marijuana, rather than *sinsemilla*.

<sup>23</sup> These figures were also consistent with the surveys and interviews I conducted in Nevada County.

Nevada County. In this section I examine how three specific processes shaped the development of Nevada County's marijuana industry in the 1990s: 1) the legalization of medical marijuana in California and the subsequent legislation specifying grow limits, means of transporting and distributing medical marijuana, and forms of cultivation; 2) transformations in the rural economy associated with the consolidation of a service sector economy; and 3) increased costs of living accompanying a new wave of amenity-driven exurban migration. These last two processes generated new forms of economic vulnerability in the region that the marijuana industry, for better or worse, has addressed. Legislative changes in California provided some degree of legal cover for such endeavors.

*A Measure of Security: Proposition 215 and Senate Bill 420*

In 1996, California voters passed Proposition 215, or the Compassionate Use Act, legalizing the use, cultivation, and possession of marijuana for medicinal purposes, upon recommendation by a state-licensed physician.<sup>24</sup> While its notoriously vague wording – allowing for the use of marijuana for virtually any ailment, and imposing no restrictions on the amount of marijuana to which the patient is entitled – have led some to argue that the statute “led to the *de facto* legalization of cannabis for recreational purposes” (Weisheit 2011: 154), the legislation did not explicitly overrule federal law, and individuals could still be arrested for marijuana possession.

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<sup>24</sup> This was the first legislation to pose a challenge to federal prohibition of marijuana in the United States, and was met with considerable opposition from within and beyond California. Law enforcement and other state officials in California collaborated with the DEA, non-governmental anti-drug agencies, and private foundation leaders in a series of four “interagency work groups” just after the legislation was passed in attempt to complicate, if not overturn, the new legislation (Lee 2012: 250).

Furthermore, the bill did not provide any regulations regarding the cultivation or distribution of marijuana, or means of validating a patient's medical status.<sup>25</sup>

Although cultivators were by no means protected from prosecution by federal law enforcement agencies, they received some degree of sanction from the state of California through Proposition 215 and SB 420.

It is difficult to say whether legal changes associated with Proposition 215 and Senate Bill 420 instigated the expansion of the informal marijuana industry in Nevada County. One could argue that legislative changes bolstered production considerably, based on the total number of marijuana plants seized by the federal government.<sup>26</sup> If these figures are any indication of the actual amount of marijuana cultivated in California, there is a noticeable rise in marijuana production in California following the implementation of Proposition 215 in 1996, with the most significant expansion of

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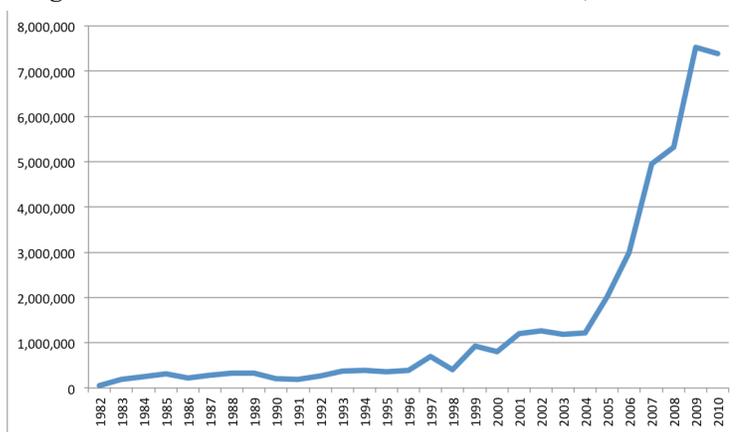
<sup>25</sup> These limitations were subsequently addressed in Senate Bill 420 (SB 420), which was passed on September 20, 2003. SB 420 broadened Proposition 215 to include measures of protection for patients transporting medical marijuana; allow for the formation of patient "collectives" or "cooperatives" (including dispensaries) which are permitted to "grow, distribute and/or sell medical marijuana on a *non-profit* basis to their members;" and establish a voluntary state ID-card system that would be enacted at the county level through local health departments (NORML 2013, emphasis in original). SB 420 also established state guidelines on the number of plants each patient is entitled to: 6 mature or 12 immature plants and ½ pound processed marijuana per patient. Medical marijuana caregivers may receive "compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient or person with an identification card to enable that person to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services" under the California Health and Safety Code (HSC), but neither Proposition 215 nor SB 420 authorizes patients or caregivers "to cultivate or distribute marijuana for profit" (HSC Section 11362.765). However, these laws are not universally applied, as counties are allowed to regulate and restrict marijuana production and availability through local nuisance and zoning ordinances. Such ordinances abound throughout the state, with nearly the majority of counties in northern California having enacted local medical marijuana ordinances.

<sup>26</sup> Although precise figures are impossible to accurately determine, data on federal seizures can provide some indication of the scale and scope of marijuana production in the state. It is difficult, however, to determine whether increased seizures are a result of increased production, or rather a ramping up of enforcement. However, anecdotal evidence from interviews suggests that marijuana production did increase in the 1990s following the passage of Proposition 215, partly due to the legal protection of State regulations, but also in response to economic restructuring and the need for supplemental income for many residents of Nevada County.

the industry occurring after 2004 (see Figure 4). Following the passage of SB 420, the number of marijuana seizures increases exponentially from just over 1 million plants seized in 2004 to 7,519,580 plants seized in 2009 (DEA 2012). Regardless of whether seizure data reflects an actual increase in production, or an increase in policing,<sup>27</sup> growers – and potential growers – in Nevada County had a greater sense of security with newfound legal protection from the State of California. Such shifts are visible in residents’ recollection of how growing practices changed in the 1990s. As Derek, a man in his forties who grew up in Nevada County, described,

The number of people who are growing has increased a lot... Proposition 215 definitely instigated these changes [because] the risk was significantly reduced. A lot of people who didn’t think about going into growing initially became growers. And a lot of people did this – and still do – just to stay in [the region] – not to make a lot of money, but to stay here (interview, July 2013).

**Figure 4: Total Plants Eradicated in California, 1982-2010**



Source: U.S. Drug Enforcement Administration

As noted by Weisheit, the economic recession in the 2000s also contributed to the expansion of marijuana production, providing a context in which engagement in the

<sup>27</sup> This relationship is difficult to determine with any certainty, particularly given that CAMP has not published final reports or provided public documentation of its budget for its programming between 1997 and 1999, or budgetary data after 2004. That said, CAMP’s budget between 2000 and 2003 is less than that spent between 1984 to 1992 (if accounting for inflation), but seizure rates rise during the later period rise nonetheless (see Appendix 1). Without budgetary documentation for CAMP programming after 2004, it is impossible to analyze whether increased policing or increased production caused higher seizure rates, or whether these changes were attributed to some combination of the two.

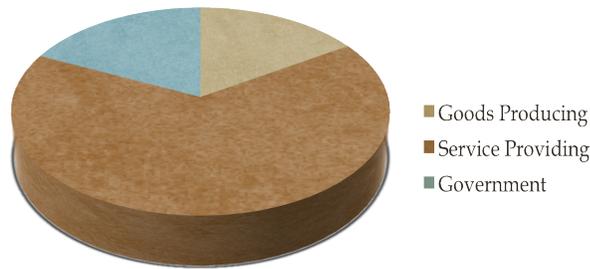
informal marijuana industry served as a buffer against “job loss, unexpected medical expenses, or the pending foreclosure on... [properties] (2011: 150; see also Weisheit 1992). Recessions were not the only push factor into the expansion of growing operations, though. Economic restructuring characterized by the shift to a service-dominated economy, combined with increased costs of living associated with an influx of amenity-driven and retiring migrants to Nevada County (and the rural West more generally) also contributed to the growing precarity of long-term residents, and helped to co-facilitate the expansion of the informal marijuana industry.

#### *Economic Precarity, Demographic Change, and Informality*

By and large, the most significant vulnerabilities identified by Nevada County residents are economic. Residents of Nevada County best reflect what Burd-Sharps and Lewis categorize as “Main Street California,” or “suburban and ex-urban Californians” who generally experience “high levels of human development... enjoy longer lives, higher levels of educational attainment, and higher earnings than the typical American [but who also] have an increasingly tenuous grip on middle-class life” (2011: 14, 32). The lack of economic opportunities, dependence on service sector jobs and a quasi-legal medical marijuana industry, and an increasingly aging population all contribute to the precarity of the middle class in Nevada County.

The mining and timber industries have served as the economic backbone of Nevada County since the 1800s, providing both jobs and a source of rural identity to local residents. By 1956, the last mine in Nevada County had shut down (White 2004)

**Figure 5: Percent of Population Employed by Industry (2011)**



Source: U.S. Census Bureau, 2013

and by the 1980s the timber industry had slowed tremendously and was virtually absent by the early 1990s (Duane 1999: 179). Since the decline of ‘traditional,’ extractive industries, the service sector has grown to be the most significant source of employment in Nevada County, accounting for more than two-thirds of the local economy (see Figure 5). Government jobs provide the second largest source of employment, followed by the goods producing sector. While some jobs located in the service sector pay relatively well and may include benefits (i.e. full-time positions in education and health services, as well as some professional and business services positions), the majority of service jobs in Nevada County are characterized by low wages, seasonal or temporary employment, and no benefits.

The demise of ‘traditional’ rural industries has resulted in both a crisis of livelihoods and social identities for long-time rural residents (Sherman 2011). Despite the growth of the service sector in many areas of the rural West, these jobs are either insufficient in number to absorb surplus labor in a landscape of economic restructuring, or they represent dead-end jobs that fail to provide the economic security, autonomy, or personal satisfaction that ‘traditional’ rural livelihoods once did. Residents and local leaders in Nevada County also repeatedly noted that the predominance of low-wage service jobs has made it difficult to attract (or retain) young professionals to the region. As one business owner noted, “the single greatest

threat to our local economy is a lack of economic diversity.” He continued,

In an economy, diversity creates resilience, and resilience increases your ability to adapt and thrive in new conditions. Dependence on traditional sectors... and industrial scale tourism, lead to an unhealthy boom and bust cycle in our local economy, and leaves us poorly prepared to weather national business cycles. These sectors have an important place, but they cannot be the only game in town (interview,7.8.13).

In addition to dependence on a low-wage service sector industry and a lack of economic diversity in Nevada County, residents and local leaders repeatedly noted the challenges associated with reliance on wealth that is generated outside of, rather internal to, the local economy. This has much to do with changing demographics in Nevada County. Since the 1990s, the rural West has witnessed some of the fastest rates of population growth in the United States, outpacing that of urban areas (Travis 2007; Krannich et al 2011). According to Nelson, demographic change associated with exurban migration has been one of the most powerful forces affecting the contemporary western landscape (Nelson 2001: 396). In Nevada County, the population doubled between 1960 and 1980 (the period of back to the land migration), and nearly doubled again on account of amenity-driven migrations in the 1990s and 2000s (Bureau of Economic Analysis 2012). In terms of absolute numbers, the “rural rebound” of the 1990s was considerably larger than exurban migrations in the 1960s and 1970s, and was primarily driven by quality-of-life concerns (Krannich et al 2011: 14; Travis 2007; Nelson 2001). Changes in technology and the ability of professionals to work at a distance; lower property values and costs of living relative to urban regions; a desire to escape the hustle and bustle of city life and live closer to the natural environment; and economic restructuring more generally all contributed to this period of exurban change (Duane 1999; Travis 2007; Krannich et al 2011).

Exurban migration in Nevada County both reflects and diverges from trends in Western migration examined in the literature. This is in part due to the prominence of a local marijuana industry, and also to the lack of jobs for young professionals in the region. As discussed previously, Nevada County experienced at least two waves of exurban migration since the 1960s: first, counterculture migrants associated with the back to the land movement, and second (beginning in the 1980s) a group of more transient migrants coming to the region exclusively to grow marijuana. While retirees began migrating to the County beginning in the 1980s, this process picked up pace considerably in the 1990s and 2000s, and retirees currently comprise the largest and fastest growing group of exurban migrants in Nevada County.

This influx of amenity-driven migrants has had two important impacts on the local economy. First, one of the primary sources of income in the County is generated externally, rather than through local employment, as mentioned above. The proportion of individuals 65 years and older in Nevada County exceeds both state and national averages: more than 20% of Nevada County's population is above 65 years of age, compared to a state-wide average of 12% and a national average of nearly 14% (U.S. Census Bureau, 2013). And while median household incomes in Nevada County are comparable to state and national averages (\$61,632 for California and \$52,762), transfer payments in the form of retirement comprised almost one-fifth of all personal income in Nevada County in 2010, and income from dividends, interest, and rent accounted for more than a quarter. Together these comprise more than 40% of personal income in Nevada County (Bureau of Economic Analysis 2012).

The second important impact associated with demographic change, including

but not limited to amenity-driven migration, has been rising costs of living in the region. This was particularly true in the late 1990s and early 2000s, but continues today as well. According to the Nevada County Community Assessment Project (CAP), a lack of affordable housing was the single most important challenge in Nevada County in the early 2000s (2002: 3). Nearly half of all residents during this time period spent more than one-third of their incomes on housing, and CAP identified housing as one of the key reasons why young people migrate out of the region (2002: 4). Census data confirms these changes. Between 1970 and 1990, the median house value for owner-occupied units increased by 795% in Nevada County, and increased again by 129% between 1990 and 2000 (Social Explorer 2013; for an analysis of how “equity refugees” contributed to this increase in the 1990s, see Duane 1999: 105). Interviewees from across a range of social spectrums – from leaders of local non-profits, to marijuana growers, to medical doctors, to residents working exclusively in the formal economy – also cited high costs of living as key sources of challenge, particularly in the form of house and property prices, which have risen considerably since the 1990s. In the context of an economy dominated by service sector jobs and declining wages, rising costs of living associated with in-migration have undoubtedly contributed to the growing number of people entering the informal marijuana industry, primarily as growers or laborers, or relying on the industry indirectly through patronage to local businesses by growers.

I do not want to imply that amenity-driven migration has been completely detrimental to the region. Quite the contrary. Amenity-driven migrants, and retirees in particular, have contributed substantially to the community in terms of building civic

capacities, promoting environmental sustainability, and investing financially in the community. But although retirees contribute to rural communities in a number of important ways including community service, their experience and expertise, and financial investment in local projects and institutions, a diverse demographic composition is needed to continually reproduce the community, and to sustain the populations that preceded the new migrants. Increased costs of living associated with demographic change, alongside downward trends in income as a result of a service sector-dominated economy, have exacerbated economic vulnerabilities in the region, particularly for long-time residents and young people. As the director of a business-oriented non-profit organization in Nevada County described to me,

[There is] the ability to flex and change and adapt in Nevada County, but it's really because wealth is pouring in from outside the region. We're not actually creating any of that wealth or prosperity here... And, you know, that's a problem. That's really a problem. What we have is a lot of transfer payments, a lot of older people, we have an underground economy that we can't really track, we have a tourism-dependent economy, which is low-wage... So, I'm not so sure that we're really that much better off than we were 30 years ago. We might be temporarily a little wealthier (interview, 9.13.13).

These changes provide a backdrop for the continuing expansion of the informal marijuana industry. Unlike the stereotypical construction of a marijuana grower as either environmentally-minded hippie, or young, money-driven entrepreneur, growers in Nevada County include a range of people, including cancer survivors with unruly medical bills, former ranchers and construction workers, and college graduates unable to find work. Moreover, the industry relies upon an influx of seasonal laborers who travel from across the nation, and in some cases internationally, for the high-wage, untaxed employment provided during the harvest season. Reliance on the marijuana

industry was critical to many residents' ability to remain in the region in the context of increased costs of living and declines in wages – a point that was repeatedly noted during interviews and participant observation. A medical marijuana doctor in Nevada County perhaps stated it best:

[Cannabis] keeps people with low-income jobs able to stay here, as it supplements their income. Many people here don't have living wage jobs here. That's the next project I'd like to work on in this area – we need to push for a living wage movement in [Nevada County]. Lots of people have a real job, and they grow cannabis on the side to stay here. They're not engaging in large-scale operations – if they were, they wouldn't need their minimum wage jobs! But selling cannabis to dispensaries or their friends, or whoever, keeps them here. Small businesses also benefit from the marijuana industry. Local business owners' business goes way up during harvest season (interview, 3.27.13).

From interviews with small-scale vegetable farmers, to cancer patients, to long-time residents who have been laid off from their jobs – the centrality of marijuana to rural livelihoods was widespread, indicating both the scale and scope of the economic impacts of marijuana production in Nevada County. When placed in conjunction with the economic analyses and surveys I conducted, the importance of the marijuana industry to the current economic health of the County is further demonstrated, however fragile and tenuous this relationship may be.

### *Measuring the Marijuana Industry in Nevada County*

The expansion of the informal marijuana industry since the 1990s, as demonstrated above, was a response to legal changes in California and economic pressures associated with the rise and consolidation of a service-based economy and increased costs of living associated with amenity-driven migration. But how

significant *is* the marijuana industry in Nevada County? This is a challenging question to answer, as the absolute size of the marijuana economy is incredibly difficult to measure. However, based on annual marijuana plant seizure data from the Nevada County Sheriff's Office between 2008 and 2013, as well as a marijuana cultivator survey I conducted in 2014, the size of the marijuana industry in Nevada County is substantial, generating anywhere from \$415 million to nearly \$2.5 billion annually (see Appendix 2). For the purposes of this project, I am assuming the lowest possible figure as the amount of revenue that is generated through marijuana production and stays in the local economy.<sup>28</sup> These figures were further supported by a local business survey<sup>29</sup> I conducted in Nevada County in 2014. One of the aims of the business survey was to gauge the size of the local cash economy – an indicator, albeit imperfect, of the size of the informal sector – by asking business owners what proportion of their sales were made in cash and then comparing those figures to the average percentage of sales paid in cash nationally.<sup>30</sup> The marketing firm Javelin

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<sup>28</sup> County officials have challenged these data, suggesting that the figures are too high and that they are unreliable (Board Meeting, 1.12.16). This is ironic for three reasons. First, the plant seizure data I obtained to conduct my analysis was provided directly from the Sheriff's office. Second, the prices per pound that I calculated from the cultivator surveys were less than those calculated by the Sheriff's office in their presentation to the Board of Supervisors and the public (Board Meeting, 4.24.12). And finally, I obtained the figures for the average pounds of processed marijuana per plant from data presented by the Sheriff and his deputy at the County Board meeting (4.24.12) and used the lowest end of these figures. If I were to have based my calculations entirely from the data estimates provided by the Sheriff's Office, my estimations of the economic impacts of the industry would lean much closer to the highest end of the range. That said, official figures presented in the Board meetings and in the first draft ordinance were likely produced to generate fear amongst those already wary of the impacts of marijuana production in the region and not based on any previous research or models of estimation. I have chosen the conservative figure as this best reflects previous analyses conducted by Gettman (2006) and Crawford (2012) and are thus as reliable as figures such as these can be.

<sup>29</sup> Between the months of February and May of 2014, I conducted an anonymous business survey to assess the impacts of the informal sector – primarily focused on the local impacts of the marijuana industry – on businesses in Nevada County. My sample consisted of 75 surveys from business owners throughout Nevada County.

<sup>30</sup> This is, of course, an imperfect comparison. Available consumer behavior research data aggregates rural and urban figures, thus making it difficult to know how Nevada County compares to other rural

Strategy and Research<sup>31</sup> estimates that in 2012, approximately 27% of all point-of-sale purchases were paid in cash across the nation, with expectations that this figure will drop to 23% by 2017. According to my business survey, in 2013 one-third of all businesses surveyed received 40% or more of their sales in cash, 28% of received more than 50% of all sales in cash, and for 20% – or one-fifth – of businesses surveyed more than 60% of all sales were paid in cash. Such figures are clearly greater than the national average, and in some cases significantly so. While this survey is admittedly not representative of the entire business community in Nevada County, and although it is impossible to determine what proportion of these cash sales can be attributed to the marijuana industry, the combination of survey data and estimates of the size of the local marijuana industry suggest that marijuana production does contribute to the overall health of local businesses.

### **The Difference Marijuana Makes: Rural Informality and a Politics of Illegibility**

Informality, as a social and economic relation, has become a common feature of many rural American regions (Nelson 1999), largely in response to economic insecurity generated by neoliberal restructuring (cf. Whitener & McGranahan 2003). Nevada County, as we've seen in the previous pages, is no exception to these trends. While informality takes on different characteristics in different regions of rural American, marijuana production has come to be one of the most significant forms of

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counties, both in California and the nation at large. However, as I have been unable to find disaggregated data on the size of the cash economy in various regions, this national comparison is useful in that it provides a coarse benchmark for understanding the relative size of the informal sector in Nevada County.

<sup>31</sup> <https://www.javelinstrategy.com/brochure/251>; accessed September 2013.

informal economic practices in Nevada County and northern California more generally. Marijuana, in a sense, is capitalism's safety valve in these regions. As jobs become increasingly tenuous and insecure with the expansion of service-based economies, engagement in the marijuana industry provides an important means of making a living in an otherwise deficient rural economy.

Nevertheless, reliance on marijuana production – particularly in the context of federal governmental opposition and restrictive local regulations – renders the industry and its producers legally and economically insecure. Hence the conundrum: the quasi-legal status of marijuana production secures the livelihoods of those who engage in the industry, and arguably the economic vibrancy of the County within the broader context of economic restructuring. This status also subjects marijuana producers and laborers to various forms of discipline (Foucault 1977). The full impact of these conditions cannot be sufficiently known or addressed by County officials and economic planners because they are concealed – rendered illegible – through the twin processes of informalization and moral regulation. As Slavnic (2011) points out, the concept of informalization highlights the historical constitution of informal practices not as separate from formal economic activities, but mutually constitutive of capitalism. In other words, informal activities allow people to survive ongoing forms of economic restructuring and in doing so also allow capitalism to survive its cyclical crises. The obfuscation of the marijuana industry, in this context, is part of a broader process of obfuscation more generally as it pertains to other informal industries. Furthermore, informal activities, by definition, are unregulated by the State and are unaccounted for in official measurements of the economy (Hart 1973; Portes et al

1989; Meagher 1995). Generally speaking, then, informal activities are invisible to the State and local officials. But invisibility alone does not produce illegibility. Marijuana is unique among informal sectors on account of its moral social status. Comparable to the treatment of moonshiners in the Prohibition era (Comte 2010; Peine and Schafft 2012), marijuana and its subjects have long been constructed as immoral, if not dangerous. The urgency ordinance on marijuana cultivation implemented by Nevada County officials reproduces this historical process of social marginalization and governs marijuana subjects accordingly. In doing so, both the historical development and contemporary economic impacts of the marijuana industry are rendered illegible. It is this particular combination of invisibility generated through informality and the morally ambiguous status of marijuana through which a politics of illegibility is practiced.

### CHAPTER 3: GOVERNING A NUISANCE

The passage of Ordinance 2349<sup>32</sup> was a watershed moment in marijuana governance in Nevada County. It signaled a departure from the more collaborative forms of regulating medical marijuana that occurred in the 1990s and early 2000s, and it foreshadowed a new, zero-tolerance approach to marijuana production in the County. The Board of Supervisors' decision to adopt the urgency ordinance in 2012 hinged upon, and was rationalized through, the claim that “nuisances” associated with marijuana production posed immediate threats to County residents' quality of life, and thus necessitated an “urgent” response by County officials.<sup>33</sup>

I began this dissertation with a glimpse into the meeting in which Ordinance 2349 was introduced to the public. In this chapter, I further analyze the events that took place in this meeting, and the preceding and subsequent meetings in which the Ordinance was passed. These meetings were pivotal in the governance of marijuana and conditioned virtually every public discussion and set of actions surrounding marijuana production thereafter. In this chapter I analyze how County officials and local residents deployed discourses of “nuisance” and “urgency” to justify the need to immediately restrict marijuana production in the County. My analysis revolves around video recordings and ethnographic observations of the three consecutive Board meetings wherein Ordinance 2349 was proposed, considered, and ultimately passed. In these meetings, nuisance discourse was employed in terms of public welfare, although

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<sup>32</sup> See Appendix 3 for the complete Ordinance.

<sup>33</sup> The Board of Supervisors consists of five officials publicly elected to represent each of Nevada County's five districts. Terms are four years in length. As the primary governing (legislative and executive) body in the County, “The Board of Supervisors... adopts ordinances, resolutions and rules within the limits prescribed by State law and is responsible for seeing that all Federal and State mandated functions are properly discharged” (accessed 8.1.16 at <https://www.mynevadacounty.com/nc/bos/Pages/About-the-Board-of-Supervisors.aspx>).

welfare was defined exclusively in relation to a select group of property owners. The welfare-nuisance dichotomy was realized through moralistic framings of marijuana as either a “dangerous drug” produced by “criminals,” or as “medicine” cultivated by “respectable” members of the community. These framings, in conjunction with the discursive erasure of marijuana’s history in Nevada County, were central to the construction of marijuana as a nuisance in need of urgent address and, as we will see in Chapter 4, deeply shaped efforts to overturn the ordinance in the months that followed its passage.

In this chapter I argue that moral regulation has been a critical form of governance in Nevada County, beginning with that of “hippies” in the 1960s and 1970s and extending to the governance of marijuana and its subjects currently. In the contemporary moment, this form of governing marijuana relies on an assemblage of governmental technologies (Foucault 1991; Rose 1999: 51), including discourses (“nuisance,” marijuana as a “dangerous drug,” and resident’s “quality of life”), knowledge (selective reports on the effects of marijuana use and manipulations of local crime data), non-knowledge (the obfuscation of the economic dimensions of marijuana production), positions of authority (the local Sheriff and his officers, the Board of Supervisors, County Counsel, the District Attorney, etc.), and disciplinary practices (ordinances, helicopter surveillance of property, abatement of plants, and violations/fines). All of these technologies of governance are designed to control the conduct of the governed (c.f. Rose 1999), and they do so, I argue, largely through the form of moral regulation.

The concept of illegibility advanced in this dissertation owes much to

Foucault's emphasis on the constitutive relationship between knowledge and power and its centrality to governance (1977, 1980), as well as his discussion of the productive effects of non-knowledge – silences, obfuscations, and secrets (1978). But it also relies heavily on Corrigan and Sayer's conception of moral regulation. These terms are often taken as distinctive, even in opposition to one another. Mitchell Dean, for example, argues that we should replace the concept of moral regulation with that of governmentality. The former, he argues, suffers from,

[a] reliance on a culturalist account of the work of moral regulation; [places an] undue focus on the state; and [is unable] to approach domains of self-formation at a distance from the state (1994: 145).

Dean also objects to moral regulation's focus on "meaning and representation" rather than the "practical relations between governmental and ethical practices and the development and formation of human psychological and corporeal capacities" that are at the center of studies in governmentality (1994: 164-165). While I address some of Dean's specific critiques of moral regulation below, I believe the two concepts have more in common than he acknowledges. Both governmentality and moral regulation are historically specific forms of analysis that embody a genealogical methodology; both take normalization as a central technology of rule; knowledge is a central modality of power in both; and both are attentive to the multiplicity of practices that coalesce in various forms of government – the assemblage of discourses, forms of authority, technologies of power, and so on (see Foucault 1991; Corrigan 1981; Corrigan and Sayer 1985; Dean 1994). In these ways, both are appropriate analytical perspectives through which to understand marijuana governance in Nevada County. Moreover, unlike Dean, I see meaning and representation as critical sites of

governance and political practice more broadly. Rather than eschewing these spaces of analysis, I focus explicitly on them for reasons I elaborate below.

Although I offer a slight reconceptualization of the meaning of the concept (discussed below), I privilege the language of moral regulation over that of governmentality because I find that it better illuminates the central features of governance in Nevada County. While there are various forms of social control, I am focusing specifically on that of moral conduct. Contestations around marijuana in Nevada County and the United States more broadly have been framed *explicitly* in moral terms. As I show in this chapter and elaborate further in Chapter 4, both the hegemonic and counterhegemonic narratives surrounding marijuana take the morality of its subjects as the central point of contention upon which all other claims ultimately depend. For anti-marijuana advocates, marijuana is deeply tied to criminality, insecurity, and “undesirable” populations (“bad neighbors,” as the Sheriff frequently describes these groups). Medical marijuana activists have likewise framed their arguments in moral terms, staking their claims to narratives of respectability, acting as “good neighbors,” and an effort to address physical ailments in “natural” and “healthy” ways. The qualifiers in each of these discourses are important, as they inflect moral sentiments and appropriate codes of conduct – all of which are deeply contested.

The economics of marijuana production have also been moralized. In any other capitalist industry, profit is deemed a primary goal of economic activity. However, the profitability of marijuana in Nevada County is evaluated by those in authority through the language of greed, illegitimacy, and immorality. As a “dangerous drug,” its sale

can only contribute to the denigration of society. As “medicine,” the emphasis on health is expected to be strictly benevolent, with no expectation of financial gain or even compensation for one’s labor in producing the medicine. While the former argument blatantly reflects the dominant moral sentiments associated with marijuana in Nevada County, the moral rationality of marijuana as medicine used amongst County officials is subtler, yet not without tremendous contradictions. According to Forbes, the U.S. pharmaceutical company Pfizer achieved a 42% profit margin in 2013 (Anderson 2014), and current profit margins for the pharmaceutical industry in the U.S. are nearly 18% *on average* (NYU Stern School of Business 2016<sup>34</sup>), making this industry one of the most profitable industries in the nation. While I am certainly not advocating for such high profit margins in an industry that is central to human welfare, the contradictions between the sale of pharmaceutical “medicine” as normal and/or natural and the sale of medical marijuana as “immoral” must be acknowledged. This and other types of moral regulation discussed in this chapter – as a specific form of social control – have implications for how identities are formed, how subjects are constituted, and what constitutes belonging and exclusion – who is deemed part of a “community” and who isn’t. The moral regulation of marijuana subjects entails ongoing practices of separating citizens into desirable and undesirable subjects,<sup>35</sup> and governing acceptable forms of social behavior. Such practices are central to the analysis I develop in this chapter.

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<sup>34</sup> Data accessed at [http://pages.stern.nyu.edu/~adamodar/New\\_Home\\_Page/datafile/margin.html](http://pages.stern.nyu.edu/~adamodar/New_Home_Page/datafile/margin.html) on 7.29.16.

<sup>35</sup> The wealth of literature on such practices as they relate to welfare is insightful here. See Adair 2000; Baker 1990; Berrick 1996; Edmunds-Cady 1999; Fraser 1988, 1990; Fraser and Gordon 1994; Geva 2003; Hancock 2004; and Roberts 1997.

That said, my own understanding of moral regulation also differs from that of Corrigan and Sayer. An analysis of resistance is admittedly lacking in both Corrigan and Sayer's notion of moral regulation. As argued by Mitchell Dean (1994), Corrigan and Sayer place too much emphasis on the State as the primary field in which moral regulation is accomplished, "overemphasizing the unity of the state and its consequences" and neglecting the many other sources of governmental powers and practices that reside beyond the state (1994: 152).<sup>36</sup> Indeed, Corrigan and Sayer's definition of moral regulation is intimately connected to an analysis of "the State" and state formation. "Moral regulation," they state,

...is a project of normalizing, rendering natural, taken for granted, in a word 'obvious,' what are in fact ontological and epistemological premises of a particular and historical form of social order. *Moral regulation is co-extensive with state formation, and state forms are always animated and legitimated by a particular moral ethos. Centrally, state agencies attempt to give unitary and unifying expression to what are in reality multifaceted and differential historical experiences of groups within society, denying their particularity* (1985: 4, emphasis added).

While the authors acknowledge that the practices of normalization that occur through state formation are neither monolithic nor absolute, they devote little attention to the ways in which such representations are challenged or resisted. Their concluding remarks in the Introduction of *The Great Arch* explicitly acknowledge as much: "This is not, then, history from below; the better side of the story goes untold, and that it

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<sup>36</sup> In part, Dean may be misreading Corrigan and Sayer. Following Abrams (1988), these authors argue for a more discursive understanding of "the State," which takes it not as a material object, but rather, as Abrams puts it, an "ideological project... an exercise in legitimation" (ibid: 76). He goes on to describe this ideological project as, "a bid to elicit support for or tolerance of the insupportable and intolerable by presenting them as legitimate, disinterested domination" (ibid). Employing this conceptualization of the state, Corrigan and Sayer demonstrate how the state is an effect of centralized moral regulation. Their detailed historical analysis shows how the governed are, indeed, participants in the production of the state, and that this participation is evidence of a cultural revolution in England. Nevertheless, the authors implicitly separate power and resistance, which as I argue below compromises the analytical potential of "moral regulation."

does should be remembered throughout” (1985: 12). But what does it mean to write a history that takes power and resistance as separable components of a story, rather than mutually constitutive? I thus modify my own use of moral regulation from that of Corrigan and Sayer. First, while I am looking at how state forms employ practices of normalization and social control through moral regulation, I go beyond the state to also show how such discourses and practices are enacted throughout the body politic – in newspapers and through gossip, in anti- and pro-marijuana advocacy groups alike, and in impassioned conversations by local residents in bars and coffee shops. While the degree to which different groups can enact their will is certainly unequal, the production of moral regulation, and its contestation and even reinforcement through oppositional practices, is a collaborative project. This insight brings me to remarks Foucault made on power and freedom, which he argues exist in a reciprocal, boundless, contested, dynamic, and enduring relationship of provocation (*agonism*) whereby, “the relationship between power and freedom’s refusal to submit cannot... be separated” (1982: 790). ‘Resistance,’ for Foucault, is therefore integral to power relations. As he notes,

...there are no relations of power without resistances; the latter are all the more real and effective because they are formed right at the point where relations of power are exercised; resistance to power does not have to come from elsewhere to be real, nor is it inexorably frustrated through being the compatriot of power. It exists all the more by being in the same place as power; hence, like power, resistance is multiple and can be integrated in global strategies (1980: 142).

While Foucault did not elaborate his idea of resistance (he focused much more on relations of power), I will do so in Chapter 4 by showing how the construction of marijuana knowledge and its associated forms of moral regulation are co-produced

through provocation, as evidenced by Americans for Safe Access' campaign against the "urgency ordinance." The achievement of rule through moral regulation is, as Corrigan and Sayer note, always an unfinished project. But it is one that requires the active participation of rulers *and* ruled.

In this chapter, I focus on how marijuana has been constructed as a moral object of governance. In the following chapter I build on the concept of moral regulation using Gramsci's notion of hegemony to demonstrate how contestation and resistance are central to this discursive formation and the relations of power in which it embodies. Importantly, as I demonstrate in this and the following chapters, the moralization of marijuana is not only *the* central dimension of its governance in Nevada County, but this process is also critical to the construction of the industry as illegible in the region.

This chapter moves back and forth in time to show how moral regulation is used to govern marijuana in Nevada County. First, I examine how the urgent ordinance was rationalized by the County Sheriff and ultimately taken to the Board of Supervisors for approval. In this section I describe the shift from a collaborative approach to marijuana regulation that occurred prior to the current Sheriff's tenure in office, to a top-down model of governance premised on moral regulation. In the next section, I explore the historical roots of this latter approach to marijuana, looking at how "reefer madness" propaganda and discourses propagated through Nixon's (and later Reagan's) "war on drugs" came to be the dominant narrative through which marijuana was understood and regulated in the United States. I then show how these narratives have shaped moralistic understandings of marijuana in Nevada County –

either as a “drug” or “medicine” – and how these have been embodied in political discourses of “nuisance,” “urgency,” and “quality of life” in Nevada County. This discursive formation not only defined “welfare” in very limited and exclusionary ways, but also became the dominant narrative surrounding marijuana production in the County. I close the chapter by demonstrating how a politics of illegibility relies upon and is produced through governance premised on historical and contemporary forms of moral regulation.

### **“How We Got Here”**

As described in Chapter 2, marijuana production has been a key feature of the landscape – socially and physically – for more than 50 years in Nevada County. Why, then, was marijuana production suddenly deemed a nuisance so severe that it required passage of an urgent ordinance? I opened Chapter 1 with a description of the Board meeting on April 24, 2012 in which the Sheriff and his deputy formally introduced the urgent ordinance to the Board of Supervisors and the public. After the Deputy Sheriff delivered his presentation on the state of marijuana production in Nevada County, the Sheriff took over, describing to the audience how it was that “we got here,”

Last year during the grow season, we received complaints on a daily basis from the community... the citizens have had it. They were tired of the odors, some of them said they had allergies, they couldn't live in their homes. They complained of excessive light or noise because of the gardens that were being grown, the traffic in and out, especially during harvest period ... And I'm here to say, I have no doubt we have growers that are reasonable. What got us here are the ones that didn't play good neighbors... That's what's brought us here today – because they did impact the quality of life of others living in the community... and that's what this [urgent ordinance] is about: it's about nuisance abatement, quality of life in our communities... I think what we're bringing forward is reasonable, and I'll leave it to the Board for your

discretion on how you want to proceed from here. But we'd like to see an ordinance adopted (Board meeting, 4.24.12).

Passage of Ordinance 2349 was urgent, according to the Sheriff and his deputy, because marijuana production was impinging on residents' "quality of life" and posed significant threats to the community at large, as I will explore in greater detail below. However, not only had marijuana production been a common feature on the landscape for decades, as I discussed previously, but discussion of the presence of marijuana in the County had been extensive for more than ten years prior to the introduction of an urgent ordinance. In 2002, marijuana-related news graced the pages of the local newspaper on weekly basis, and by 2004 *The Union* described "pot" as being the "county's biggest \$\$ crop" (9.28.07). While the article focused solely on the value of seized marijuana plants and did not discuss the economic implications of the marijuana industry in the County more broadly (not to mention that such discussions of the economics of marijuana production such as this were extremely rare to begin with), the prevalence of coverage of marijuana in local media sources has been substantial over the last decade. So why was marijuana suddenly such an urgent issue?

For years the Sheriff had been attempting to find new ways to regulate marijuana. Initially, he sought to do this by modifying local cultivation guidelines that had been established in 2000. These guidelines were created by the District Attorney (D.A.) at the time, who was concerned about how to regulate marijuana production within Nevada County following the passage of Proposition 215. It was impossible, he realized, to monitor everyone who was growing and he wanted to establish some guidelines for law enforcement to determine when it was appropriate to investigate and/or arrest someone for cultivating marijuana. The D.A. thus convened with a

medical marijuana doctor and a medical marijuana activist (who I call “Will”) to draft guidelines for regulating marijuana production and consumption at the county level (interview with doctor, March 2013 and interview with Will, 4.24.16). Both the doctor and activist were and still are widely respected in the community and are well versed in medical marijuana laws at the state level. The guidelines they collectively established aligned closely with State recommendations. Under Nevada County guidelines, patients<sup>37</sup> were entitled to have up to 10 marijuana plants and as much as two pounds of processed marijuana on their property (Nevada County Inter-Agency Protocol, 2000). While these guidelines were not formalized in a county ordinance, they informed local law enforcement practices for seven years. In 2007, the new D.A. contacted Will for input on a revised set of guidelines (interview with Will, 4.24.16). Local law enforcement, the new D.A. explained to Will, wanted stricter regulations around medical marijuana. Together, this D.A. and Will drafted a new set of guidelines that differed only slightly from those previously established: the number of plants was replaced by square footage of garden canopy (patients could have up to 75 square feet of canopy)<sup>38</sup> and the amount of processed marijuana a patient was entitled to possess remained the same (Nevada County Inter-Agency Protocol, 2007<sup>39</sup>).

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<sup>37</sup> Defined as having received a recommendation from a licensed doctor.

<sup>38</sup> The local activist introduced the concept of garden canopy to the DA as an alternative to limits on the number of plants. This decision was based on Chris Conrad’s research (a court witness) on how to most accurately estimate the volume of marijuana production in a single garden. Using research conducted at the University of Mississippi, under the purview of the Drug Enforcement Administration and the National Institute on Drug Abuse, Conrad (2015) argues that canopy is a much more reliable way to measure the quantity of marijuana being grown. Plant sizes vary considerably, and thus the amount of bud (or marijuana flowers) generated per plant is also highly variable. Canopy, on the other hand, provides a more consistent estimation of the amount of bud that can be generated in a specified area (2015: 8). However, the majority of medical marijuana activists in Nevada County are opposed to this measurement scale as used in local regulations. I discuss the reasons for this in Chapter 4.

<sup>39</sup> Accessed July 10, 2016 at <http://www.mynevadacounty.com/nc/da/docs/2007MedicalMarijuanaProtocol.pdf>.

These guidelines held until 2011, when the Sheriff discovered that he could instead use zoning ordinances to regulate medical marijuana production (Board meeting, 11.8.2011), shifting regulatory power from the District Attorney’s office directly to those of the Sheriff and Board of Supervisors<sup>40</sup> (interview with Will, 4.24.16).<sup>41</sup> This discovery coincided with an illegal grow on a vacant lot in Alta Sierra, a census-designated location in the southern region of the County.<sup>42</sup> The marijuana grow, which became known locally as the Annie Drive grow, became a flashpoint in the effort to regulate (and eventually ban) marijuana production. The Annie Drive grow was located on a vacant lot near the Alta Sierra Elementary School, alarming neighbors and parents both by the proximity of “drug” cultivation in their neighborhood and near children. The Annie Drive incident garnered attention from large media sources in nearby Sacramento and was highlighted in the Sacramento Bee and on CBS-local. The primary public figure for the story was a local resident<sup>43</sup> who had just formed an organization with approximately 100 other Alta Sierra Residents called “Nevada County Against Residential Cannabis Cultivation.” The primary objective of the organization was to press the County to implement a restrictive ordinance on marijuana cultivation in residential zones of the County.

Despite the long-term presence of marijuana in the County, until 2011 the

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<sup>40</sup> The local DA had discretionary power around who should and shouldn’t be prosecuted for (medical) marijuana violations. By constructing a nuisance ordinance, this power was effectively diminished.

<sup>41</sup> Zoning ordinances around the cultivation of medical marijuana – and the consequential construction of marijuana as a “nuisance” – have proliferated in California. Of the 58 counties in California, 35 of them have implemented some kind of ordinance to regulate medical marijuana production (NORML 2015).

<sup>42</sup> Alta Sierra is comprised of nearly 7,000 residents, many of whom belong to the Alta Sierra Property Owners Association.

<sup>43</sup> This resident also founded and directed the Northern California branch of Smart Approaches to Marijuana (SAM)—a policy oriented organization and national network. Sheriff Royal, it is important to note here, serves on SAM-NC’s Board of Directors.

Board of Supervisors had not engaged in public debate about the regulation of its production. The Annie Drive grow, many argue, became the catalyst for an urgency ordinance (Kellar 2011) that would effectively bypass sustained public dialogue on the issue. In November of 2011 the Sheriff requested permission from the Board to draft a nuisance ordinance around medical marijuana cultivation. In response to the pronounced public opposition to the ordinance, the Board requested that the Sheriff form a working committee with a diversity of stakeholders and report back to the Board after they had collectively revised the document.

The working group was a farce, according to the medical marijuana representatives involved. “There was such a low level of knowledge about medical marijuana,” Will said, “and a lack of diversity on the committee – no county health officer, drug rehab people, agriculturalists, *et cetera*” (interview, 4.24.16). The committee consisted of the Sheriff, the District Attorney, the head of the county’s Narcotics Task Force, County Counsel, four residents of an anti-marijuana property owners’ association, a Board member opposed to marijuana cultivation and consumption, a real estate representative (who was a friend of the Board member), two “random residents that no other residents on the committee knew,” the chairperson of Americans for Safe Access-Nevada County (ASA-NC, the local medical marijuana advocacy organization), a medical marijuana patient, the medical marijuana doctor cited earlier, and Will. Of the 16 members of the committee, Will stated, “only four of them knew anything at all about cannabis” (ibid).

Despite the unbalanced composition of the meeting, activists and patients initially believed that their use of “science-based” arguments would have an impact on

the structure and content of the revised ordinance (interview with Chair of ASA-NC, September 2013). This ultimately did not happen. The committee met only twice before the next Board meeting in April (Sheriff, Board meeting 4.24.12) – hardly enough time to overcome the tremendous ideological differences within the group – and the draft completely neglected the input of medical marijuana patients and activists. As the Chair of ASA-NC stated in the April 24<sup>th</sup>, 2012 Board meeting,

I was part of the Sheriff's working committee to make suggestions for this ordinance, and I'm dismayed to find that not one of the suggestions that were made to ensure safe access for patients was included in this ordinance... [And] as far as the urgency part of this ordinance goes, when did we start this – in October? Seven months later all of a sudden it has become an urgent issue? I believe that we can take our time and go back to the drawing board and make this work for everybody... and I know we can do this and avoid costly, legal lawsuits. We can do this as a community. We can protect patients and homeowners. And we all agree that there is a problem with out of control marijuana cultivation in this county, but that doesn't mean we should overly restrict patients.

These sentiments were echoed by dozens of other residents, patients, and health care providers in the community, along with concerns around some of the content of the ordinance, including who qualifies as a “patient,” using numbers of plants versus square footage of garden canopy to regulate gardens, specifications around fencing requirements, and whether such an ordinance was an urgent matter, or could instead be discussed at greater length within the community before solidifying local regulations. Upon conclusion of the April 24<sup>th</sup> meeting, the Board asked the Sheriff and County Counsel to reconvene with stakeholders and revise the draft once more, then return to the following Board meeting with drafts of both an urgent and a regular ordinance. On May 7, 2012 – the day before the next Board meeting – the Sheriff submitted a memo to the Board of Supervisors along with the revised draft. He

wrote,

Since the [last] Board meeting, we have continued to receive numerous comments and suggestions from the public, and on Friday, May 4<sup>th</sup>, had a very productive meeting with our focus group. Based on the community feedback we have continued to receive and our own additional research, we have continued to revise and update the proposed ordinances... I wish to thank the many people on all sides of this issue who have taken the time to provide positive, constructive feedback on the proposed ordinances, who have been willing to recognize different perspectives and show compromise, and who have worked collaboratively on finding potential solutions... The draft ordinances will provide my Office with valuable tools to better address potential nuisance and public safety issues associated with marijuana cultivation, and help ensure that Nevada County remains a safe and healthy community for all residents. I recommend that the Board adopt the ordinances as proposed (Memo to the Board of Supervisors, May 8 2012).

The problem, according to medical marijuana patients and activists, though, was that this new ordinance varied only slightly from the initial draft and continued to neglect the concerns raised by this sub-set of the committee – all of whom requested more time to craft a final ordinance that could better address the multiple interests surrounding marijuana cultivation. After more than five hours of public comment on the matter at the May 8, 2012 Board meeting – which again was composed predominantly of those in opposition to the ordinance – the urgent ordinance was passed by the Board in a 4-1 vote.<sup>44</sup>

The Sheriff's and the Board of Supervisors' actions fundamentally transformed the ways in which marijuana and its subjects are governed in Nevada County – from a

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<sup>44</sup> The one Board member who voted against the urgent ordinance stated in the May 8, 2012 Board meeting, "Both sides of the issue appear to want additional work done to the Ordinance... [However], a poll taken by *The Union* newspaper showed overwhelming support for some sort of deregulation. Email testimony received by the Board was heavily weighted for deregulation, and comments taken at the meeting today heavily emphasized deregulation." The Supervisor then read a statement from President Obama quoted in the May issue of the Rolling Stones Magazine, "requesting that the Justice Department use its prosecutorial discretion to prioritize resources to go after things that are really doing folks damage. The common theme I read into this," the Supervisor stated, "is that the problem lies with the big growers that are abusing the system. There are real problems and neighborhoods are being affected, people are worried about protecting children, and there is some crime, but I believe [this ordinance] is going too far. There is too much weight on government telling people what they can't do and not supporting what they can do."

bottom-up process of negotiation, to a top-down process imposed by law enforcement.<sup>45</sup> These shifts in power, however, were obscured by the Sheriff's framing of "how we got here." The discourses that defined both the public meetings and the content of the ordinance ultimately framed the ways in which marijuana production could be publicly imagined, and thus governed.

### **Marijuana and the Morality of the Nation: Historicizing the "Dangerous Drug" and Its Subjects**

*Marijuana is a gateway drug and, by the way, it is illegal. The people growing it here are criminals and many of them are from out of state and not the individuals we want in our county. Why do we continue to put up with it? I keep asking that question.*

~ Nevada County resident, published in *The Union*, October 20, 2015

This Nevada County resident's statement reflects a confluence of assumptions, from negative portrayals of marijuana and constructions of its subjects as "criminals," to fear of "outsiders" and the need to protect an insular community. But these framings of marijuana and its subjects from which local residents needed "protection" did not originate in Nevada County. The discourses generated by the Sheriff and the Board of Supervisors have a genealogy of their own that emerged decades earlier. From their inception, marijuana discourses and regulations were designed explicitly to regulate unruly populations – first minority and immigrant groups, and later anti-war leftists (Baum 2016). As a result, anxieties around marijuana are intimately connected to social anxieties surrounding race, class, and the capitalist order. The historical

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<sup>45</sup> As I show in the conclusion, this top-down model has only intensified in the two years since I conducted research.



Figure 6: A Poster for the 1936 Film, *Reefer Madness*. Source: Delwiche 2014.

development of these narratives and forms of governance is thus critical to an understanding of how marijuana subjects came to be “known” and governed over time, and how and why marijuana production became an “urgent” matter in Nevada County.

The demonization of marijuana and its subjects in the United States dates back to the 1930s with Henry Anslinger’s vendetta against marijuana. Anslinger, the first commissioner of the now defunct Federal Bureau of Narcotics

(FBN),<sup>46</sup> has arguably had more influence over marijuana regulation in the United States than any other public official in U.S. history. In conjunction with William Randolph Hearst – for whom the phrase “yellow journalism” is coined – Anslinger launched an all-out assault against marijuana in the 1930s, identifying Mexican immigrants and African Americans as the key instigators of this purportedly dangerous and deadly drug’s proliferation. Marijuana was widely consumed amongst Mexican peasants as a “palliative to help them cope with everyday tedium and despair” (Lee 2012: 39), and was the intoxicant of choice amongst Jazz musicians and their audiences (Schlosser 2003; Lee 2012). Using these populations to instill fear amongst “up-standing” white citizens, Anslinger facilitated a series of reforms – from

<sup>46</sup> The FBN was formed in 1930 by the Department of Treasury, merged with Bureau of Drug Abuse Control in 1968 to form the Bureau of Narcotics and Dangerous Drugs, and ultimately transformed into the Drug Enforcement Administration, which continues to operate today.



**Figure 7: The "Assassin of Youth"**  
 "An example of a flyer/insert that would often run in newspapers" in the *Reefer Madness* era (Delwiche 2014). Young people were believed to be particularly susceptible to the ill-effects of marijuana (Schlosser 2003).

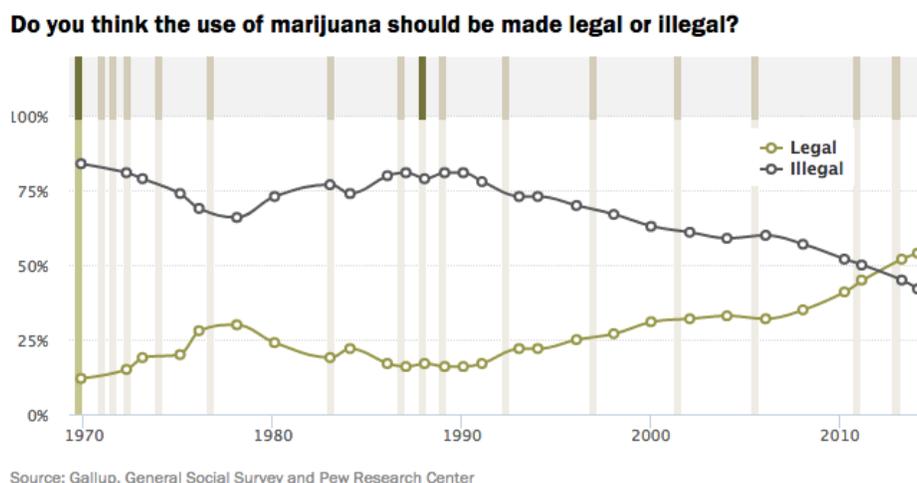
the passage of the Marihuana Tax Act in 1937 to prohibiting doctors from prescribing cannabis-derived treatments – in attempt to criminalize, demonize, and eradicate marijuana (and more importantly, marijuana subjects) from the American landscape. Anslinger made brilliant use of the media to represent marijuana as a fundamental threat to the safety of the nation – a substance that transformed “healthy teenagers into sex-crazed maniacs” (Schlosser 2003: 19) and average citizens into murderers, robbers, and rapists (Lee

2012). The now cult classic film, *Reefer Madness* (1937), epitomized these representations of marijuana and its consumers, having lasting effects on public perceptions of marijuana that are still visible today. It was also under Anslinger’s leadership that mandatory minimum sentences for drug violations (marijuana and heroin, in particular) were passed by Congress through the Boggs Act (1951), followed by passage of the Narcotics Control Act in 1954, which further increased penalties for marijuana (Lee 2012: 64; see Figures 6 and 7).

The rise of the counterculture movement in the 1960s and increasing numbers of white, middle class, young people consuming marijuana complicated racially-motivated representations of and attacks on the plant (Alexander 2012). Public

officials and society at large began reevaluating marijuana and its purportedly deleterious effects on users. According to the Pew Research Center, public opinions surrounding marijuana legalization began to shift in the 1970s, if only momentarily (see Figure 8). Although more than half of the population still thought marijuana should be illegal, the American public was becoming more tolerant of the plant. This shift was reinforced by a national report published in 1972 on the physiological and psychological effects of marijuana. The National Commission on Marijuana and Drug Abuse – a bipartisan group selected and commissioned by President Richard Nixon with the intent of giving greater legitimacy to anti-marijuana policies – debunked reefer madness era myths that marijuana was a threat to public safety and recommended that marijuana be decriminalized. The findings of the commission were in direct conflict with Nixon’s own agenda on marijuana policy and the report was denounced by the President, even though he never read a word of its content (Lee 2012).

**Figure 8: Gallup and Pew Research Center Poll on Public Perceptions of Marijuana Legalization Over Time**



Despite an accumulation of evidence that marijuana was far less dangerous than represented in the media and by public officials and an expanding body of data that illustrated medicinal uses of the plant, marijuana remained a target of federal scrutiny. In 1970, at the behest of President Nixon, Congress created distinct categories of narcotics – “schedules” – ranked according to “their safety, their medical uses, and their potential for abuse” (Lee 2012: 119). Marijuana, alongside heroin, was placed in Schedule I, as the most dangerous of drugs, with “no therapeutic value” (ibid). In a speech during his presidential campaign in 1980, Reagan described marijuana as “probably the most dangerous drug in the United States, and we haven’t begun to find out all of the ill effects. But there are permanent ill effects.”<sup>47</sup> Scientific evidence, however, demonstrated precisely the opposite – marijuana was nowhere near the “dangerous drug” that politicians and public officials claimed it to be.<sup>48</sup> Nonetheless, national representatives were able to reproduce a moral panic surrounding marijuana (Goode and Ben-Yehuda 1994), and in doing so justify unprecedented violations of privacy and use of force in the purported interest of eradicating marijuana and winning the so-called drug war, as discussed in Chapter 2.

Nixon’s “war on drugs” and concomitant assault on marijuana was framed as being in the interest of public safety. In actuality, however, the war on drugs had surprisingly little to do with the effects of marijuana. Instead, it served as a powerful

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<sup>47</sup> Accessed on 5.1.16 at <https://www.youtube.com/watch?v=VxHBx6H-xFo>.

<sup>48</sup> Numerous studies and reports, from the compilation of scientific evidence gathered in National Commission on Marijuana and Drug Abuse’s 1972 report (known colloquially as the Schafer Report, after the committee’s chair, republic governor of Pennsylvania, Raymond Schafer), to Dr. Tod Hiro Mikuriya’s survey of the medicinal uses of cannabis as director of the National Institute of Mental Health’s marijuana research program, to Dr. Raphael Mechoulam’s research on THC at the Hebrew University in Jerusalem, have challenged popular representations of marijuana as a dangerous drug, have confirmed the medicinal uses of the plant, and have recommended that the drug be decriminalized, if not legalized.

means of regulating two particularly troublesome groups for the administration: “hippies” and African Americans.<sup>49</sup> In a recently published article in *Harper’s*, Dan Baum, one of the most prominent journalists to cover the history of the American drug war, discussed his 1994 interview John Ehrlichman, Assistant to the President for Domestic Affairs under Nixon and a co-conspirator in the Watergate scandal. The space afforded by time and a stint in federal prison made Ehrlichman more candid about the drug war than Baum could have possibly hoped for. “You want to know what this was really all about?” he asked Baum,

The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people. You understand what I’m saying? We knew we couldn’t make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did (quoted in Baum 2016: 22).

The production of knowledge surrounding marijuana was intimately tied to fears of anyone who threatened the pre-existing power structure upon which the whole of capitalist relations rests. Both groups were anti-systemic in nature. African Americans were contesting long-standing racial inequalities, injustices, and violence done to Black communities, and they were constructing spaces in which they could exert power and potentially transform racial relations. Leftists (a diverse category that

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<sup>49</sup> While back to the landers (popularly conceived as “hippies”) were the primary targets of CAMP raids in northern California and other rural regions across the nation, the overwhelming burden of the war on drugs has disproportionately fallen on people of color. According to Jon Gettman, the arrest rate for marijuana possession is three times higher amongst African Americans than whites (2009), despite the fact that the two populations use marijuana at roughly the same rates. These discrepancies have profound effects on the long-term well being of African Americans. For one, it is much more difficult to find stable employment with a felony record, to say nothing of the institutionalized racism already present in America’s economic structure. The disproportionate incarceration of African Americans (and males in particular) also has serious intergenerational effects. According to Chettiar, more than 11% of all black children have a parent who is incarcerated (2015).

often incorporated “hippies,” whether appropriately or not) were also challenging racial and gender inequalities, as well as cultural values in society more broadly and the administration’s position on foreign policy (Rossinow 1997). Marijuana knowledge – based on reefer madness assumptions and concern with these unruly populations – served as one way to obscure the demands posed by these groups and to subjectify them in ways that rendered them more easily governable. With regard to hippies, the focus on marijuana use became a way to subdue leftist activists more broadly; by defining all young, white activists as marijuana-using “hippies,” government and law enforcement officials could more easily discipline and govern them. In this way, marijuana knowledge in the war on drugs era operated as a regime of truth (c.f. Foucault 1991) through which select populations were silenced, marginalized, and constituted as a public threat. These discourses and modes of governance have left lasting legacies, not least of all in Nevada County.

One of the most telling places to see marijuana knowledge at work is in the local newspaper. Through coverage of marijuana busts, opinion columns, and letters to the editor, the legacy of reefer madness propaganda continues to flourish. Take the following excerpts from a handful of editorials written in *The Union*, Nevada County’s newspaper, between 2002 and 2014.<sup>50</sup>

“Medical marijuana” is a farce; the emperor has no clothes and is stoned. Once upon a time pot was illegal and it should have stayed that way; it’s time for the potheads and dope growers to crawl back under their rocks. Instead, the potheads have finally found a winning issue in “medical marijuana,” like the environmentalists have in “endangered species.”

~ February 11, 2002

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<sup>50</sup> While I have not included the names of the authors here, it is worth noting that men and women wrote these editorials in equal proportion.

As a reformed drug user/dealer who spent many years in Europe (I'm not very proud of this), I feel I may be able to shed some light about the possible links between drugs and terrorism. I was stationed in Germany, but we (my partners and I) procured our materials mostly in either Amsterdam or Rotterdam. We dealt mainly in hashish and marijuana, when we could find the latter, and opiates. The seedy folks we dealt with were either Arab or Jamaican and most of the "hot" hash was "black afghan" – good stuff, huh? So, does the illicit drug industry support terrorism? Probably not. However, there is a lot of money in the game and those who wish to supply themselves with wealth for arms would be inclined to exploit this market... Don't get me wrong. I don't have a problem with someone smoking pot. I do, however, have a serious problem with the ilk that brings it here from elsewhere.

~ March 5, 2002

People getting severely beaten, homes being invaded and burglarized – sooner or later someone is going to be killed. Am I talking about people in some foreign country? No, indeed! It is happening quite frequently here in our fair town... And all because of this so-called harmless plant, marijuana. There are those few who need it due to medical condition. For the most part, marijuana prescriptions are used for one purpose only: to make money selling drugs illegally. The largest cash crop in this county, marijuana, is a gateway drug... If you grow marijuana, you are placing your life, the lives of your family and your property at risk.

~ October 8, 2004

Many locals consider pot use healthy and useful and are ready to lynch anyone who cautions about the dangers of pot. They also insist there are no ill effects, and that it's not a gateway drug... If you have made pot use a central part of your lifestyle, how did your kids turn out? Are they motivated, functioning members of society? Far from being harmless, long-term pot use causes paranoia, chronic laziness and eventual brain fog. Those users who have children, do your kids a favor and quit using it until they're grown up and out of your house.

~ May 20, 2007

I grew up in the 1960s. I've known people who started with marijuana and ended up addicted to cocaine and heroin... Legalizing marijuana only says, "it's OK to be stoned" to our young people. You'll have people driving and working while stoned... Why on earth would you advocate the legalization of narcotics that own you physically and mentally? Drug addicts do steal and commit robberies and burglaries to support their habits. Drugs accumulate in your body and destroy your brain. We don't need more people on welfare and disability because their brains are fried...

~ August 19, 2007

**“Editorial Choices Questionable”:** A few months ago you [*The Union*] printed a front-page article about the great growing season for marijuana in Nevada County. It was a poor decision to seemingly condone and praise growing the “drug,” when its increasing use is causing more and more

problems all over this country... A few days ago, your front-page article featured transgender Jadee Dennis. By printing the article, you promoted and condoned her decision to change from a beautiful young girl to a boy. Why was this life-changing decision front-page news? It was made by a confused child who has no understandings of the consequences of her choice. I believe your articles cause harm by making drug use and changing one's sex seem normal. It will never be normal...

~ April 23, 2014

The problem is, marijuana is a gateway drug to those other harder drugs... Ultimately, the legalization or semi-legalization of pot will be the latest failed social experiment, resulting in lives lost of those who try to drive while high or the innocent people they kill while doped up. People who smoke to [sic] much weed will eventually lose all thought process while they continue to destroy brain cells. Marijuana is a dangerous mind-altering drug for those who use it, period...

~ May 9, 2014

When you're talking about having 18-24 marijuana 'sequoias' on your neighbor's property, that interferes directly with the quiet enjoyment on my own property.

~ Nevada County Republican Party Chair, July 17, 2014

One has only to read the paper on July 7 and July 8 to see that both the article about the man who was attacked in his home and the man found dead both mentioned marijuana plants.

~ July 22, 2014

... it really bothers me when a marijuana advocate peddling it as "medicine" writes an [editorial] column in this newspaper... and then makes false statements to support her spurious, self-serving argument... People want to be good and have value; drug use is incompatible with that.

~ August 2, 2014

Some of the issues you could experience living next to marijuana gardens may be theft of water, you will conserve water in times like these but growers will not, your outdoor living space will be compromised, the odor could cause the use of your deck or pool to be nonexistent. Law enforcement will also be compromised to the point they will not be able to help you with nuisance and safety issues... dangerous chemicals will be used by growers to kill deer and other wild life, with dead animals left to rot... We must protect Nevada County and our property rights. Vote "No" on Measure S.<sup>51</sup>

~ October 11, 2014

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<sup>51</sup> Measure S, as I will discuss in great detail in the following chapter, is the ballot initiative proposed and coordinated by Americans for Safe Access-Nevada County.

Though just a sampling of the many editorials written on marijuana in the local paper, I include these to demonstrate the extent to which reefer madness era discourses continue to permeate the social imagination in Nevada County. Each of these statements conjures an impending threat associated with marijuana and its subjects – threats that must be removed in order to secure the safety of the “community.” The subjectification of marijuana producers and consumers as dangerous, criminals, poorly-functioning members of society, and so on becomes naturalized and normalized in the public imagination. This process serves as a powerful form of governing undesirable subjects, in line with what Ange-Marie Hancock calls such the “politics of disgust” (2004). In her discussion of the regulation of the welfare subject, Hancock shows how political cultures come to shape – and demonize – particular identities so as to rationalize the techniques of power employed to discipline and regulate members associated with such groups. “One’s public identity,” Hancock argues, “is conditioned not simply by one’s own speech and action but also by others’ perception, interpretation, *and* manipulation – particularly for those citizens who lack political equality” (2004: 4, emphasis in original). She calls this a “politics of disgust” that is constructed through discourses such as “dependency,” “laziness,” and the “Welfare Queen,” among others (ibid: 51) and are realized in social policy, such as President Clinton’s Personal Responsibility and Work Opportunity Act of 1996. A “politics of danger” could be said to be operating in similar terms in Nevada County with regard to marijuana consumers and producers. As dominant representations of these populations become codified in local regulations, we can see how moral regulation works in practice. As a process of “moralization,” these naturalized

discourses assert, to appropriate from Hunt, “some generalized sense of the wrongness of some conduct, habit, or disposition” (1997: 280). “An important class of moral regulation,” he writes, “involves a construction of social harm as some distinctive claim of “social degeneration” (ibid). The claims asserted above do precisely that. But more importantly, they are reproduced and continue to be naturalized through the passage of local regulations such as the urgency ordinance, as I will show momentarily.

From the 1930s onward, claims to the dangers of marijuana use were exaggerated at best, and were often completely fabricated, as Ehrlichman attests in his interview with Dan Baum, cited above. Nevertheless, discourses of eminent threat associated with marijuana served important social and political functions. In the 1960s and 1970s, they instilled fear in the American public and effectively demonized groups that threatened the established power structures – most notably, “hippies” and African Americans – thus obscuring these groups’ respective grievances and thwarting attempts at social change.<sup>52</sup> The construction of the marijuana subject as unruly, dangerous, and a threat to public security has endured for more than eight decades. Despite strong indications of an unraveling of those beliefs in the contemporary moment, reefer madness- and drug war-era discourses are still strong in the public imagination across the nation, and particularly in Nevada County.

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<sup>52</sup> These ongoing forms of moral regulation are not only reflective of the past, but are crucial to the governing of the present, as is visible through the current racial violence in our criminal justice system and society more broadly.

## Abating a “Nuisance,” Protecting Residents’ “Quality of Life”

*...those seeking to exercise power have sought to rationalize their authority, and these projects of rationalization have a systematicity, a history, and an effectivity. Each such project or strategy of rationalization, in the name of the market, in the name of the social, in the name of the liberty of the individual, is a strategy to intervene, whether in thought or in reality, upon a set of messy, local, regional, practical, political and other struggles in order to rationalize them according to a certain principle.*

~ Nikolas Rose, *Powers of Freedom*, 1999: 28

*We want to emphasize we're not here to take away a person's right to medical marijuana. We just want to get a handle on what we see as damaging the quality of life to our citizens within Nevada County.*

~ Nevada County Sheriff, Board of Supervisors Meeting, November 8, 2011

The seemingly innocent statement made by the Sheriff six months before publicly introducing an urgency ordinance belies its political character. As Rose notes, authority requires a project of rationalization, and in this case the Sheriff's project is waged in the name of “community,” “residents,” “property owners,” and “citizens.” Statements such as that quoted above seek to normalize particular values and beliefs, and in doing so to obscure or silence any competing claims. The power in such discourses lies in their ability to simultaneously include and exclude populations, yet the exclusions are not made explicitly visible. Instead they are the effect of the twin projects of rationalization and normalization. Groups – such as growers – are excluded from the category of “community,” for instance, by virtue of their location in the project of moral regulation. They are the Other to be regulated – those who threaten the dominant social order. As Woods notes,

The notion of belonging can help to bind rural communities together and build ‘social capital’ that enables communities to act collectively, but it also implies the exclusion of people and practices that are deemed not to ‘belong’.

Meanings ascribed to rural communities that derive from a sense of belonging to a particular territorial place, and which emphasize continuity of residence and practice, can breed distrust and suspicion of outsiders (2011: 173).

Woods defines “outsiders” not simply as people who reside outside of a specific “territorial place,” but those who do not reflect the dominant social, cultural, or ideological characteristics of the population in such places. These can range from “racial and ethnic discrimination and conflicts,” (2011: 174) to cultural conflicts, as in the ways “the ‘customary’ visit to the [rural English] pub, especially on a Sunday... causes problems for those whose faith dictates that they should not drink alcohol” (Garland and Chakraborti 2004, cited in Woods 2011: 174). In the present case, it includes those who cultivate and/or consume marijuana. The discourses of “nuisance” and “quality of life” were employed by the Sheriff and the Board of Supervisors to rationalize governmental technologies used to regulate marijuana production (the urgency ordinance), to delineate the boundaries of regulatory debates, and to discursively exclude marijuana producers and consumers from the category of “community” in Nevada County. To that end, they have been extremely successful, though not contested.

While the Sheriff benefitted from the nearly unanimous support of the Board of Supervisors on his urgent ordinance, he was also masterful in his ability to set the terms of debate over marijuana cultivation in the County. Two strategies were central to the consolidation of what came to be a hegemonic discourse surrounding marijuana cultivation. By framing marijuana as a “nuisance” that impinged upon residents’ “quality of life,” the Sheriff framed the discussion exclusively in terms of community health and well-being, which he claimed were fundamentally threatened by marijuana

production. Medical marijuana activists were thus defensive from the start. They countered the Sheriff's claims regarding health and well-being to argue that marijuana was a legitimate medicine that "patients" had a right to use and cultivate. This strategy, as we'll see in Chapter 4, not only preserved hegemonic ideologies surrounding marijuana, but ultimately constrained activists' ability to contest and overturn the ordinance.

Second, the Sheriff identified any financial benefits associated with marijuana production as strictly illegal, and thus in violation of State and federal laws. The Sheriff's stance was partially consistent with the law – SB 420 explicitly prohibits the sale of marijuana, *but* compensation to "caregivers" is allowed so long as it is limited to covering the costs of labor and materials required to produce medical marijuana for someone with a recommendation from a licensed physician. Federal law, however, prohibits the cultivation and use of marijuana for any purposes. The Sheriff's framing had several important effects. First, it obscured the economic impacts that the industry *does* have in the County, regardless of the legal status of the producers, and foreclosed any attempts to study the industry.<sup>53</sup> To study, let alone discuss, the effects of marijuana production on local businesses and livelihoods would effectively legitimize the industry. The Sheriff's framing also discursively marginalized the economic impacts of marijuana production from public debate. If the economic effects of marijuana emerged in public discussion – as they did briefly in the Board meeting –

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<sup>53</sup> Importantly, there are producers who distribute their products to dispensaries in northern California, for which they are economically compensated in a means that is consistent with State legislation. There are many others, of course, who sell their product exclusively on the black market, and those who practice some combination of distribution, exchanging part of their harvest at dispensaries and the rest on the black market. This is a common phenomenon in marijuana production not only in Nevada County, but in northern California more broadly (see Corva 2014).

they were subsumed under the rhetoric of illegality and summarily dismissed. But, most importantly, the discourses surrounding the health and well-being of local residents were explicitly translated into moral terms: any profits gained from marijuana production were unquestioningly immoral, and thus denigrated the overall character of Nevada County, as I will demonstrate below.

### *Marijuana as Drug or Medicine?*

The proposal and consideration of an urgent ordinance provoked heated debate around conceptions of community well-being that centered squarely on the appropriate place of marijuana in Nevada County. On one side of the spectrum, some Nevada County residents and the majority of law enforcement and government officials believe that marijuana has no place in a “healthy” society and economy. For them, marijuana producers are “only in it for the money” (Board meeting, 4.24.12) – which they argue does not stay in the local community – and that marijuana production brings “guns, violence, and other kinds of unwanted criminal activity” to the region (interview with the local Sheriff, 3.11.14). The majority of attendees to the three public meetings in which the ordinance was discussed were, as I noted earlier, opposed to both the claim that regulating marijuana was an “urgent” matter, and the content of the ordinance – particularly limitations on square footage, growing restrictions based on zoning, and what amounted to a *de facto* ban on cooperative growing arrangements. However, those in attendance who did support the ordinance – largely people who belonged to one particular property owners association discussed

earlier, Alta Sierra Property Owners Association (ASPOA) – framed their grievances in precisely the terms outlined above: marijuana posed significant threats to the quality of life, safety, and well-being of the “community.” A Board member and Neighborhood Watch Coordinator for ASPOA, described his opposition to marijuana cultivation in residential areas in the following terms,

I'm affiliated with ASPOA, the Alta Sierra Property Owners Association, I'm one of the Board of Directors there, I'm associated with FONA, the Federation of Neighborhood Associations, and I'm associated with NC-ARCC, Nevada County Against Residential Cannabis Cultivation... We are not against medical use of marijuana. We see that there are people who need this. The way that it's procured is of question, but that's not our goal here. The goal of these organizations [is] that we're still subject to criminal activities associated with marijuana, and that's the growth of marijuana in our residential areas. As long as there's criminal activities there, it would continue to affect our property values. It equals less taxes, which equals less law enforcement, there's no way for them to lawfully go and control this. So our whole goal is to merely get the growth of marijuana out of our neighborhood. Any R-zone area should not have to put up with the criminal activities, the loss of property value, *etcetera* (Board meeting, 11.8.11)

Another Board member of ASPOA, active member of the Tea Party, founder of *Nevada County Against Residential Cannabis Cultivation*, and Executive Director of *Smart Approaches to Marijuana, Northern California* (SAM), an anti-marijuana advocacy organization, later echoed this sentiment in an article in the local newspaper condemning efforts to overturn the ordinance. He stated, “[m]any neighbors of large marijuana gardens experience first-hand the nuisance issues associated with these grows, including negative impacts to their own personal health and well-being. Everyone needs to ask themselves what kind of a community we want to live in... Do we want the marijuana growers flocking into our neighborhoods? Do we want the negative connotation” (printed in *The Union*, 9.11.14)? These claims reflect a common representation of marijuana cultivators as dangerous criminals who bring risks to

children, property owners, and “law-abiding” citizens.

My fieldnotes are filled with countless examples of these kinds of representations of marijuana and its cultivators – from encounters with local business owners while conducting my business survey, to editorials published in the local newspaper, to informal conversations with residents and anti-marijuana activists at coffee shops and public events. While there are far too many such statements to include them all here, two additional examples are worth examining. The first was provided during my interview with a County Supervisor. After I introduced myself and the content of my study to this Board member, he replied,

Nevada County has a history of being known for marijuana. There was an article in the paper on trimmers last fall – did you see that? – saying what a boon they were to the restaurants and bars. But there’s also a down side to that. That image affects the people we’re trying to recruit to come here, speaking as an economic development organization.<sup>54</sup> People don’t want to raise kids in that kind of environment. And those employees [speaking of those involved in the marijuana industry] aren’t necessarily the types of people they want to hire. [You] can’t separate myth from reality – I don’t think there’s anything good about marijuana (3.13.14).

A local business owner responded to my survey (and doctoral project more generally) in a similar fashion. The following is a brief excerpt from my fieldnotes:

“Marijuana definitely hinders our community. Marijuana is a root to all other drug problems, as well as many other kinds of problems. If it’s used medically, I guess it’s okay. But there will be huge problems if it becomes legal.”

I asked her if the industry has grown in the time she’s lived here and she responded, “It has grown, but it doesn’t bring in any business. All these tootie fruities who smoke it don’t spend any money. They just want to go to sleep! It would be a huge problem if they made it legal – it’d be like giving kids

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<sup>54</sup> It is worth noting that the primary role of the Board of Supervisors is *not* the coordination of economic development. According to the Board’s mission statement, its primary tasks are to, “work with the community to develop sound and innovative public policy, provide strong leadership and deliver excellent services in a fiscally responsible manner” (2016, accessed on 7.31.16 at <https://www.mynevadacounty.com/nc/bos/cob/docs/Board%20of%20Supervisors%20Resolutions/2016%20BOS%20Resolutions/16-080.pdf>).

alcohol in school!”

I didn't quite understand the connection she was trying to make here, but she had worked herself into a frenzy and continued, “And then there's the problem with driving. At least with alcohol they can tell how much is in your system. There's no way to do that with pot. And then all these people are driving and running into things. They're out to lunch and then they just whack something. And they say it's not a big deal because they don't drive fast when they're stoned, but that's not true. You know that guy who's in the Paralympics from Grass Valley? He lost his leg because some intoxicated driver hit him. I don't know if he was drunk or stoned on pot, but it doesn't matter. It could have been either one. If people are responsible adults and do it at home, that's fine. But not in public and not around kids. People are out to lunch out here. Our County has gone down hill – it's been negative for the last 4-5 years. Some of the oldest businesses out here have folded.” It seemed like she was trying to relate the failure of these businesses to the marijuana industry, but when I asked her directly about that she said she “didn't really know why they failed, but they had” (fieldnotes, 2.24.14).

Public officials and residents such as those noted above consistently, and predictably, frame marijuana in terms of criminality and a threat to social welfare (including, as the resident cited earlier noted, threats to property values). In contrast to these representations of marijuana consumers and producers, many growers, patients, residents and business owners emphasize the medicinal aspects of marijuana, with a few highlighting the economic benefits from the industry (though clearly acknowledging its status as a public secret by referring to the industry as “the elephant in the room;” Board meetings on 11.8.11 and 4.24.12; fieldnotes, 1.9.14). As one local resident described at the Board meeting in which the Ordinance was being considered,

I just want to state that medical marijuana is a *real* medicine... What we're talking about here is medical cannabis that relieves pain with no side effects. That's the deal. [It's about] people looking to get healed, to be pain free... I'm a respectful neighbor, my neighbors respect me. I'm a good community member. Being stigmatized as a criminal really upsets me (4.24.12).

The framing of marijuana in medical terms is an attempt to legitimize its use and to reconstitute the subjectivity of its consumers and producers. Again, countless

examples of this framing of marijuana and its subjects abound in my fieldnotes and interviews. Indeed, this was the primary narrative employed by ASA-NC in their attempt to overturn the ordinance, and the framings of marijuana deployed by members of the group were tightly monitored to ensure they conformed to this representation of consumers as “patients” (discussed in Chapter 4). I should note here, however, that this was not merely a strategic political move. Many of the activists in the ASA-NC movement were deeply committed to the medicinal value of marijuana and had seen significant transformations in their own lives and the lives of their loved ones with its usage. One example of this was particularly compelling, and I examine it here in depth to demonstrate how the framing of marijuana as medical is fundamentally shaped by moral sentiments.

Obtaining interviewees for a project such as this can be difficult, and in addition to contacting people through a snowball method of asking growers I had spoken with to introduce me to other growers, I also posted a message on ASA-NC’s internal listserv, introducing my study and soliciting participants for an anonymous cultivator’s survey.<sup>55</sup> In the survey, I included my contact information for those who were willing to conduct an interview with me pertaining to cannabis in Nevada County. Of the dozen or so who contacted me was a couple, Dale and Carina, as I call them here, who had been cultivating medical marijuana for decades. Dale and Carina defy the stereotypes of growers that abound in the popular imagination. They are both deeply committed to the medicinal use of cannabis, as well as sustainable,

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<sup>55</sup> I included the link to the cultivator’s survey in the message so as to ensure all participants’ anonymity. Individuals would only be known to me if they contacted me directly to conduct an interview.

environmentally-friendly growing practices. While growers are a tremendously diverse group in their motivations, goals, and practices, Dale and Carina fall into the category of those trying to re-make land and culture around cannabis production. Environmental stewardship and human-centered production are at the forefront of their practices, as it is with many of the growers and activists I interviewed during my time in the field.

I met Dale and Carina one bright but crisp afternoon at their home in Nevada City on February 26, 2014. We sat together in the living room, seamlessly integrated into an open kitchen with high ceilings and large windows that revealed a garden looking out over a pond. Dale and Carina chose the property both for its house and the good soil – they were looking specifically for a place to grow outdoors. My interview was primarily with Dale, as he was the one who contacted me. Carina, his wife, joined us towards the end of the conversation.

Dale started growing back in the early 1970s in North Carolina. “It worked well,” he stated,

it was so easy that it was crazy. But I quickly realized it wasn’t a good thing – I could go to jail for a long time. I didn’t do again until 1996 when I was diagnosed with glaucoma. After always having enjoyed good health, I tried to educate myself on how to treat the disease and to deal with it. Cannabis turned out to be very good to treat glaucoma.

In 1997 – just after the passage of Proposition 215, Dale moved to San Francisco and began growing there. That’s when he became interested in growing cannabidiol-rich (CBD) plants – strains of cannabis that are used to treat epilepsy, multiple sclerosis, and post-traumatic stress disorder, amongst other things. Dale told me that one of the strains he bred and cloned is now known as Harlequin. He began to

cry,

That was one of the first CBD rich plants available to people. I still had the original seedling Ma and I made copies of her and got it out to a bunch of people to make sure it continued. Because of that, I have continued to focus on CBD rich strains.

I was about to ask Dale what brought the tears on when he stated,

Part of why I'm so emotional is because CBD represents the healing aspect of the plant and we've [the industry] so carefully bred it out. When I found Harlequin... other people had CBD strains, but they weren't sharing them with anybody. That seemed like a really wrong thing to me. By giving away Harlequin, I've received back many times over by patients I've met, healers in the industry, all kinds of folk who benefit from it... Originally there were five growers who had CBD-rich strains. Because they gave away Harlequin, it tore up possibilities of a monopoly. Some of the growers associated with that got what I was doing and did eventually release other strains - Enrita, True Blueberry OG – those are now available. Now, this year... I began meeting more folks who are growing this [Harlequin]. I'm thrilled about this.

I asked Dale why, given that CBD is so beneficial medicinally, it has been largely neglected in the industry. He replied,

For many years the only... thing people were looking for was THC. As such, they bred out almost all the CBDs. When I got Harlequin, I had a circle of 10 patients I took samples to of things I was working with. All but one said, "beautiful color" – that's why it's named Harlequin; it's a multi-colored plant that's just beautiful with blues, reds, purples – and they'd say, "it's got great texture, a great smell, nicely cured, the sugar is amazing. But it doesn't get me stoned. What's up with that?"<sup>56</sup> I was disappointed – I had the seedling ma and babies and I knew it was a good plant... Only one of my patients said, "this is the best pot I've ever smoked. My body doesn't hurt (the guy played football when he was younger) and I can still function." I got it tested, and found out that batch came back 6½% CBD and 5% THC. Now, when you harvest when the trichomes are clear and just starting to get milky, I can get as much as 10-14% CBD and 3-4% THC.<sup>57</sup> But its not just about CBD or THC – people aren't up to speed on this because the people who have been driving the cannabis industry the last 50 years are the people who like to get high. Unless they're older... a lot of people don't enjoy smoking anymore because it's high in THC. The cannabis I grew up smoking and into adulthood was probably 6% THC and CBD. Now the standard stuff is 20%

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<sup>56</sup> In many CBD-strains, the THC, or psychoactive component, has been selectively bred out of the cannabis.

<sup>57</sup> While I do not attend to the issue here, there is a tremendous amount of knowledge surrounding the cultivation of cannabis. This knowledge is often shared at social gatherings and other informal events and thus circulates as a kind of moral economy.

THC and no CBD.

[The industry] provides a distorted view... I tried to find people who would grow high CBD. People would say, “if I can’t get \$2,000 per pound... I don’t want to bother with it” – in other words, it won’t get me stoned, so I’ll have trouble selling it. Two years ago, CBD was virtually unknown to any one but science students, devotees of cannabis, or some doctors. Between the Sanjay Gupta ‘come-to-Jesus’ moment around pediatric epilepsy<sup>58</sup> as well as the showcasing of Harborside<sup>59</sup> on Discovery Channel’s “Weed Wars,” [things started to change]. [For one eight-year old kid], none of the drugs were working – the kid was having 300 seizures per day. [Harborside] got him on a high CBD tincture, and it worked for him.

At this point, Dale was trying to fight back his tears – unsuccessfully,

And do you know what? It was tincture from Harlequin!! They showed the bottles of it on the TV. As I’ve come up here, I’ve met more patients and I deal with the sadness of people who genuinely need a medicine they can’t find. I have a couple of kids taking tinctures for epilepsy – they were in grave conditions with hundreds of seizures per day, but they’re stable at the moment... And people are just starting to tune in to its [high CBD strains of cannabis] potential as a healing plant.

Despite Dale’s passion for the medicinal properties of marijuana, as well as his joy in growing the plants, he and Carina are not ignorant of the risks, and representations, associated with cultivation. “Anyone who’s been doing this any length of time knows that we can be put in prison,” Dale stated.

“And if the feds come,” Carina added, “they don’t care if the cannabis is associated with medicine or not.”

Without hesitation, Dale continued the thought, taking the representations of marijuana head on,

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<sup>58</sup> Here Dale is referring to Sanjay Gupta’s 2013 apology in to the American public in a CNN report for his anti-marijuana stance in prior years. Gupta stated that scientific evidence had demonstrated no evidence of marijuana having a “high potential for abuse” and considerable evidence for marijuana’s “very legitimate medical applications” (<http://www.cnn.com/2013/08/08/health/gupta-changed-mind-marijuana/>). He went on to produce a CNN special titled, “Weed,” which demonstrated the ways in which cannabis can effectively treat child epilepsy.

<sup>59</sup> Established in Oakland, California in 2006 by medical marijuana activist, Steve DeAngelo, Harborside is one of the country’s most reputable cannabis dispensaries.

On the one hand, everyone being in the shadows contributed to it being a gangster thing. With the medical thing and more people stepping forward, it puts a human face on it. We're not thugs with guns – I'm doing this in my home where my family lives. I do think that legalization will have big effects, but if we can keep it out of corporate monopoly, then it's potentially a good thing. But I don't know what will happen. I will continue to grow cannabis... but how much of it I grow may change. Grassroots organizing is a good thing because smart politicians are paying attention to grassroots. It's more work, but I want people to get access to their own medicine – not to have to go to a dispensary, drug stores, or a corporation... And if nothing else, it will help people have better health and that will reduce costs [of health care].

I have selected such lengthy excerpts from this interview because they provide an illustrative example of the different moral frameworks used to represent and make meaning of marijuana production and consumption. The framing of marijuana as “medical” by growers such as Dale and Carina and the local resident at the Board meeting noted earlier raises two important issues with regard to overall community health. The first pertains to the medicinal qualities of marijuana and the need for environmentally and socially responsible growing practices. Many growers in Nevada County are committed to organic, sustainable production of marijuana, both to limit negative environmental impacts of marijuana cultivation and to ensure that the marijuana produced is healthy for human consumption. This was evident in my visits to numerous marijuana gardens in the region and reinforced by the local medical marijuana advocacy organization, which provided free testing of medical marijuana to ensure that, when sold as medicine, it was free of any chemicals associated with production.

The second issue raised in the two excerpts above speaks to representations of marijuana cultivators. In describing themselves as “good community members” and “care providers,” growers intentionally challenged representations of marijuana

cultivators as criminals or people who pose threats to the well-being of the community. Many Nevada County growers have lived in the region for decades and participate substantially in the community. These cultivators emphasized the various ways in which they contribute to the local community by supporting local businesses, volunteering for local organizations, serving as board members for local non-profit organizations, and, as Wade and Carina noted, caring for the health of their fellow residents. The resident quoted above at the Board meeting is a musician who regularly performs for local fundraisers and is a highly active participant in the community. The rendering of such individuals as “criminal” was regularly expressed by residents in interviews and informal conversations as one of the most offensive implications of the ordinance.

There were many more ways in which activists attempted to challenge the ordinance, which I elaborate in detail in the following chapter. The point I wish to make here, though, is that activists worked almost exclusively within the dominant discursive formations established by the Sheriff and Board of Supervisors to forge their opposition to the ordinance. This strategy should not be interpreted as a form of consent – many activists were deeply committed to the use of marijuana (cannabis) as medicine, and some were acutely aware of the limitations of the narrative. However, this framing does reflect the hegemony of the drug-medicine dichotomy. On the one hand, many activists rely on marijuana as a medicine, and focus substantial energy towards generating public awareness and acceptance of marijuana *as medicine*. On the other hand, activists are also cognizant of the multiple meanings of marijuana. However, these meanings – medicinal, recreational, spiritual, and/or economic –

remain highly stigmatized, particularly in Nevada County. Activists made a conscious decision to avoid these dimensions of marijuana in an effort to achieve their political goal of overturning the ordinance. Ironically, though, their actions contributed to the construction of the marijuana industry as an illegible sector, as I discuss at greater length in the following chapter.

### *“Nuisance” as Moral Regulation*

Nuisance law in the United States is a legacy of English Common Law and has been employed publicly and privately as a means of adjudicating land use conflicts. By and large, these conflicts pertain to property depreciation (Noel 1939). The law is loathed by many legal scholars and practitioners, largely for the breadth of possible violations that can fall under the category of “nuisance” and the subjective character of ruling on such conflicts (Gray 2009). Gray sums up these challenges succinctly,

Everything in public nuisance runs contrary to modern notions of certainty and precision in criminal law, and indeed, in civil law as well. However did we get an offence of such incredible breadth? It is for these reasons that the concept of public nuisance is so poorly understood [and] has been the subject of heated debate for more than a century. Legal scholars have described public nuisance as being “notoriously contingent and unsummarizable,” and have noted that “[g]enerations of legal writers [have] expressed their frustration with [it] in the most unhappy terms” (ibid).

Based on the precedent set in historical court cases, “nuisances” have loosely been defined as “activity on land which constitutes a more or less permanent interference with the comfortable enjoyment of neighboring property” including in “connection with ... unaesthetic sights” (Noel 1939: 1). “Offences” have run the gamut of scenarios, from complaints regarding the building of a garage behind an

apartment building in an upscale side of town in 1932 that purportedly did not keep “with the general” – read “expensive” – “character of the community (Noel 1939: 1; 6) to environmental activists’ attempt to protect public water in the 1970s (Meiners and Yandle 1998). Nuisance complaints have even been used to contest the presence of a funeral home in a neighborhood in 1927 – while the establishment did not conduct embalming on the premises and thus did not emit any noxious odors (a typical cause for complaint), the plaintiff argued that “the sight of caskets, hearses, flowers, and undertaker’s signs presents a constant reminder of death, leading to mental depression” (Noel 1939: 8).

Most frequently, though, nuisance claims are employed as a way to regulate so-called undesirable actions or subjects. Indeed, nuisance law has proved to be a powerful means of regulating moral conduct and social welfare (Cooper 2002; Gray 2009; Valverde 2005, 2011; Ghertner 2012) and the ambiguities and vagaries of the law make it a popular and effective tool for doing so. Nuisance laws privilege private property rights, “against which,” as Polson states, “other social orders and rights claims are cast as criminal” (2015: 390). In doing so, nuisance discourses reinforce normative standards of morality and civility, often at the expense of marginal populations in a community. As Ghertner describes, nuisance discourse “operates discursively as a catchall category allowing a diverse array of private grievances, often pertaining to the defense of private property, to be expressed in terms of... public interest” (2012: 1163). These “public interests” are often not reflective of the community at large, but rather a limited sub-set of the community, often those who are socially or economically privileged. “Well being” – the rationality through which

nuisance claims are made – is a highly subjective state, as is the “community” that is claimed to be the subject of harm generated by a “nuisance.” But importantly, both “well being” and “community” are *effects* of nuisance claims. As Valverde shows, nuisance laws do important work of constructing political and cultural collectivities, and in the process of excluding particular groups of people from the discursive realm of “community,”

...since micro-communities... are always assumed to share certain local norms and tastes that distinguish one community or neighborhood from another, nuisance and related legal disputes play a constitutive role in the construction of culturally specific collective subjectivities... [As case law has shown], judges routinely assume that certain types of people and types of property are to be protected from noise and smell and bother more than others (2011: 295).

The proposal of a nuisance ordinance to regulate marijuana in Nevada County does precisely this – it naturalizes marijuana as posing potential harm to “residents” and “the community” through mechanisms I will discuss momentarily. In doing so, it constitutes a particular group of residents as belonging to the “community” while excluding others from this category – specifically those who cultivate marijuana, regardless for what purpose. Upon establishing the threat of marijuana as an uncontestable truth, the ordinance then gives authority to the Sheriff and his staff to abate the nuisance. This action reinforces who does and does not belong to the “community,” whose security is valued and protected, and which subjects are to be the locus of disciplinary action by local officials. In the case examined here, nuisances associated with marijuana production – predominantly characterized by the scent and sight of the plant – take on a moral character in regulatory practices. As a result, not only is the plant an object of moral scrutiny, but the producers and consumers of

marijuana are conceived in the public imagination as morally reprehensible subjects that are dangerous, dishonest, and/or a threat to the integrity of the community.

Specific techniques of governance were employed by the Sheriff to naturalize and normalize marijuana as a nuisance in Nevada County. First, the Sheriff and his deputies used fragmented and decontextualized images of marijuana gardens that obscured the temporal, physical, and social contexts of marijuana production, to say nothing of its economic effects in the region. At the first Board meeting in which the proposal for an ordinance was introduced, the Sheriff portrayed marijuana production as an imminent and looming threat. He told the Board,

We're not trying to take away people's need for medical marijuana. We're just trying to get a handle on it... [As] you'll see, some of these plants are trees, and they require chainsaws to cut down... We just want to get a handle on what we see as damaging the quality of life to our citizens within Nevada County. I'd like to turn it over to Sergeant Guy Selleck. He can talk a little about what do we see in Nevada County, and actually give you a picture of what we're growing here. These are not the little three-foot plants (11.8.2011).

The Sheriff's comments established a sense of danger associated with marijuana production that had grown out of control and fundamentally threatened the community. The notion that the plants grown in Nevada County are "trees" is one illustration of this threat. These sentiments were then reinforced in the PowerPoint presentation prepared by the Sheriff's deputy, wherein he provided the Board with visual representations of the "marijuana problem." The presentation displayed a sequence of decontextualized images, photographs, and figures. The first slide in the Sergeant's presentation listed six headlines in the local newspaper describing marijuana crimes – from marijuana trafficking to people being caught with 25 pounds of processed marijuana. Next, Sergeant Selleck provided a stream of slides that

depicted “typical grows” in the County, going to great lengths to point out the “massive” size of the plants. He started with a picture of a small house with a fenced backyard filled with marijuana plants. “This is a typical garden that we see in the rural parts of the County,” Sergeant Selleck stated. “That doesn’t look like much at first sight, but if you compare the plants to that full sized truck sitting there that’ll give you kind of a clue on how big those plants are.”

One of the Supervisors then asked, “How many plants was that?”

“There are probably about 40 or 50 there. I did not count those yet,” Selleck replied.

Sheriff Royal quickly states that there are 99 plants in the photo, overestimating the actual number of plants in the photograph.

He follows this slide with one of a “typical” greenhouse structure, and then a “typical” image of an abandoned grow – a dilapidated greenhouse, debris scattered around. More slides follow emphasizing the size of the plants with vehicles and fences as referents, before a picture of a 6-foot tall man being towered over by a marijuana plant is presented. “This is slightly bigger than average size,” according to Sergeant Selleck.

With minimal description of each picture and no context of the situation in which the photo was taken, the viewer is confronted with a montage, a disarticulated sequence of images and the generalized narrative of the Sergeant and the Sheriff. Eventually Sergeant Selleck stops narrating and a sequence of aerial photos of grows flash before the audience. The pace and disarticulated sequence of images have a disorienting effect. At one point a Supervisor asks for clarification, “These are all in

Nevada County?”

“Correct,” Sergeant Selleck responds.

The question, however innocuous, pinpoints the issue at hand: without context, imagery is utilized for emotional appeal – to scare, to paint broad strokes, a nebulous threat – leaving a sense of encroaching marijuana grows. But what are the stories behind these photos? And what stories are not being told? The knowledge embodied in and disseminated through the repeated refrain of “typical” grows, and the use of the pronoun “they” in describing these grows, constructs all growers as a single abstract figure defined by danger, criminality, and impending threat. A profusion of non-knowledge is also being constructed in this process around who grows marijuana, for what purposes, and in what ways. The differential meanings ascribed to the plants themselves – their size, their location, the contours of each garden – is also obscured in these representations.

The narratives, use of decontextualized and fragmented images, and the representations of marijuana cultivation presented in the Sergeant’s PowerPoint reinforced moralistic framings of marijuana that were constructed as a particular kind of knowledge, or truth (c.f. Foucault 1991). The normalization and naturalization of marijuana as a “nuisance” was then codified in the urgent ordinance itself, which was explicitly framed in terms of protecting public health, welfare, and security – concerns that have been central to public nuisance law since at least U.S. nationhood (Fischler 1998; Gray 2009). The text of urgent ordinance reads,

The unregulated cultivation of marijuana in the unincorporated area of Nevada County can adversely affect the health, safety, and well-being of the County and its residents. Comprehensive civil regulation of premises used for marijuana cultivation is proper and necessary to avoid the risks of criminal

activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated marijuana cultivation (Ordinance 2349 2012: 4).

This framing is significant for several reasons, particularly when considering that it was proposed as an *urgent* ordinance. First, there is no empirical data that suggests marijuana production has resulted in increased risks of crime or environmental degradation in Nevada County. With regard to crime, Nevada County has one of the lowest crime rates in the region (see Tables 1-4). Moreover, crime rates have generally fallen over time. Somewhat surprisingly, the County Sheriff is well aware of this fact, despite his frequent citation of increased risks of violence and crime in public meetings and in the popular press. As the Sheriff explicitly stated during my interview with him,

The problem for young people is that there are no good paying jobs. It's tough to get folks to stay here... We don't have a big crime problem – in fact, we have one of the lowest crime rates in our area. But we still have drugs (interview, 3.11.14).

The most significant problem in Nevada County, as was noted frequently by other local leaders and residents I interviewed, is a lack of living wage jobs – not crime – as the Sheriff himself explicitly identified. However, the Sheriff frequently contradicts himself (and the available empirical data) on this point, both in public forums and during my interview with him. While he acknowledged Nevada County's comparatively low levels of crime, he also stated,

We've moved away from people growing a few plants and trying to sell, to it being acceptable that the State won't prosecute if the producer falls within the guidelines of being a cooperative and caregiver. People grow more openly now. And now, if they don't violate state law, the feds won't come after them. That's kind of the go ahead – someone can designate themselves as a co-op and grow as much as they want... we're becoming the new Mendocino or Humboldt – I've seen substantial increases. *And I've also seen increases in complaints, nuisances, and crime, particularly home invasion robberies*

(interview 3.11.14).

Growing practices in Nevada County have undoubtedly changed, as I detailed in Chapter 2. However, public officials' interpretations of these changes reflect moral anxieties far more than the empirical realities associated with these transformations. According to crime statistics from the Nevada County Sheriff's Office, crime rates in Nevada County are not only low relative to their regional counterparts, but in most cases they have declined in the last decade (see Tables 1-4). As noted by the Nevada County Executive Office, the "Sheriff's Department reported being down an estimated 6% in calls for service and reported a 10% decrease in criminal incidents from 2010 to 2011" (2012/2013: 6). Interestingly, the only period in which violent crime spiked above 2005-levels was in the year immediately following the enactment of the urgent ordinance. While I am not claiming that the ordinance caused this increase in crime, it did not result in a lowering of crime rates, as the Sheriff claimed it would. In all other cases of notable crime (violent crime, robbery, property crime, and larceny/theft), rates have generally been on the decline since 2005, with no noticeable effects from enactment of the ordinance.

Although empirical evidence does not suggest that marijuana production has resulted in increased levels of crime in Nevada County, there is potential for negative environmental impacts.<sup>60</sup> As an environmental and health expert noted at the introductory Board meeting, environmental regulators in Nevada County have dealt with chemical contamination from synthetic fertilizers, pesticides, and herbicides, as

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<sup>60</sup> For examples of environmental degradation associated with marijuana cultivation in Humboldt and Mendocino counties, see Gabriel et al. 2012; Thompson et al. 2014; Carah et al. 2015; Bauer et al. 2015.

**Table 1: Violent Crime, 2005-2014**

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>Butte</b>	235	154	217	145	134	133	106	126	96	82
<b>El Dorado</b>	325	410	236	235	312	256	192	241	210	240
<b>Humboldt</b>	124	117	136	137	272	242	203	115	153	202
<b>Mendocino</b>	313	324	319	336	326	310	295	183	265	310
<b>Napa</b>	35	50	79	60	35	56	52	53	39	42
<b>Nevada</b>	184	152	132	164	165	137	166	144	274	145
<b>Placer</b>	127	234	255	296	315	298	301	278	262	289
<b>Sutter</b>	151	164	124	109	120	143	132	71	70	93
<b>Tehama</b>	308	247	192	212	211	181	184	189	158	156
<b>Yuba</b>	208	193	222	240	190	159	230	193	185	205

*Source: State of California Department of Justice Crime and Clearances Statistics, 2016 (all data sourced from County Sheriff's Offices)*

**Table 2: Robbery, 2005-2014**

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>Butte</b>	36	22	34	25	27	24	23	16	17	16
<b>El Dorado</b>	17	23	24	21	34	34	21	22	16	23
<b>Humboldt</b>	21	20	17	20	38	33	46	31	32	34
<b>Mendocino</b>	21	20	17	20	38	33	46	31	32	34
<b>Napa</b>	1	3	4	4	1	2	1	3	4	2
<b>Nevada</b>	7	8	7	11	8	4	6	8	8	6
<b>Placer</b>	8	24	28	34	26	30	28	27	13	26
<b>Sutter</b>	13	14	8	9	10	12	4	2	5	13
<b>Tehama</b>	11	6	4	8	5	11	8	7	3	11
<b>Yuba</b>	36	37	37	36	29	28	29	20	24	40

*Source: State of California Department of Justice Crime and Clearances Statistics, 2016 (all data sourced from County Sheriff's Offices)*

**Table 3: Property Crime, 2005-2014**

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>Butte</b>	1711	1699	1502	1373	1244	1296	1310	1165	1210	1119
<b>El Dorado</b>	2276	2127	2034	2038	1862	1990	2273	2024	2066	1969
<b>Humboldt</b>	940	1007	894	954	1126	1208	1109	1130	1149	872
<b>Mendocino</b>	705	662	716	632	528	551	544	669	683	532
<b>Napa</b>	430	451	562	507	367	379	371	342	372	272
<b>Nevada</b>	703	630	597	538	638	578	533	703	631	585
<b>Placer</b>	2171	2040	1997	1939	1951	1950	1946	1670	1763	1600
<b>Sutter</b>	1096	973	938	719	527	661	847	786	904	630
<b>Tehama</b>	478	439	416	369	299	278	316	303	274	222
<b>Yuba</b>	1260	1252	1138	1177	830	1031	1323	1307	1303	1298

*Source: State of California Department of Justice Crime and Clearances Statistics, 2016 (all data sourced from County Sheriff's Offices)*

**Table 4: Larceny/Theft, 2005-2014**

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>Butte</b>	881	950	920	850	729	721	744	676	686	525
<b>El Dorado</b>	1520	1411	1350	1286	1129	1114	1241	1240	1269	1288
<b>Humboldt</b>	569	664	626	654	763	732	646	604	520	447
<b>Mendocino</b>	410	381	393	331	297	286	297	382	361	293
<b>Napa</b>	282	276	362	316	237	219	243	226	229	147
<b>Nevada</b>	447	406	370	327	427	324	301	338	272	278
<b>Placer</b>	1325	1321	1329	1209	1258	1275	1293	1069	1083	1049
<b>Sutter</b>	635	520	521	449	338	413	589	487	504	385
<b>Tehama</b>	187	194	182	139	123	112	182	169	175	101
<b>Yuba</b>	670	628	606	658	502	634	858	873	839	861

*Source: State of California Department of Justice Crime and Clearances Statistics, 2016 (all data sourced from County Sheriff's Offices)*

well as raw sewage from makeshift septic systems at abandoned grow sites (Board meeting, 11.8.2012). While he noted that these issues could become a serious environmental concern if production moved closer to the incorporated cities, as of now, contamination is limited in scale and scope due to the remoteness of most grows. These findings were reiterated by an ecologist who works for a prominent environmental conservation organization in Nevada County whom I interviewed in April, 2016. Nevada County is a test case for the United States Geological Survey (USGS) to determine whether or not groundwater is being affected by marijuana grows.<sup>61</sup> In the 40 test sites, they found nitrates in two locations within the watershed. One was in an area that ecologists believe is near a leaky septic, and the other is downstream from a host of dairy operations (interview with ecologist, 4.13.2016). It is possible that the presence of nitrates could be partly influenced by the use of fertilizers in marijuana production, but as of now the organization did not have any direct evidence of such (ibid). Based on these assessments, marijuana cultivation does not seem to merit the urgent nature of the proposed ordinance, but rather foresight into designing public policy to appropriately measure and regulate the potential environmental impacts of marijuana cultivation.

If security, health, and well-being are not demonstrably threatened by marijuana, and if the scale and scope of nuisances associated with marijuana production is minimal (even with the presumption that all of the purported complaints have been made are indeed by different local residents and not repeated calls from the same residents or reports from off-duty law enforcement officials), then on what basis

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<sup>61</sup> Tests are conducted by volunteer participants who test their own wells and report the findings to the USGS.

can claims to an “urgent” need for an ordinance be made? Such claims, I argue, are largely an attempt to regulate the morality of the body politic. Marijuana growers – like their “hippie” predecessors – pose a perceived threat to the morality and integrity of an exclusionary conception of the local “community.”

Nuisance discourse, I argue, was used not to protect the public from perceived threats associated with marijuana production, but rather as a form of moral regulation through which to govern the body politic. The nuisance narrative employed in the public Board meeting and in the ordinance functioned as an ongoing practice of naturalizing and normalizing stigmas associated with marijuana production. Nuisance discourse further reproduced the historical erasure of the role of marijuana production in the revival of a former gold rush town gone bust, as well as the obfuscation of the current economic impact of marijuana production on the region. In doing so, the discourse effectively rationalized the illegibility of the marijuana industry. Activists, somewhat ironically, were complicit in this process. Because nuisance discourse reinforced framings of marijuana as a “drug,” the only morally acceptable response by those in opposition to the ordinance was to frame marijuana instead as “medicine.” As a result, efforts to resist (negative) moralistic framings of marijuana paradoxically co-constituted a politics of illegibility through which the marijuana industry is currently governed in Nevada County. Marijuana activists thus played a central role in their own moral regulation.

## Moral Regulation and the Illegibility of the Marijuana Industry



**Figure 9:** Nevada County artist RL Crabb's depiction of Sheriff Royal's approach to regulating marijuana in the County (1.18.2016)

When marijuana production is framed in moral terms, the economic impacts of the local marijuana industry cannot be acknowledged as making any kind of positive contribution to the local economy. This is certainly visible in how marijuana production has been represented more generally in official documents, and particularly in how the financial dimensions of marijuana production have been represented in public discourses. With regard to the former, the Ordinance explicitly emphasizes that marijuana is classified as a Schedule 1 Drug,

... which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense marijuana. The Federal Controlled Substances Act contains no exemption for the cultivation,

manufacture, distribution, dispensation, or possession of marijuana for medical purposes (Ordinance 2349 2012: 3).

In citing federal law, local officials not only anticipated potential lawsuits charging the County with obstructing patients' rights to safe, legal access to medical marijuana under State law, but they also implicitly challenge the legitimacy of the State's legalization of marijuana for medicinal purposes. Using federal law as a basis for their claims, anti-marijuana residents and the majority of law enforcement and government officials in Nevada County were steadfast in their attempt to frame the debate over marijuana production in terms of social welfare, though they used this term primarily to refer to a select group of property owners rather than the population as a whole. This segment of the local population argues that marijuana has no place in a "healthy" society and economy. For them – reinforcing the Sheriff's interpretation of the economic effects of marijuana production – marijuana producers are "only in it for the money" (Board meeting, 2012). A local resident and President of ASOPA illustrates these sentiments, stating,

Residents have experienced the negative results of uncontrolled cannabis cultivation [including the removal of trees and] destructive practices that violated County codes to grow excessive number of plants... There has been enough said about the economic impact of cannabis growth in Nevada County. Advocates claim that 25% of their business income comes from marijuana cultivation. This is disingenuous at best. Medical marijuana cannot be sold, only given away. So this statement advocates illegal activity to produce illicit income. The ordinance before the board is a well-thought out and comprehensive solution, which protects citizens from illegal cultivation and reduces the dangers to our residential neighborhoods (Board meeting, April 24, 2012).

The Sheriff revealed a similar position during my interview with him. When asked about the economic impacts of marijuana production in Nevada County, he stated,

I would think there's millions of dollars. Depending on who you talk to, the estimates are lower or higher.<sup>62</sup> [*He then added, rather forcefully,*] No matter what anyone tells you, it's about money. It's not about medicine. People would say [at the Board meeting on the proposed Ordinance] that we're taking away their money and their job – which is a total violation of the intent of Prop 215 (interview, 3.4.14).

Even if marijuana did prove to be an important feature of the local economy, opponents maintain that the social costs are not worth the economic benefits. As a County Supervisor described to me,

There's no question that there's a lot of money in marijuana, but I don't think it's a healthy thing for us... I don't think it's healthy money. You can't compare it to timber or mining – they were all legal, healthy businesses (interview, 3.17.14).<sup>63</sup>

This interpretation of marijuana and traditional extractive industries in Nevada County ignores the unintended consequences of virtually every new form of economic development. Extractive industries have been accompanied by a range of social changes across rural regions, including increased rates of divorce, spousal abuse, alcoholism and crime, and decreased levels of community satisfaction and social participation (Nelson 2001: 397). Furthermore, extractive industries, such as mining and timber, have high rates of worker injuries. As Duane notes,

Timber-sector workers experience injuries at two to three times the average rate of all private-sector workers... Mining workers have an injury rate only slightly higher than the national average. The higher wages prevalent in the resource extraction industries therefore represent in part compensation for the increased risk of worker injuries on the job. Resource extraction industries are therefore not significantly higher-paying than other industries after adjusting for both this occupational risk and the seasonality of employment (1999: 169).

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<sup>62</sup> This admission in itself is fascinating. When the local newspaper ran a story on my economic analysis of the local marijuana industry, the Sheriff publicly contested its findings, arguing that the figures were inflated (Board Meeting, 1.12.2016). Such a charge clearly ignored the fact that the data I used came directly from his own office, that he himself made similar speculations just two years prior during my interview with him, and that the figures he and his deputy presented during the April 24<sup>th</sup>, 2012 Board of Supervisors would have suggested a far larger economic impact than the estimations I generated.

<sup>63</sup> The irony of this comment, of course, is that mining and timber industries are extraordinarily destructive to the natural environment and human lives.

The issue, then, is not the specific effects of any particular industry, but rather the moral sentiments surrounding economic activity. I am not suggesting that marijuana production is without any costs. However, these costs have been obscured through political rationalities that function more to regulate the morality of local residents rather than to capably address the challenges associated with a quasi-legal industry. None of the potentially negative environmental and/or social impacts of the industry can be assessed or mitigated in a context of prohibition. They remain illegible effects of an illegible industry (see Figure 9).

## **CHAPTER 4: UNRULY SUBJECTS AND THE CO-PRODUCTION OF ILLEGIBILITY**

The Board's decision to pass the urgent ordinance instigated a medical marijuana movement unlike any the region has ever seen – a struggle defined by its efforts to re-configure the meanings and representations of marijuana as a strategy to secure the future of medical marijuana production in the region. However, by defining marijuana exclusively in medical terms, activists deliberately avoided any discussion of the economic impacts of the industry. As a result, they too reinforced the illegibility of the industry. Whereas Nevada County officials obfuscated the economic contributions of marijuana production due to the fact that such knowledge may legitimize what they saw as a morally reprehensible industry, medical marijuana activists avoided such discussions out of fear they would reinforce morally-charged arguments that marijuana is about individual profit rather than medicine.

In this chapter, I buttress the concept of moral regulation with that of hegemony to analyze the relationship between representation, subjectification, and collective action as it pertains to ASA-NC's attempt to overturn the County's "urgent" medical marijuana cultivation ordinance. As I described in the previous chapter, moral regulation illuminates how marijuana has become identified as a problem, and the corresponding technologies, strategies, and tactics developed to regulate such "problems". Moral regulation provides a window into how the ideological project of 'the State' is achieved, and how this is in fact a collaborative project – one in which subjects participate in their own subjection. This framework, however, does not

sufficiently help us to understand how resistance within these conditions is enacted. For this, I draw on Gramsci's notion of hegemonic struggles to analyze how contestation and resistance are constituted through and practiced within specific formations of power. Through these analytical lenses, this chapter explores how activists negotiated within and reconfigured the "problem" of marijuana in attempt to transform the local policies through which their actions are regulated and disciplined. I discuss how and why medical marijuana activists framed their resistance to the ordinance as they did, and the effects of such practices.

An analytical synthesis of moral regulation and hegemony may seem surprising given Corrigan and Sayer's explicit critique of hegemony. "Standard uses of the concept," the authors suggest, often presume a singular, coherent, and cohesive ideological state project, neglecting the, "conflicts within and between elites" as well as the "fragility of power and the permanent presence of alternatives" (Sayer 1994: 368-369). Such analyses also, Sayer argues, tend to reify the state (and "the project of the state") rather than examining the ways in which "power works" by "forcibly organiz[ing], and divid[ing], subjectivities, and thereby produc[ing] and reproduce[ing] quite *material* forms of sociality" (ibid: 372-374; emphasis in original). The concepts of consent, mystification, and false consciousness are the direct targets of Sayer's critiques. People often are *not* ignorant of the fact or forms of their domination, Sayer argues, but rather deliberately comply with their social and political realities to more easily live their lives and/or avoid the disciplinary power of state officials (ibid: 375). Scott echoes this critique, arguing that the majority of resistance amongst subordinate classes takes place at the level of ideology – not behavior – as

such groups are rarely afforded the opportunity to collectively challenge their material conditions; their beliefs and convictions are sometimes the only spaces in which they can resist absolute domination (1985: 322).

While I agree with Scott's, Sayer's and others' (see for instance Fraser 1990: 78 and Wolford 2010: 22) critiques of Gramsci's use of consent and mystification to explain relations of power, such critiques do not require that we abandon hegemony, but may instead inform a more useful and robust formulation of the concept. In emphasizing practices of rule (rather than hegemony) and the ways in which "the state" lives in and through its subjects (ibid: 377), for instance, Corrigan and Sayer privilege power over resistance, thus deemphasizing the co-productive relationship between the two. The somewhat ironic effect is that agency is subsumed by state power in a similar way that resistance is subsumed by discourse in Foucault's work. As Gunn and others have pointed out, Foucault's conception of power "leaves unanswered the question of how historical change occurs and who or what contributes to it" (2006: 716; see also Li's comments on Foucauldians' often "anemic" attention to the "practice of politics" 2007: 26). The negotiations and struggles – the "fragility of power" and the "permanent provocation" that Sayer (1994: 368) and Foucault (1982: 790) respectively acknowledge as central to power relations – are relegated to the margins of analysis. Hegemony, I argue, is a powerful antidote to the conceptual limitations of both moral regulation and governmentality, as it treats political struggles as relational and contingent, rather than complete or totalizing (Li 2007). There is no need, then, to conceive of hegemonic projects as a "finished and monolithic ideological formation," as Roseberry has argued, but to see hegemony instead as a

“problematic, contested, political process of domination and struggle” (1994: 358). To employ hegemony in the service of understanding struggle directs us toward the co-production of rulers and ruled, power and resistance. To borrow from Wofford, this interpretation of hegemony helps us “avoid unnecessary distinctions between structure and agency, and culture and economy, in analyses of social mobilization” (2012: 24; see also Stoler and Cooper 1997 for a similar argument pertaining to the production of postcoloniality).

There is another reason why hegemony is particularly useful in the present analysis, and that is its relation to the notion of common sense. Gramsci used the term in a variety of ways, from “the traditional popular conception of the world – what is unimaginatively called “instinct”” (1971: 199) to “a chaotic aggregate of disparate conceptions [where] one can find... anything that one likes” (ibid: 422). His editors and translators, Quintin Hoare and Geoffrey Nowell Smith, state that Gramsci’s use of the term is meant to connote “the uncritical and largely unconscious way of perceiving and understanding the world” (ibid: 322). This latter interpretation is the one I use here, treating common sense as a starting point from which to explore the historical conditions in which particular ideas come to be taken for granted, or accepted as truth. In doing so, I see no need to resort to the conclusion that common sense is an illustration of a population’s consent to dominant ideologies in order to understand the ways in which the former operates. A foundation of sociology and the critical social sciences more generally is to make the familiar unfamiliar – to identify widely shared social assumptions and norms and to denaturalize them by demonstrating how they have been constructed over time, and with what effects. That is not to say, of course,

that *everyone* takes these norms as uncontested truths, but it is to say that the presence of these shared discourses, values, and beliefs does much to shape social conduct and, in Foucauldian terms, self-governance (1991). In the present study, the constitution of marijuana use and production as immoral is central to a host of social and political practices that I have described in this dissertation. These frameworks – the contested yet dominant “common sense” of the region – become the structures not only against, but also within which ASA-NC’s struggles take place.

In using moral regulation and hegemony synthetically, I am making an explicit methodological intervention. Instead of treating rule and resistance as separate spheres of action, I focus on the co-production of power relations. Taking inspiration from a diverse range of scholars and disciplinary fields,<sup>64</sup> the analytic of co-production reveals power relations not simply to be a conflict or contest between those who govern and those who are governed, but rather sees governance as a process in which governors and governed are mutually constituted through their relations with one another (Jasanoff 2004; McMichael 2010). While such processes do occur in formal political spaces – such as the Board room meetings I have described in previous chapters – the most “dense transfer points of power” (Stoler and Cooper 1997: 26) often occur in the everyday actions and experiences – through gossip in a hair salon or at a community fundraiser; when helicopters fly over a medical marijuana garden; and through the silent recognition of the impact of the marijuana economy as cash is exchanged between a grower and business owner.

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<sup>64</sup> See for instance the work of Abrams 1982; McMichael 1990, 2010; Latour 1993; Stoler and Cooper 1997; Jasanoff 2004; Tsing 2005; Gibson-Graham 2006; Olson, Worsham and Butler 2007; Mongia 2007.

A co-productive approach to political practice thus takes resistance not as separate from or in opposition to something we call “power,” but rather constitutive of power relations. This is not to say, of course, that political negotiations take place on a level playing field. They rarely, if ever, do. But it is to say that governance is an ongoing and incomplete process that is shaped through everyday and often banal activities – from writing a letter to the local newspaper, to conversations in a coffee shop, to harvesting and consuming one’s medical marijuana in spite of regulations that constrain one from doing so.

The significance of medical marijuana activists’ actions is that they deliberately work within the hegemonic moral framework of marijuana governance in attempt to incrementally transform it. They do not do so, however, as a means of “working the system... to their minimum disadvantage” (Hobsbawm 1973, cited in Scott 1985: xv). Although ASA-NC is in a relatively less powerful position than the officials who write and pass laws that ultimately inhibit their ability to act in certain ways, their efforts in this subordinate position are intended to be transformative rather than palliative. This unique political strategy highlights the limits of their efforts, as well as the vulnerability of the dominant ideology. The synthesis of moral regulation and hegemony, in this context, underscores the struggles over representations, meanings, and subjectivities – the co-production of rule and resistance – that are central to governance. Moreover, even as particular ideologies become codified in official policies and regulatory and disciplinary structures, these are neither static nor complete, as I illustrate in the final chapter of this dissertation.

I develop this argument through an analysis of ASA-NC’s attempt to overturn

the ordinance by way of a special election on a new medical marijuana cultivation measure, and in doing so to re-shape meanings and representations of marijuana in Nevada County. I trace the movement's efforts, drawing on participant observation gathering signatures across the County for ASA-NC's ballot initiative, in strategic planning meetings, and through ASA-NC's informational and advocacy events within the County. I show how the movement obscures the economic practices and contributions of marijuana production in Nevada County in order to make their political demands morally palatable to the general public. The framing of marijuana exclusively in medical terms in an effort to win the election, however, necessarily reproduces the illegibility of the marijuana industry. In doing so, ASA-NC's movement, even if unintentionally, preserves the elements of the industry that are constructed as non-knowledge, and hence its status as a public secret.

### **Birth of a Movement**

The passage of Ordinance 2349 was unacceptable to medical marijuana cultivators for a variety of reasons.<sup>65</sup> The most prominent objection to the ordinance, however, was its square footage restrictions on cultivation – particularly in agriculturally-zoned regions of the County. Parcels under two acres in size could have

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<sup>65</sup> In addition to square footage requirements, which I discuss above, growers and activists also objected to 1) the ability to grow indoors *or* outdoors, but not both (growers objected to this because many primarily cultivate outdoors, but use indoor space simultaneously to clone their crops for the following year's cycle); 2) 1,000-foot setbacks from school bus stops (because all bus stops that have ever existed in the County are included in this provision – whether or not they are currently in use – the majority of outdoor grows in the County fall within 1,000 feet of a bus stop and are thus out of compliance with the ordinance); and 3) the enforcement mechanism, which emphasized reducing the number of marijuana plants in the County rather than helping growers to get into compliance with the ordinance (local attorney, Town Hall Forum on Measure S, 9.23.14).

no more than 75 square feet of cultivation space under the ordinance, and parcels of 20 acres or more were limited to 1,000 square feet of contiguous cultivation (Ordinance 2349: 9). California State law, in contrast, regulates on the basis of plant count, allowing each patient to cultivate six mature plants with no restrictions on the total area used for cultivation. The exception to this rule is if a doctor recommends more than six plants for a patient to adequately treat her or his ailments. While the vagaries of State law wording are undoubtedly challenging from a regulatory perspective, the language is deliberate in that it acknowledges the variety of ways in which medical cannabis is used by a diverse range of patients. To make tinctures to treat epilepsy, for instance, requires far greater quantities of marijuana than is needed to smoke the processed flower. The fact that different patients require different quantities of a particular medicine is common sense amongst medical practitioners, but this takes on an entirely different meaning with marijuana – both because it is derived from an agricultural rather than chemical product, thus requiring quite different conditions of production, and because marijuana is highly stigmatized, unlike most pharmaceutical medicines. To limit production on a square footage basis, activists argue, ignores the diverse needs of patients.

In addition to variations in quantity needed by different patients, growers argue that the agricultural needs of the plant itself are not taken into account by the ordinance. The ordinance stipulates that all plants must be in one contiguous area, and square footage is based on the footprint, rather than the canopy, of the plants. This is not conducive to healthy agricultural practices, according to marijuana growers, as it forces cultivators to tightly pack their plants in one area, limiting the air circulation

between the plants and the light that ultimately reaches each plant. Furthermore, it explicitly discriminates against people with disabilities who need a significant amount of room between each plant in order to cultivate and harvest their medicine. As one resident described to the Board,

I went around the last week visiting several gardens and taking measurements, and talking to people about what's really workable. We pretty much came to a consensus that 1,200 square feet for 6 plants – let alone any kind of access for a wheel chair for somebody to get in between the plants – [is the minimum needed] just to keep the plants healthy, to get enough light, all of that. So this makes the square footage parameters completely unreasonable. It's pretty much just a de facto ban at this point, just from the square footage that you have set (Board Meeting, 5.8.12)

Finally, not all patients are physically able to grow their own marijuana, which was why the provision for collectives was added to State law in 2003 under Senate Bill 420 as a way to protect patients' right to safe and affordable access to the medicine (NORML 2015). In cases such as these, square footage requirements per parcel are inadequate to meet the needs of a medical marijuana collective. Indeed, a Nevada County Superior Court judge ruled that the ordinance violated patient's rights under State law to cultivate marijuana collectively and required officials to modify the wording of the regulation (Renda 2013). But as Shirley, the Chair of ASA-NC, noted in the same article, although the judge "ruled that ASA-NC prevailed on the question of collectives, and the county has agreed in theory that we have a right to collective cultivation, they still have not allowed one extra inch of space to accommodate collective members" (ibid). "Unless you live on twenty acres or more," Shirley added in a message to ASA-NC members, "the ordinance doesn't allow enough room to grow for more than one patient – and unless you live on at least ten acres, you do not have room to grow enough medicine for yourself. Saying it's OK [to grow

collectively, but] not making allowances to accommodate additional members is deceptive at best” (ASA-NC Newsletter, 3.9.13).

In addition to the regulations themselves, the process in which the ordinance was passed was particularly offensive to growers. The few representatives of growers who were invited to participate in the working group to modify the proposed ordinance all claim the process was disingenuous. New provisions were added to the ordinance after the final working group meeting had taken place, and just days before the Board meeting in which the ordinance was passed. As a result, stakeholders were not given the opportunity to discuss these modifications before they were put to the Board for approval (ASA-NC Chair, public comments at Board meeting on 5.8.12). Furthermore, some of the key compromises made between medical marijuana activists and County officials in these meetings were not included in the final draft of the ordinance (ASA-NC Chair, public comments at Town Hall forum on 9.25.14). A medical marijuana activist, who ran unsuccessfully for a Board seat in 2014, described the process as follows:

There was no citizen input, it was rushed through, and [County officials] could have worked on this a lot better to prevent the lawsuit that followed – then citizens wouldn’t have felt like rights were usurped (Nevada County Board of Supervisors Candidates’ Debate, 2.26.14).

Numerous attendees at the Board of Supervisors meeting in May also noted the haste with which the ordinance was crafted and passed. The ordinance was actually being revised during the Board meeting, as a doctor who resides in Nevada County noted,

this was hastily put together and hastily revised and some evidence for that is

that our [County] Counsel... just withdrew the federal part of this<sup>66</sup> and I think that's a last minute change indicating that this has not been carefully looked at enough before we come to a meeting and immediately change something during the meeting (5.8.12).

These sentiments were widely held across the County. According to a phone survey conducted by ASA-NC, more than 70% of registered voters in the County opposed the ordinance and were in support of ASA-NC's actions.<sup>67</sup> However, because Ordinance 2349 was passed as an "urgency ordinance", regulations went into effect immediately and the policy could only be rescinded through a special election. As such, ASA-NC and others opposed to 2349 had three potential means of recourse: 1) to file a lawsuit against the County on the basis that the ordinance violates the intent of Proposition 215, which guarantees that all patients in California have the right to safe and affordable access to medical cannabis; 2) to engage the Sheriff's office and Board of Supervisors in mediation to modify select elements of the ordinance; or 3) to place an initiative on the ballot in a special election to replace the ordinance with an alternative policy. ASA-NC began with the first option, in an effort to avoid a lengthy and costly battle at the polls. The lawsuit was ultimately stymied, however, by the

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<sup>66</sup> During the meeting, the County Counsel described a number of changes that were "recently made" to the ordinance, none of which, she argued, were "significant" but rather errors of a typographical nature as a result of "adding paragraphs and deleting paragraphs" just before the Board meeting. That said, as she was explaining each modification, she found another error in the ordinance that mistakenly referred to "federal" law. This, she said, needed to be taken out (which she did on the spot) because "that essentially guts the notice provision that is in here... so I'm going to delete the word 'federal' right now. And with that, we're going to recommend this ordinance" (5.8.12). This "hastiness" in the development of the ordinance is what the doctor cited above is referring to.

<sup>67</sup> Anticipating the County's contestation of these figures, ASA-NC noted that, "the group used the same standards employed by Gallop and other major polling organizations. Voter registration lists were obtained from the Elections Office and after eliminating names without phone numbers and people who hadn't voted in the last four years, every 6<sup>th</sup> name was put on the contact list to ensure a random sampling" (ASA-NC Newsletter, 3.9.13). As I will describe in greater detail below, the challenges in passing the ballot initiative were not necessarily due to residents' support of the ordinance, but rather difficulties in getting people to the ballot box and discontent with the proposed initiative as being too conservative in its revision of cultivation regulations.

California Supreme Court's decision in the *City of Riverside vs. The Inland Empire Patients Health and Wellness Collective* case, which ruled that local cities and counties may use land use and zoning measures to impose bans on medical marijuana dispensaries and cultivation. The precedent set in this ruling resulted in the dismissal of ASA-NC's lawsuit, as it implied that cities and counties were not violating State law by placing restrictions on medical marijuana cultivation – even if that entailed banning production at the local level. Nevertheless, as noted above, the Superior Court judge presiding over the case acknowledged that the ordinance violated residents' rights to grow collectively and in addition to requiring changes in the verbiage of the ordinance, awarded ASA-NC \$14,400 in attorney fees, to be paid by the County (Renda 2013).

While ASA-NC was waiting for a decision on their court case, their lawyer requested mediation between Nevada County officials and medical marijuana activists in attempt to modify the ordinance without having to resort to a ballot initiative. Having successfully led a similar mediation in neighboring Yuba County that led to a cultivation ordinance that was satisfactory to local leaders and medical marijuana growers, this plan of action seemed to be the most amicable and efficient way to address the disputes. The Board considered the request in a closed door session and rejected mediation, leaving a ballot initiative as the only option available to activists to challenge the ordinance. Thus, on June 18<sup>th</sup> 2013 the Chair of ASA-NC submitted the official request for a special election to replace Ordinance 2349 with the Safe Cultivation Act (see Appendix 4; the Elections Office changed the name to the

“Medical Marijuana Act”). The “Voters’ Revolution” had begun.<sup>68</sup>

### *Building a “Voters’ Revolution”*

Several weeks after submitting the request for a special election, ASA-NC received petitions and began collecting signatures for their ballot measure. The organization was told that a minimum of 9,131 valid signatures – or 20% of the “number of votes cast within the county for all candidates for governor at the last gubernatorial election” (California Elections Code 9107; cited in Renda 2014) – would have to be collected within six months of obtaining the petitions in order for the measure to qualify for the ballot (this number was later modified by the Elections Office, as I discuss below). Shirley told members they were aiming for 13,000 signatures, to be on the safe side (ASA meeting, 6.30.13). Three things were of utmost importance in the campaign: 1) gathering petition signatures, 2) registering voters, and 3) raising money to finance the campaign. All three of these tasks were challenging, particularly considering the culture of marijuana production in the region.

The decades-long war on drugs has cultivated a widespread sense of fear, secrecy, and self-imposed isolation amongst growers in Nevada County. These conditions have manifested in several ways, best described by some of my informants as an “outlaw mentality” and political apathy amongst growers (interview with grower in her early sixties, 6.25.13; ASA-NC meetings on 7.9.13; 11.12.13 and 2.11.14).

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<sup>68</sup> This is the term used by the ASA-NC Chair to describe the potential of the ballot initiative. Instead of sitting quietly at the sidelines while County officials and law enforcement dictated the future of medical marijuana cultivation in the region, she believed that residents of the County would enact their democratic rights to overturn the urgency ordinance and redefine regulatory standards.

Some of this mentality can be attributed to the isolation that characterized early growers who came to the region as part of the back to the land movement. On the one hand, these communities were geographically isolated, as I described in the preface of this dissertation, and inhabited the most rural regions of the county. This was partly informed by a desire to distance themselves from mainstream society and create alternative kinds of political and social relationships. On the other hand, they were socially and culturally isolated as a result of anti-“hippie” discourses and policies amongst county officials and in the local press (Chandler 1972; interview with a female grower in her seventies, 1.30.14; for similar experiences in Humboldt County, see Corva 2014: 73 and Polson 2015: 389). The war on drugs and CAMP raids only exacerbated whatever isolationist tendencies were already present. Trudy, a grower and long-time resident I discussed in Chapter 2, described the effects of these conditions at an ASA-NC meeting in the following terms:

I’ve been in this County for 36 years, and I’m part of the group you might call “outlaws” – we used to be chased by helicopters. The benefits of being an outlaw is that it’s a groovy thing to be, but the detriment is that people don’t want to get involved in stuff. [Growers], in this department, are apathetic. We have to change that. There are thousands of votes out there... We have to change their minds (7.9.13).

Trudy was referring to the reluctance amongst growers to become involved in formal politics – whether on a national or local level. This orientation to political participation was evident when I was collecting signatures for ASA-NC’s ballot measure.<sup>69</sup> While it wasn’t always possible to determine who was and was not a

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<sup>69</sup> During my time in the field, I participated extensively in ACA-NC’s efforts to overturn the Ordinance 2349, including helping to gather signatures for the organization at community events, public meetings, and outside of local businesses; attending monthly ASA-NC meetings; and serving on the Strategic Planning Committee, which met weekly in the last three months leading up to the election in June. These activities helped me to gain valuable insights into the objectives, strategies, and challenges faced

grower, I experienced numerous encounters with people who thanked me for what I was doing to help get the initiative on the ballot, but were reluctant to register to vote and/or to sign the petition for fear of having their names on “a list.” Many of these people expressed a general mistrust of “the system” and fear of being visible to authorities.<sup>70</sup> ASA-NC members expressed similar sentiments when asked to volunteer to gather petition signatures. While there were a handful of committed, engaged, and active volunteers,<sup>71</sup> the majority of ASA-NC’s members did not directly participate in efforts to overturn the ordinance. Some stated that they didn’t want to be publicly affiliated with the ballot initiative, given that they operated local businesses in the County and feared social and economic backlash as a result of being identified with the movement. Others claimed they simply did not have the time to collect signatures, or would commit to volunteering on a particular date and location, and then would not show up.

While an aversion to formal institutions might be expected amongst those growers who lived through CAMP raids and the early, and often violent, assaults on marijuana producers, political apathy was perhaps most pervasive amongst younger growers in the region. In an ASA-NC meeting mid-way through the signature gathering campaign, members of the organization discussed patterns and challenges

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by ASA-NC in their attempt to overturn the ordinance, as well as the general social climate surrounding marijuana production in the region.

<sup>70</sup> Again, these orientations to formal institutions are widespread amongst marijuana growers. In Michael Polson’s ethnographic work on medical marijuana in Amador County (California), he recounts one grower’s response to another’s anxiety over having requested permission from the Board of Supervisors to grow medical marijuana: “one of the basic rules of ‘being an old school outlaw’[:] Do not give the government your address” (2015: 389).

<sup>71</sup> The 10-15 people who were actively engaged in the movement donated substantial portions of their annual income to ASA-NC’s efforts, actively collected signatures for the ballot measure, and assisted with fundraisers and educational events.

they had observed while collecting signatures. The lack of responsiveness and involvement in the young adult population topped the list of issues to address. One member made a comment that the only people she can “pretty much bank on to *not* sign [the petition] were younger folks.” Another man followed up with, “yeah, and if I see dreads [someone wearing dreadlocks],<sup>72</sup> I just move on to the next person” (ASA-NC meeting, 9.10.13). Indeed, the population from which ASA-NC received the majority of their financial and volunteer support was over the age of 60. This observation was noted repeatedly in ASA-NC meetings during my time in Nevada County.

There were two strands of reasoning to explain the apathy of younger growers. On the one hand, younger growers were described as those most invested in making a profit off of marijuana cultivation, and were less concerned with the medicinal and/or social dimensions of the plant. These claims were made by several of the back to the landers with whom I spoke reflecting on the socio-economic paths their children had taken. Although many in this second generation of growers espouse similar values as their parents, their experiences and motivations for growing marijuana often differ. Most notably, rather than a means of facilitating a moral economy, as I have argued elsewhere was the central meaning behind the production of marijuana in the 1960s and 1970s in Nevada County (Keene 2015b), marijuana production for the sake of profit became the primary goal for many of the younger growers. As Frank, a medical

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<sup>72</sup> It is useful to reiterate a few things about race here. Nevada County, as I mentioned in Chapter 2, is predominantly white (93.5% as of 2015, including those who identify as Hispanic or Latino), with less than 1% of the population comprised of people who identify as Black or African American. When this member was referring to people “with dreads,” he is primarily referring to white people donning dreadlocks. This comment was largely made to challenge the presumption that people who fit the profile of a stereotypical grower are those most likely to support the ballot measure.

marijuana activist who arrived in Nevada County in the late 1970s stated,

[In the 1960s and 1970s] the pot scene ... allowed people to establish lives here and invest in the community ... I think the downside is it's made too many kids dependent on growing that they think that that's it – grow pot, make money so you can make it big. That's such a delusion ... But a lot of people have gotten dependent upon it" (interview, April 2012).

Linda, a woman in her seventies who began growing in the mid-2000s as a way to pay down medical bills after undergoing cancer treatment, provided an alternative account for why it is difficult to organize younger growers and to get them involved in political projects,

Many of the people who come back – who grew up on the Ridge<sup>73</sup> but returned in their late twenties or thirties – don't identify as dope growers. They have other jobs as well and grow pot on the side... The fear around growing is pervasive in Nevada County. When Sheriff Royal says he wants to stamp out the pot economy, he means it. And people are scared. The schizophrenic attitude towards pot is really widespread – on the one hand, people build their livelihoods from pot production. On the other, people don't want to be associated with it. People are intimidated – and the cops have done a good job to reinforce this (interview, 1.30.14).

Jackie, an active and highly engaged member of ASA-NC reiterated Linda's perspective during a fundraiser for the initiative she and I helped to coordinate. We were lamenting the low turnout at the event, and I remarked that I thought we had advertised the fundraiser pretty widely. "No, the event was advertised plenty. This is just a bad time of the year," she said, "the worst time of the year, in fact. The weather has been great, and everyone's taking advantage of that. I've still got 17 plants in the ground. I wouldn't be here right now if I didn't have someone watching over my garden. I'm sure it's that way for a lot of people." Then she added, "and young folks just aren't as engaged as they should be." Jackie has two sons, both of whom are

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<sup>73</sup> As described in the preface, 'the Ridge' is a remote region of Nevada County where back-to-the-landers settled in the 1960s and 1970s and where a substantial amount of marijuana production in the County is located.

young adults, and while she said her older son signed the petition, her younger son refused to register to vote. This, she said, is a huge problem. “I tried to tell him, look, you have a medical marijuana card, you have a driver’s license, *you’re already on a list!* Registering to vote isn’t going to change anything, or make you any more visible!” Just before the last band scheduled for the event took to the stage, Jackie came to the microphone and exclaimed to the group, “all of you who are under 30 – it’s time you start stepping up and get more involved with ASA. This initiative is to protect YOU!” At the end of the evening, we only had a handful of signatures on the ASA-volunteer list (fieldnotes, 10.23.13).

If overcoming the effects of an “outlaw mentality” was difficult with regard to increasing political participation, it was equally challenging when dealing with ASA-NC members who *did* participate in organizational events. A director of a prominent local non-profit focused on sustainable development throughout the Sierra Nevada region described politics in Nevada County to me as being, “one of the wildest, wackiest, most rough-and-tumble political environments of any place in the western United States... [with] this whole undercurrent of rugged individualism” (interview, 9.13.13). ASA-NC members generally embody this characterization as well. Medical marijuana activism in Nevada County transcends party lines and at any given meeting or event one could find representation from republicans and democrats, Tea Party and Green Party members, libertarians and socialists. Political differences did flare up once and a while, but one of the most difficult aspects of organizing within ASA-NC was managing the many strong wills and personalities in the group. Again, this was most evident when gathering signatures for the petition.

Shirley held numerous training sessions for how to most effectively gather signatures, educate residents about ASA-NC and the ballot measure, and convince people to register to vote. Standards of professionalism were also discussed, and Shirley emphasized the need to be respectful of those who did not want to sign the petition. Volunteers were, as she described, the “public face of the movement” and any missteps were sure to be identified by the opposition and promptly submitted to the local paper via an op-ed or letter to the editor (ASA-NC volunteer training event, 7.14.13). At one such meeting, we were discussing various locations in the County that would be most suitable for gathering signatures, to which Trudy replied, “I’ll get folks at the river to sign – I’ll put the petitions in a sealed plastic bag, tie my hair up with a pen, and then go naked from beach to beach to collect signatures” (ibid). While Trudy’s strategy for collecting signatures was particularly unique, this independent and defiant approach to signature gathering was evident in other, less stark forms. Some volunteers with whom I worked would manipulate the language of the measure in order to convince residents to sign the petition who otherwise would not have. Others would represent the initiative in political party terms, thus alienating other members of ASA-NC as well as potential supporters of the movement. While gathering signatures at the County Fair, for instance, a fellow volunteer approached me and said, “I refuse to collect signatures with Bob unless he takes off his Tea Party hat and t-shirt.” Bob was a loyal volunteer and extremely active within the organization. However, he also had a knack for aggravating ASA-NC members and those he encountered in the general public. I talked to Bob about his hat and shirt, and reminded him that we needed to create a welcoming space for people of all party

affiliations. He reluctantly acknowledged that it might not have been the best choice of dress, but after a brief encounter with the volunteer initially offended by his attire, he stormed off and refused to collect any more signatures (fieldnotes from gathering signatures at the County Fair, 8.10.13). In short, whether a product of an “outlaw mentality” or the “rugged individualism” that is evident in many rural regions of the western U.S., volunteers often approached the work of the campaign based on their own convictions and proclivities rather than the strategies agreed upon in ASA-NC meetings and training sessions.

Despite these organizational challenges, the measure did obtain the minimum number of signatures to be placed on the ballot – but not without one last stumbling block. Just before the six-month deadline to submit all of the signatures, ASA-NC was informed that the signature threshold they were originally given by the Elections Office had been miscalculated. Instead of 9,131 signatures, the organization was told they needed 9,923 signatures to qualify for a special election. According to the Nevada County Registrar of Voters, the number of signatures necessary for a special election arrived at by the Elections Office should have included *all* votes cast at the last gubernatorial election, including undervotes, or voters who participated in the election but did not vote for governor. While this calculation appears to violate California Elections Code, the Registrar of Voters claimed that it was within his discretion to include these extra votes in calculations for the ballot measure’s approval. The Elections Office later rescinded the new figure (after being threatened with a lawsuit by ASA-NC) and reverted back to the initial calculations, but not before generating considerable frustration amongst ASA-NC activists.

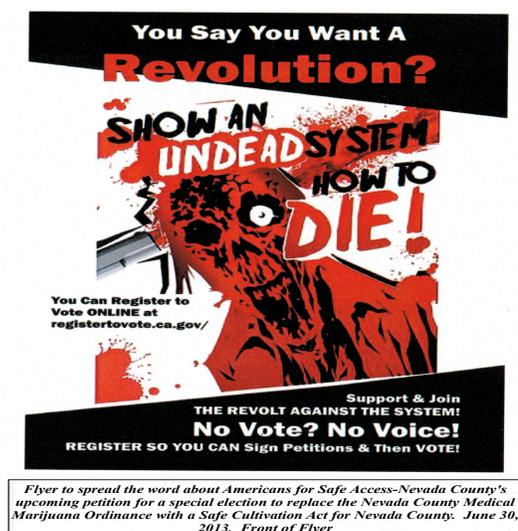
With last minute assistance from a professional signature gathering company and several late nights of verifying every single signature to ensure that ASA-NC had met the minimum requirements, the petitions were submitted to the Elections Office and underwent a second, formal process of verification. ASA-NC was aiming for the initiative to be placed on a special election ballot. However, due a combination of time necessary for the Elections Office to vet all of the signatures and the late date in which petitions were submitted to the office as a result of changes in the signature threshold by the Elections Office, ASA-NC missed the deadline to hold a special election and the initiative – given the title of “Measure S” by the Elections Office – was included on the primary election ballot for June 3, 2014. Setbacks aside, the measure was on the ballot and it was now up to Nevada County residents to decide the fate of medical marijuana regulation in the region. At least for the time being.

### **Reframing Marijuana: Measure S and the Battle for Hearts and Minds**

With Measure S formally on the ballot, the work of framing and representing medical marijuana cultivators took center stage in the movement. The ballot measure was an explicit challenge to the County ordinance, but rather than a war of maneuver, it resembled more a war of position – though not entirely in the Gramscian sense (1971: 238-239). ASA-NC’s attempt to pass Measure S was enacted predominantly at the level of ideology and representation. Of the most crucial tasks at this point in the campaign was to frame the Measure in such a way that challenged dominant moral representations of marijuana growers in the County. These challenges, however,

operated *within* rather than outside of dominant ideological frameworks. Rather than challenging the moral basis of marijuana consumption all together, the movement preserved the drug/medicine dichotomy, seeking simply to provide more legitimacy to medical marijuana, its consumers, and its cultivators. Activists did not attempt to challenge the morality of marijuana more generally, and it deliberately deflected any discussion of the monetary compensation for producing medical marijuana. In other words, ASA-NC members challenged select dimensions of the dominant ideology while preserving its foundations to increase the likelihood of their success at the ballot box. ASA-NC's engagement with the common sense surrounding marijuana should not be understood as false consciousness, but rather recognition of how "dominant ideology reinforces stratified social relations" (Clayton 2006: 9).

The framing of the initiative took a variety of forms over the course of the campaign. One short-lived approach during the signature-gathering period of the campaign included a graphic and aggressive call to "Show an Undead System How to Die" (see Figure 10). This flyer was intended to lure the anti-systemic faction of the community into action and to appeal specifically to young people. As Shirley described in one of the early meetings on the campaign, "we need to emphasize to people that this is not *participating in* the system, but rather *participating to overthrow* the system" (fieldnotes, 6.30.13). Despite the enthusiasm with which Shirley presented the flyer, the approach did not gain much traction within or outside of the movement and was abandoned not long after hundreds of these campaign cards had been printed.



*Flyer to spread the word about Americans for Safe Access-Nevada County's upcoming petition for a special election to replace the Nevada County Medical Marijuana Ordinance with a Safe Cultivation Act for Nevada County. June 30, 2013. Front of Flyer*

**Ten Top Reasons to Vote  
Overturn Nevada County's Cannabis Cultivation Ordinance**

1. Only a depraved, corrupt government could invent a crime you commit against yourself. The Nevada County Cultivation Ordinance was designed to make it nearly impossible to be in compliance.
2. Demonizing some drugs, while approving others, is clearly arbitrary and deceitful. Why are marijuana users prosecuted while alcohol and tobacco users are not? Why are marijuana dealers demonized, while alcohol and tobacco dealers are not?
3. Prohibition takes away our right of sovereignty over our own bodies and gives this power to government. Does any other human right make sense if we don't have sovereignty over our own bodies? There's a word for people who don't have sovereignty over their own bodies: slaves.
4. Prohibition is racist in nature. Blacks and Latinos are four times more likely to be jailed for marijuana than whites. The drug war is a never-ending government scam.
5. Prohibition only pretends to fight drugs. In fact, it guarantees massive profits to anyone on the planet who can produce and deliver prohibited drugs to our streets.
7. Even if you NEVER vote again, voting to overturn the Cultivation Ordinance is a stand for justice, personal freedom and strikes a blow to the political power structure.
8. It is immoral to run prisons as a profit-making enterprise. Over 750,000 people have been jailed for simple marijuana possession.
9. Criminalizing marijuana lacks moral justification. A real crime implies a victim and a perpetrator. Can you imagine being jailed for robbing yourself?
10. The drug war is blatantly dishonest, extremely expensive, highly destructive, grossly unjust, and is an abject failure.

**NO VOTE, NO VOICE**

*Back of Flyer.*

**Figure 10: “Show an Undead System How to Die!”** This was the first of several flyers used to represent ASA-NC’s ballot initiative. While the flyer was intended to appeal to young people and those with anti-establishment sentiments, it was ultimately abandoned as the group sought to garner the support of more “mainstream” voters.

The key challenge, activists came to realize, was combatting the negative representations of marijuana growers within the general public and as portrayed in the media. Growers were scapegoats for a variety of local frustrations, and ASA-NC members knew this all too well. A story that broke on CBS Sacramento proclaimed that “Trimmigrants”<sup>74</sup> were “flocking to Nevada County for harvest jobs” (2013). While the story depicted these migrant laborers as a boon to local businesses in the region, County supervisors and some business owners interpreted the story differently. Supervisor Nate Beason stated that, “pumped-up profits at bars and restaurants are good,” but that he didn’t want the County to be “known for pot production” (ibid). Bob, a man appearing to be in his early eighties who owned an antique store in Nevada City, provided a much more loathing account of this influx of workers while I

<sup>74</sup> This is a colloquial term that blends “trimmers” and “migrants” to refer to the seasonal laborers who migrate to marijuana-producing regions (primarily in the fall) to obtain temporary work in the industry.

was distributing my business survey. He said that there have been lots of problems – and many complaints by the local business owners – due to the kinds of people who hang out at the Boardwalk, a recently established pedestrian walkway in Downtown Nevada City. “Since it’s been built,” Bob said, “I’ve had broken windows in my store, I’ve had to break up drug deals behind the store, and I’ve had many problems with meth and heroin.” When I questioned how marijuana production related to meth and heroin use in the County, Bob said that marijuana was, “undeniably the gateway to those kinds of drugs” (fieldnotes, 2.24.14). Trimmers, the business owner proclaimed, were,

...the biggest part of the problem. Every fall trimmers come here from all over the country. A lot of these folks are derelicts – they’ve got their kids with them, they’re all dirty, they put their blankets out on the sidewalks, and they’ve got dreadlocks down to their knees. They’re from as far away as South Carolina and Tennessee – this place is now known as a destination for trimmers to come (ibid)!

This particular image of a marijuana grower and/or user was an iconic cultural representation deeply tied to anxieties associated with the 1960s and 1970s counterculture. During a completely separate encounter while distributing my business surveys, I spoke with a Park Ranger who had entered a store where I was speaking with a particularly loquacious shop owner who was fervently opposed to marijuana. With a sly laugh, the Ranger said, “waitresses can always tell who the pot growers are because they take out a big wad of cash, they smell bad, they’re dirty, and their fingernails are caked with resin.” But,” he added – much to the shop owner’s dismay, “in these foothill towns, many businesses might have shut down without that extra cash coming in, especially during the economic recession [of 2008]” (fieldnotes, 2.24.14).

These are but two of many similar accounts I heard in the field from business owners, Chamber of Commerce board members, and County Supervisors, to name a few. However, the majority of the growers with whom I worked *did not* fit this profile at all. Given popular assumptions of what a grower looks like, most growers would fall completely under the radar. Nevertheless, representations such as these compelled activists to focus on what Measure S *was not* – it was *not* about the migrant workers who were coming to the region during harvest season, it was *not* about using chemicals and other environmentally damaging methods of production, it was *not* about cultivating marijuana on public lands, and it was *not* about recreational marijuana.<sup>75</sup> A few brief excerpts from my fieldnotes at ASA-NC meetings illustrates this point:

(November 12, 2013): Tonight we discussed planning and strategies for how to win the election. The first issue raised was that we have to get the media to run good stories on what ASA is doing. This was discussed in the context of recent coverage of “trimmigrants” in Nevada County on Channel 13, out of Sacramento. ASA members were dismayed about the story, sharing comments like, “where are these people coming from,” and “who would hire complete strangers? That just seems dangerous to me.” Kyle, a man in his early twenties who has been a committed volunteer in ASA’s movement, said that someone announced at a Rainbow Gathering that, “there’s tons of work in Nevada County, and that people are welcoming of newcomers.” [This story was reiterated by several of the back to the landers I interviewed as well]. Kyle, who does not own a car and makes his way around the County almost entirely by foot or by hitchhiking, added that the Channel 13 story has had a “particularly bad effect in that it’s been really difficult for people to get rides hitchhiking after the story ran.” Another man compared the situation to day laboring in the neighboring cities. “Trimmers hang out by the [local co-op] every morning at 7am,” he said, “and by 8am they’re gone,” having picked up trimming jobs.

(February 11, 2014): Tonight was a particularly lively meeting. ASA-NC

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<sup>75</sup> Importantly, the normative image of the marijuana grower is particularly damaging to those who *do* resemble this representation. Not unlike the 1960s and 1970s when Nevada County residents and public officials did their best to run the “hippies” out of town (Chandler 1972), the stereotypical grower in the County can be the target of considerable social critique by residents and discipline by law enforcement.

passed the first hurdle in terms of counting, having achieved a 100% accuracy rate in the signature sample. Now the Elections Office would begin to verify every single signature. In the meantime, however, we needed to refine our strategy in preparation for the election. Three prominent organizations – the League of Women Voters, the Sierra Fund, and the South Yuba River Citizens’ League (SYRCL) – had recently come together to discuss the environmental impacts of marijuana production on the Yuba watershed. However, they weren’t differentiating between legal and illegal grows or addressing the fact that people who are growing for medicinal use are committed to, as Shirley [Chair of ASA-NC] stated, “organic production and producing the highest quality medicine that can be produced.” These issues, Shirley emphasized, “seriously need to be addressed.” She then added, “medical marijuana producers in this County are the people who care about environmental sustainability in their cannabis production. And we need to make sure the public knows that.”

A contractor who appeared to be in his early-fifties wearing a faded t-shirt with a worn long-sleeved flannel shirt layered over it responded by calling attention to the language that we use when educating the public, “we need to call it cannabis, not pot or marijuana. And if we use ‘marijuana,’ we always have to precede it with medical. These organizations are calling everything medical marijuana, and they are not distinguishing between legal and illegal grows. But as we know, not everybody is producing medical marijuana, and we need to distinguish ourselves from those who are not.”

Shirley added that, “300 illegal grows were identified in the National Forest [this past year], yet only one was raided. All of the effort is put into punishing us” she said, “we’re easy targets, and it’s totally convoluted.” Many people at the meeting were shaking their heads in agreement. A younger man, probably in his late twenties or early thirties who I haven’t seen at any of the meetings before, said that a lot of this is probably related to problems that people are having up in Humboldt. “There’s a lot of in environmental degradation up there,” he said, “and people are using some awful rodenticides and other things.”

“I’m not in favor of chemicals,” another man said, “but some of the chemicals that these organizations are complaining about are things that other farmers use – particularly in corporate agriculture. Why should we be the only ones who are targeted for this?” Patti agreed that it was unfair treatment, but acknowledged that, “marijuana is different” in the minds of the general public, adding that we have to be very deliberate about how we “represent ourselves in this election.”

One of the ways members believed they could differentiate themselves from the negative representations was to get the term “trespass grows” widely used in the media, and make this the target of negative attention, rather than marijuana production more generally. This was in part an attempt to not alienate non-medical growers in the community, thus losing their potential vote in the election. “Big grows and commercial greenhouses,” one member said, “aren’t the problem. It’s the trespass grows on public lands that we

should be targeting. We need to make sure that growers come out to vote for this measure,” regardless of what purpose they grow for.

To win the election, members agreed, ASA-NC needed to team up with these organizations working on environmental and social issues around marijuana. “Wouldn’t it be great,” Patti asked, “if we could get an announcement in the paper that said: ‘ASA teams up with the Sierra Fund, League of Women Voters, and SYRCL to get rid of trespass grows?’”

Concrete steps towards how ASA-NC was to frame growers were not worked out in these two meetings, but activists were coming into agreement around what they did *not* want to be represented as. These decisions were built upon in subsequent meetings and within the Strategic Planning Committee. “What’s our message,” someone asked at the first Planning Committee meeting, “is it compassion? Appealing to common sense? Freeing up resources to go after people who are *really* doing damage (environmental, etc.)? How do we convince people that this is a more sensible ordinance than what the County put together” (fieldnotes, 2.13.14)? The Committee wrestled with a variety of strategies and slogans. Some suggested we take a constitutional approach to marketing the initiative, emphasizing property rights as a way to garner support for the measure. Others thought it would be most effective to focus on “upholding the voters’ will” (referring to the 1996 passage of Proposition 215), or on promoting “safe communities” through regulations that would focus on trespass growers and those using environmentally toxic cultivation methods (fieldnotes, February through March 2014). In the end, the Committee decided to focus on reframing representations of growers in the County as “patients” who were “good neighbors.”<sup>76</sup>

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<sup>76</sup> See Appendix 5 for an illustration of this framing. These documents were addendums to the official request for Measure S to be placed on the November 4, 2014 ballot and contain a letter from the ASA-

This approach required that ASA-NC normalize an alternative image of the medical marijuana patient in Nevada County. Although not articulated in explicit terms, this image was to resemble the so-called “average,” middle class, and predominantly white person. Members agreed that getting more patients to serve as the face of the medical marijuana campaign was amongst the most powerful strategies to win over public sympathy, and ultimately, votes. “We need to make the issue of patients’ rights hit home,” a woman in her late fifties who had been volunteering almost daily to gather signatures for the petition proclaimed. “People care when they know someone with a disease who could benefit from cannabis,” she added (fieldnotes, 11.12.13). The woman described one of her experiences gathering signatures to illustrate her point,

One woman who signed my petition said that she had always been against marijuana – until her adult daughter was diagnosed with brain cancer. She had been doing research and found out that cannabis could potentially help her daughter. Her husband walked up and said, *Are you talking about marijuana again?* And the woman responded, *Yes! I am! And you’re going to sign this petition too!* So, I’m telling you all, this is a really powerful way to get people to sign the petition, *and* to show them that medical marijuana is *real* medicine – not just for stoners” (ASA-NC meeting, 11.12.14).

Changing the image of the medical marijuana consumer was no simple task, given that contemporary representations of marijuana subjects have been generated through decades of propaganda and are now largely accepted as common sense. New and popular documentaries on marijuana – such as *What if Cannabis Cured Cancer* and Sanjay Gupta’s *Weed* – did, however, provide some legitimacy to – and fodder for – ASA-NC’s efforts. *Weed* featured a child named Charlotte, who at three months old

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NC Chair to the Board of Supervisors providing a rationale for the initiative, an educational flyer on the use of marijuana to treat child epilepsy, and a letter from a mother of a child with epilepsy.



**Figure 11:** Charlotte Figi before and after cannabis treatment used to control her seizures (Source: Young 2013; ASA-NC Website)

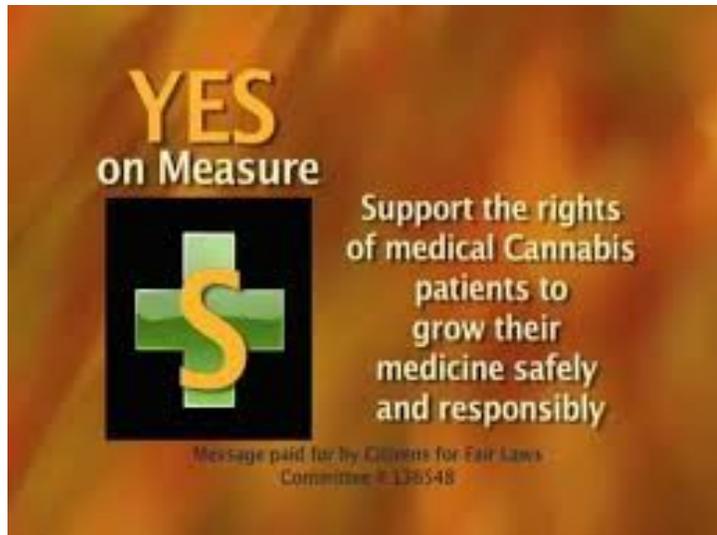
was diagnosed with Dravet Syndrome – a rare but severe form of epilepsy uncontrollable with standard medication. By the time Charlotte was three years old,

she was having 300 seizures a week and had “lost the ability to walk, talk, and eat” (Young 2013). After countless visits to doctors and children’s hospitals, Charlotte’s parents discovered that another child with the same disorder was being successfully treated with a strain of cannabis high in cannabidiol, but low in THC (the psychoactive component of marijuana). In desperation, Charlotte’s parents contacted a medical marijuana physician in Colorado and began their child on a cannabis treatment. Within the first week of use, and for the first time in their daughter’s life, the seizures stopped (ibid). If Charlotte’s case could change Dr. Sanjay Gupta’s mind about the medicinal effects of marijuana, it may also be an effective means of garnering support from Nevada County residents for ASA-NC’s ballot measure, activists thought. With messages like, “CBD Controls Child Seizures” (ASA-NC Website, January 8 2014)<sup>77</sup> and “Sometimes Marijuana is the Only Thing that Works,” accompanied by a photo of Charlotte before and after cannabis treatment (ASA-NC Website, April 20, 2014;<sup>78</sup> see Figure 11 and Appendix 5), children became one of the primary faces of the movement, representing both the medicinal benefits of marijuana and the relative safety of marijuana compared to pharmaceutical medicines. The focus on patients was

<sup>77</sup> <http://asa-nc.com/cbd-controls-childs-seizures/1203095/>.

<sup>78</sup> <http://asa-nc.com/sometimes-marijuana-is-the-only-thing-that-works/1203219/>.

buttressed by two key messages: 1) that medical marijuana patients and producers are “good neighbors,” and 2) that Measure S, with its more reasonable guidelines, would facilitate safer communities and free up law enforcement to go after “illegal” and “trespass” growers (Strategic Planning Committee meeting, 3.12.14). Measure S, activists argued, was the “Sensible Solution” to regulating medical marijuana in Nevada County (see Figure 12).



**Figure 12:** Campaign material promoting Measure S as the “sensible” and “responsible” solution to medical marijuana regulation disputes

With a solid message in place, ASA-NC embarked upon a robust campaign to educate the public on the medical properties of marijuana, the range of people who benefit from medicinal marijuana, and the objectives of Measure S. In addition to holding informational events and public screenings of *Weed and What if*

*Cannabis Cured Cancer*,

ASA-NC reached out to a

variety of organizations throughout the County – including churches, local non-profit organizations, and homeowners associations – to deliver presentations on medical

marijuana in Nevada County and Measure S and field any questions community members had about the initiative or the medicine more generally. Volunteers went door-to-door throughout the County registering residents to vote and informing them about Measure S, and ASA-NC collaborated with SYRCL and the Emerald Growers Association (based out of Humboldt County, now called “California Growers Association”) to host low-cost workshops for medical marijuana growers on best practices for cultivating marijuana, including water conservation techniques and using organic methods for dealing with pests. With a concrete message and a coherent strategy in place, ASA-NC was ready to “let the voters decide” (fieldnotes, 3.12.14) on medical marijuana regulation in the County – a decision they hoped, if not believed, would be made in their favor.

### **“It’s Not About the Money:” Reproducing Illegibility**

The bitter battle over Measure S could be witnessed throughout the County, on billboards and lawn signs, in Town Hall meetings and other public events. However, the local newspaper proved to be one of the most vigorous sites of debate. Measure S proponents placed informational advertisements about the medical benefits of marijuana, submitted editorials recounting life-changing stories of those who received relief from their ailments on account of marijuana, and lambasted County officials for the wording of the measure, the use of public funds to oppose the measure, and election processes more generally. Meanwhile, opponents of Measure S had a clear and concise rebuttal to ASA-NC activists: “It’s Not About Medicine” (Figure 13). A

resident of Grass Valley submitted her perspective on the issue in a brief statement to *The Union*,

It's not about medicine! [If Measure S passes], Nevada County will become a [sic] even more of a haven for professional growers. We must protect Nevada County and our property rights. Vote "No" on Measure S (10.11.14).

A resident of Penn Valley agreed, writing,

It amazes me that Measure S is on the ballot. Our last vote on marijuana [Proposition 215] was sold to us as a relief for terminal patients. It was a lie then and it is a lie now... [ASA-NC activists] should be ashamed trying to sell this stink to voters yet again as medicine. Anyone who is truly terminally ill — give them anything they want to make them comfortable, but that too should come from a pharmacy, not the grow down the street (published in *The Union*, 11.1.14).



**Figure 13: An anti-Measure S election sign in Nevada County** Opposition to Measure S was explicitly framed in relation to the economics of the (medical) marijuana industry.

If medical marijuana wasn't about the medicine, as residents, County Supervisors, and local law enforcement proclaimed, then what was it about?

According to anti-

marijuana advocates, "it's all about the money." This message came across loud and clear in the months and days leading up to the election. Consider the following opinion pieces submitted to the local newspaper in opposition to Measure S:

Let's be honest. This is about money, not medicine and most of the marijuana grown in Nevada County leaves here for the black market and recreational use... When we moved to this neighborhood several years ago, there was

virtually no crime and some of our neighbors felt safe enough to leave their doors unlocked. The proliferation of pot farms in recent years has changed all that... If you live in the incorporated areas of Nevada County and believe you will escape this blight, you might want to rethink that. When rural property values decline, yours will follow. Tax revenues and the services they support will diminish and our already limping economy will suffer. These growers pilfer precious water, damage the environment, jeopardize our neighborhoods and devalue our property, while making absolutely no economic contribution to our community. Measure S only serves to invite and enable more of the same. Please tell me, what is sensible about that? (Local resident, 10.4.14)

The reality is they want no restrictions on their plainly commercial activity in residential areas. These are the folks that want you to believe that someone is going to die because they cannot get their medicine... This crew has no intention of following any rules and will tell you it's about the patients not profits. If it was about the poor sick patients then where were all the recommendations for the sick kids? There were none because it's all about profits (submitted by the Director of *Smart Approaches to Marijuana*, 10.16.14).

I hope that the people... in Nevada County aren't fooled by all of the deceptive ads [sic] being paid for by the yes on "S" people. Get real people. It's all about the money! I have yet to see a grow that has anything to do with medical purposes" (Resident of Penn Valley, 11.1.14).

...it is not about medicine. It is about money, property rights, crime, nuisance, lack of an enforcement process and other important issues that impact many other people who may think it does not effect them" (Retired sergeant from the Nevada County Sheriff's Department and Supervisor of the Narcotics Task Force, 11.1.14).

A semi-retired public utilities manager who lives in Nevada City put the situation in clear and stark terms,

Why is this such a big issue? Well consider this: By very conservative estimates of marijuana plant yields, space requirements, and values, offered by both law enforcement and the marijuana industry alike, under Measure S the following amounts of cash could be generated on the following parcel sizes every year: Less than 2 acres - \$45,000; 2-5 acres - \$90,000; 5-10 acres - \$140,000; 10-20 acres - \$165,000; 20-30 acres - \$225,000; greater than 30 acres - \$270,000. Seriously! In fact, the current ordinance allows amounts that are in the range of 40-75 percent of these figures for parcels less than 5 acres, and about 50-100 percent for larger parcels. So, we already have a huge problem here created by the profit motive... By allowing more plants on practically every parcel regardless of zoning, and even allowing grows on unimproved parcels, [Measure S] guarantees a greater future incentive for crime and a continuance of this silly charade... Some local political aspirants have acquired a bad habit of pitting the interests of common county residents,

especially in the outlying rural areas, against those of select, town-based business interests such as dining, libations, and entertainment, under the theory that the spin-off economic activity — even if it is black market criminal activity — warrants the degradation of the quality of life outside the city limits. These misguided, opportunistic people would be well advised to envision a basis of our local economy that does not depend on dope running. Legitimate medical marijuana patients need to be able to receive their medication from a regulated source that cannot easily divert its product to the much larger and more lucrative illegal, recreational market. Any true “solution” would have this feature as a minimum. Measure S does not have this; in fact, it offers the opposite (published in *The Union*, 10.11.14).

While many medical marijuana activists were undoubtedly committed to the medicinal value of the plant, they also privately acknowledged the monetary value of marijuana production. Certainly, it *wasn't* all about the medicine. But, the moral regulation of marijuana had created a context in which the only morally acceptable way to frame marijuana production is with regard to its medicinal uses – although the moral status of this framing is tenuous at best. Discussions around the economics of medical marijuana production surfaced in ASA-NC meetings, but mostly to lament the impossibility of expressing such realities in public. Jackie voiced her frustrations repeatedly during the fundraiser I described earlier as well as in ASA-NC meetings about marijuana production not being recognized as a “legitimate livelihood.”<sup>79</sup> “People need to recognize,” she stated, “that we grow quality, organic medicine for people” (fieldnotes, 10.23.13). This “need” was even more pressing in the current moment, as legalization of recreational marijuana use and production is increasingly

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<sup>79</sup> This understanding of legitimacy contrasted significantly from other conceptualizations of the marijuana industry – and economic legitimacy more generally – that I encountered during my fieldwork. As a Board member of an economic assessment and planning organization in Nevada County shared with me during an interview, “Honestly, in **legitimate** business circles, [the marijuana industry] doesn't play a factor in their business. Some of them will say the perception of the economy is detrimental to their businesses – that it's difficult to attract people because of [Nevada County's image as a hub of marijuana production]... Many don't see it as good or worthwhile in the community at all. It's kind of like porn – everyone knows about it, but nobody talks about it” (interview, 3.13.14). I unpack the significance of this quote in the concluding chapter.

being considered in states throughout the nation, and will be on California's ballot in November of this year (2016). "If we don't establish ourselves as a legitimate livelihood," Jackie warned, "we're going to be threatened by corporate takeovers that are undoubtedly going to follow legalization" (fieldnotes, 11.12.13). Activists bemoaned dominant conceptions of the medical marijuana industry, but these were always taken as momentary divergences from the actual planning and strategizing around the ballot measure. Everyone agreed, even if tacitly, that any acknowledgement of medical marijuana production as a livelihood would threaten activists' ability to get Measure S passed.

Business owners and residents concerned about economic conditions in a region that offered little in the way of viable job opportunities did not always agree with ASA-NC's political strategy regarding the marijuana industry. A Board member of a local food co-op, for instance, believed that ASA-NC had taken the wrong approach, and that public debate around the overall economic impact of the industry was "vital" to the long-term health of local businesses – "too much is at stake," he added, not to talk about these issues publicly (personal communication, 9.14.14). While it is impossible to say whether this argument would have been more effective in passing Measure S, it is unlikely given the vitriol with which the opposition had already framed the economics of marijuana production. Marijuana producers were often much more attuned to these realities than were business owners not directly involved in the industry – a product of intense subjection to moral regulation and discipline by law enforcement.

In the end, ASA-NC continued to deflect claims about the financial dimensions

of medical marijuana production – not because they denied its existence, but because they believed an acknowledgement of such would be counter-productive to their political goals. Activists are acutely aware of the moral tension between making a living off of marijuana and its status as a medicine. As such, their framing of marijuana exclusively in terms of “medicine” was a strategic maneuver in response to the Board’s decision and the hegemony of the marijuana-as-drug discourse. The actions of medical marijuana activists in Nevada County, thus, cannot be interpreted simply as a reflection of “cynicism” or “knowing complicity” (Sayer 1994: 374), nor are they merely “weapons of the weak” (Scott 1985), though they do reflect elements of both. Medical marijuana activists worked within dominant ideological and moral structures as a way to incrementally redefine moral conduct surrounding marijuana cultivation and to challenge – even if only partially – current relations of power. This is not a cultural practice of demystification, as Gramsci describes it (1971: 325-342, see also Boggs 1976: 72), but it may be seen as a unique war of position *within* the ruling ideological framework. To appropriate from Li, ASA-NC activists did not contest power “from the outside,” but rather formed their struggles “within its matrices” (2007: 29). In this way, ASA-NC members contest elements of the dominant ideology without challenging the fundamental assumptions at the core of this ideology. In other words, ASA-NC does not challenge the drug/medicine dichotomy, nor do they fight for the legitimacy of the (medical) marijuana industry. Instead, they direct all of their efforts towards reframing one aspect of the ideology – that is, giving value and legitimacy to the medical uses of marijuana and thus conferring a new moral rationality surrounding its use and production. To paraphrase

from Willis (1977), ASA-NC partially penetrated dominant ideologies and social structures, yet simultaneously “reproduce[d] existing structures [through their] struggle[s]” (175).

### **Business As Usual: Moral Regulation, Hegemony, and the Co-Production of Illegibility**

The lead up to the November election was tumultuous. Just weeks before the election, a prominent member of ASA-NC was arrested and charged with a felony for cultivating marijuana, and a misdemeanor for resisting arrest (Kellar 2014). Both charges were ultimately dropped against the activist (Kellar 2015; Brenner 2015) – though not until after the election had taken place – and many members of ASA-NC and the general public believed that law enforcement took these actions when they did in an effort to delegitimize Measure S and defame its supporters. The fate of Measure S was decided on November 4<sup>th</sup>, 2014: of the more than 38,000 residents who voted in the election, 66% rejected the measure.

The significance of ASA-NC’s activism lies not in the outcome of the election, but rather in the form and content of their actions vis-à-vis the social and historical context in which these took place. Activists were not ignorant of the dominant ideology surrounding marijuana – they were neither “mystified” by the ideology, nor did they passively accept its content. They did, however, acknowledge the very real limits placed upon them and their campaign as a result of decades of moral regulation and marijuana propaganda. The drug-medicine dichotomy had defined marijuana

consumption and production long before the Sheriff, Board of Supervisors, and residents of Nevada County convened to discuss the “urgency ordinance.” These historical constructions, and the specific shape they took when employed in Nevada County, restricted the kinds of claims ASA-NC could feasibly make and the ways they could effectively frame their ballot measure. Many members of the organization were committed to responsible and environmentally sustainable cultivation of medical marijuana. Many also depended, to varying degrees, on the economic value of the crop. However, the hegemony of moralistic framings of marijuana precluded any discussion of the latter. ASA-NC activists were acutely aware of this. As Shirley once explained to me,

It’s a long haul. I’ve been fighting for patients’ right to medical marijuana since the ‘80s, and others have been fighting even longer than that. One thing I’ve learned is that you have to think long-term, and you’ve got to savor those little victories when you get them. It’s about incremental change, and I believe we’re getting closer than ever to seeing a fundamental shift in how we think about and regulate marijuana. But we’re not there yet (fieldnotes, 9.13.13).

Indeed, medical marijuana activists’ attempt to overturn the ordinance and replace it with regulations stipulated in Measure S did little to challenge the hegemony of marijuana knowledge in Nevada County. Their efforts were directed towards a relatively minor, yet practically and politically meaningful, regulatory goal that largely preserved dominant ideologies. And they did so knowingly. But why? For reasons I’ve discussed here, both the longevity and the relative strength of moralistic framings of marijuana make ideological change extremely difficult. These challenges are exacerbated by the fact that until recently (within the last month, in fact), marijuana research in the U.S. has been federally prohibited. But there is another reason why

addressing the economic dimensions of marijuana proved difficult for ASA-NC. While some activists were ardent proponents of recreational legalization of marijuana, others were concerned about the effects legalization would have on their livelihoods – whether as growers or laborers in the industry. A frequent interpretation of this position was that “lazy growers just want to continue making huge profits for relatively little effort” (fieldnotes, 2013-14). While this may be true in some cases, in others it could not be further from the truth. I met countless people during my fieldwork who were not profiting handsomely from the marijuana industry, but relied on the seasonal labor it provided to keep a roof over their head and food on their tables. These people are viscerally aware of their precarity in a service-based rural economy (c.f. Standing 2011; Lorey 2006). The effects of the illegibility of the marijuana industry are thus two-fold. Despite the vulnerabilities of participating in an informal and quasi-legal economy, the marijuana industry provides some degree of economic security to those who are most vulnerable to rural restructuring. On the other, it prevents County leaders and members of the community from adequately addressing the unique economic challenges in the region, and also potentially preparing for a post-legal marijuana economy in the State, and in all likelihood eventually in the nation as well. Perhaps most importantly though, the illegibility of the marijuana industry also preserves moralistic framings of the plant that continue to place thousands of people behind bars each year, tearing apart families, and thrusting people further and further into poverty – this is particularly true for urban, people of color (Alexander 2012; Cowen and Siciliano 2012; DPA 2016).

ASA-NC’s struggle for Measure S was defined by an attempt to reconfigure

meanings and representations of marijuana and in doing so, to appropriate from McMichael, to “reconstitute what it means to be historical subjects” (2010: 9). Despite their ambitions, ASA-NC’s counterhegemonic project was fundamentally conservative. It did not fundamentally challenge dominant ideologies, but rather worked within the confines of its ideology to expand the moral boundaries of marijuana knowledge. ASA-NC’s actions illustrate the challenges and limits of hegemonic struggles. Gramsci describes revolutionary transformation as being “conjunctural,” or as Boggs explains, as being shaped by the “passing and momentary period of crisis in which the contesting political forces struggle for...power” (1976: 114). Or put another way, hegemonic struggles reflect “contingent articulations” thorough which meanings and representations are fixed and disrupted within particular historical moments and spatial locations (see Lauerman 2012: 1331-1332). Given the trajectory of marijuana regulations in California and the nation at large, one could argue that the moment of crisis in marijuana knowledge has not yet arrived. Or to put it in less grandiose terms, the moral climate surrounding marijuana is gradually changing, but has not yet hit a tipping point – particularly in Nevada County – when alternative ideologies and practices can be entertained. It is perhaps for this reason that medical marijuana activists felt compelled to maintain the public secrecy of the marijuana industry, even as they attempted to challenge the hegemonic ideology dictating its moral status.

## CHAPTER 5: CONCLUSION

The current and future status of marijuana production in Nevada County took a decisive turn after the November election. As Shirley had warned, the failure of Measure S empowered the local Sheriff and Board of Supervisors to go beyond the provisions articulated in the (first) urgency ordinance by enacting a complete ban on outdoor cultivation of medical marijuana in Nevada County in January of 2016. The County's decision was in part based on the assumption that if residents voted down Measure S, they could march further towards a complete eradication of cannabis in the County. But it was also a response to the passage of a new suite of regulations in California, the California Medical Marijuana Regulation and Safety Act, which among other things established a robust licensing system for "commercial cannabis activity," legalized all such activities by those licensed to conduct them, and allowed "for-profit businesses to obtain operational medical marijuana licenses from the state" (Bricken 2015). Initially, the legislation stipulated that counties in the State had until March of 2016 to codify local regulations around medical marijuana production, otherwise they would forego opportunities to regulate medical cannabis at the local level and would instead be subject to State regulations. This provision had unanticipated consequences, with counties throughout the State responding with the passage of various forms of cultivation bans. By the time the State rescinded the provision, it was already too late.

In Nevada County, the ban on outdoor cultivation again took the form of an "urgency ordinance." However, widespread public outrage forced the County to take the decision to a formal vote. This was certainly not what the Sheriff or Supervisors anticipated, and in a last-ditch effort to pass the measure, the Sheriff submitted a letter

to the local newspaper, pleading with County residents to pass Measure W. “The bottom line,” the Sheriff wrote,

is this ordinance is about protecting the quality of life in our communities by minimizing the nuisance issues caused by marijuana cultivation. In June, the public will have the ability to vote on whether or not they support this new ordinance. Please consider what type of county you want Nevada County to look like for your children and grandchildren to grow up in. Furthermore, what types of businesses do you want to startup or relocate here. This will be a critical decision for our community (Sheriff Keith Royal, March 27, 2016 in *The Union*).

While the Sheriff attempted to operationalize the same rationalities that he believed facilitated the defeat of Measure S, voters didn’t agree. The ban was rejected by a wide margin, with nearly 60% of voters opposed to the ordinance. And although the Board rescinded the ban (reluctantly, and by a very slim margin), the regulations that remain continue to place considerable restrictions on medical marijuana cultivation in the County. Despite the failure of Measure S, though, ASA-NC’s movement may have ultimately weakened the hegemonic status of marijuana knowledge in Nevada County. But the specific conjunctural moment in which the County imposed a complete ban on outdoor production could have had much to do with the shift. The ban represented an explicit rejection of State legislation and shifting social and cultural values around the legitimate place of marijuana in California. The comparison between the medical marijuana industry and the porn industry as both being something “everyone knows about, but nobody talks about” was beginning to fade, as was the claim that the medical marijuana industry didn’t belong in “legitimate business circles” (comments made by a local business person and board member of the County’s economic assessment and planning organization during an interview on 3.13.14). Nevada County’s ban on outdoor cultivation thus ran

counter to the majority of State residents' new (and positive) assessments of marijuana. The ban also coincided with the professionalization of several cannabis advocacy groups, including the California Cannabis Industry Association and the California Growers Association – the latter which played a significant role in reframing debates around cannabis in Nevada County in the run up to the Measure W election. The marijuana industry may be coming out of the shadows, but it is too soon to tell. Activists, and increasingly industry advocates, may ultimately destabilize the dominant ideologies through which marijuana is constructed, freeing the plant and its subjects from moral scrutiny and disciplinary measures. The hegemonic struggle continues.

### **Marijuana and Beyond: Implications of a Politics of Illegibility**

In this dissertation, I have explored how and with what effects marijuana and its subjects are governed in Nevada County. I made two interrelated arguments in this dissertation. First, I argued that the governance of marijuana in Nevada County is both constituted through and generative of a politics of illegibility. Although the County is home to a robust marijuana industry that is arguably central to the local economy, public officials know little about its impacts, and considerable effort is made to ensure that the industry remains unknowable. In contrast to state projects in which the legibility of populations, practices, and places is a critical dimension of rule (Scott 1998), the marijuana industry in Nevada County is constituted as an

unknowable dimension of the local economy in order to preserve dominant ideologies that take marijuana to be both immoral and a source of social denigration. While the illegibility of the marijuana industry may continue to benefit growers, as the high prices of marijuana are to some degree determined by its status as an illegal commodity, this is decreasingly the case. As the supply of high quality marijuana increases in California, prices will continue to decline. Based on the cultivator surveys I conducted in the County, this has certainly been the case over the last five years and with full legalization expanding across the nation, this trend is likely to accelerate. The tremendous effort made to maintain the illegibility of the marijuana industry in Nevada County, as I have argued here, is in the interest of regulating the body politic and marginalizing “undesirable” populations.

Second, while the illegibility of the marijuana industry is partly an effect of its status as an informal economy – as demonstrated in Chapter 2 – this status is reinforced if not solidified through practices of moral regulation and counter-hegemonic struggle. As I demonstrated in Chapter 3, the passage of an “urgency ordinance” to regulate medical marijuana cultivation in Nevada County relied upon moralistic constructions of the marijuana subject that discursively exclude such subjects from the category of “community” and render them as physical and moral threats to the body politic. The hegemonic construction of marijuana and its subjects as immoral, dangerous, and criminal shaped the terrain of social struggle. As shown in Chapter 4, the conjunctural moment in which the ordinance was passed and contested by medical

marijuana activists was one of limited possibilities for counter-hegemonic strategies. Constrained by the moral representations of marijuana subjects, activists attempted to legitimize the *medical* marijuana subject, and in doing so inadvertently reinforced the dominant ideology surrounding marijuana and deliberately obscured the economic implications of marijuana production. As a result, medical marijuana activists reproduced a politics of illegibility, even as they sought to subvert hegemonic relations of power.

As I noted earlier, I employ the notion of a politics of illegibility as a way of understanding how the practice of *not seeing* – the construction of silences, secrecy, and ignorance – is a critical, yet under-acknowledged, form of governance. While my analysis has focused specifically on how non-knowledge is used to govern the production of marijuana and its subjects in Nevada County, the theoretical implications of this analysis extend far beyond the confines of a rural region in northern California. Rather than an isolated occurrence, the production of illegibility has become a prominent form of governing marginal populations and spaces in the United States and beyond. This form of governance may be enacted as a means of preserving dominant ideologies surrounding appropriate moral behavior and social and political belonging, as was the case in the present study. But there are many other ways in which a politics of illegibility is enacted as a relation of rule. Consider, for instance, how the manufacturing of non-knowledge surrounding the relationship between fossil fuel consumption and climate change has been employed as a form of global ecological governance. ExxonMobil, for

instance, was aware of the detrimental effects of fossil fuel consumption in the 1970s, yet spent millions of dollars to suppress and even contest this knowledge to ensure the profitability of its industry (Hall 2015). Through “campaigns of confusion,” the company managed to construct a discourse of doubt that not only affected public opinion on climate change, but also “helped to prevent” a range of countries – including the U.S., India, and China – from “signing the... Kyoto Protocol in 1998 to control greenhouse gases” (ibid). This is but one example of how governance is achieved through a politics of illegibility. We might also ask how the production of non-knowledge functions in the regulation of undocumented migrant workers in the U.S., or in the disciplining of prisoners in the penal system. This analytical framework may also help us to better understand how the production of non-knowledge has been employed to govern black bodies in the United States, as through official silences and denial surrounding the water crisis in Flint, Michigan. The suppression, denial, or obfuscation of knowledge in such cases is arguably a critical dimension of the governance of these and other unruly populations.

The effects of a politics of illegibility can be profound, constituting the erasure of the historical conditions under which subjects and territories are constituted, and concealment of the political projects through which practices of subjugation rely (see McMichael 2010 and Menon 2010). Thus, while legibility remains a critical form of statecraft (Scott 1998), we may be well advised to also explore how the active and ongoing production of *illegibility* is employed as a critical form of governance.

**APPENDIX 1: CAMPAIGN AGAINST MARIJUANA PLANTING (CAMP)  
BUDGET IN CALIFORNIA, 1983-2004**

1983	\$1.1 million
1984	\$2.3 million
1985	\$2.8 million
1986	\$2.4 million
1987	\$2.8 million
1988	\$2.9 million
1989	\$2.6 million
1990	\$2.5 million
1991	\$2.3 million
1992*	\$2.7 million / \$758,000
1993	\$555,000 (estimated: \$2 million)
1994	\$467,000 (estimated: \$1.7 million)
1995	\$462,000 (estimated: \$1.6 million)
1996	\$480,000 (estimated: \$1.7 million)
2000	\$651,816 (estimated: \$2.3 million)
2001	\$654,816 (estimated: \$2.3 million)
2002	\$691,500 (estimated: \$2.5 million)
2003	\$791,000 (estimated: \$2.8 million)
2004	\$946,000 (estimated: \$3.4 million)

*Source: CAMP Final Reports and Department of Justice Summaries between 1982 and 2004.*

\* After 1991, in-kind services were no longer included in the budget reporting, hence the lower figures. In 1992, CAMP reported both the total budget (including both cash and in-kind figures), allowing for a crude estimate of the percentage of each. Based on these figures, cash contributions comprise only 28% of the total budget. I use this figure to project the total budget for CAMP programs in California between 1993 and 2004. Here I include the reported budget (which accounts for cash contributions to the program only), and a parenthetical estimate of the total budget based on the 1992 breakdown of cash versus in-kind contributions. Data for CAMP's budget from 1997 to 1999 are unavailable (CAMP claims not to have published reports during these years; see HSU/ <http://library.humboldt.edu/humco/holdings/CAMP.htm>) and CAMP documents no longer include budgetary information after 2004. This omission is striking, as seizure rates increase dramatically in 2005, and continue to increase exponentially until 2009.

**APPENDIX 2: ESTIMATION OF THE SIZE OF THE MARIJUANA  
INDUSTRY IN NEVADA COUNTY, 2008-2013**

In order to estimate the size of the marijuana economy in Nevada County, I first obtained data from the Nevada County Sheriff’s Office on the number of marijuana plants seized annually in Nevada County between 2008 and 2013. I interviewed a lieutenant sheriff on the Narcotics Task Force in order to determine what percentage of marijuana plants is seized annually. According to the Lt. Sheriff, the Narcotics Task Force seizes approximately 5-10% of all plants (grown legally or illegally) in Nevada County. I used both of these figures to calculate a high and low end of the total number of plants remaining in the County, as follows:

At the 10% Eradication Rate:       $\# \text{ of Plants Remaining} = \frac{\# \text{ of Plants Eradicated}}{0.1}$

At the 5% Eradication Rate:       $\# \text{ of Plants Remaining} = \frac{\# \text{ of Plants Eradicated} \times 0.05}{0.05}$

In order to determine the total value of remaining marijuana plants in Nevada County, I estimated the amount of processed marijuana per plant and multiplied that by the number of remaining plants. Again, I have a high and low estimate. On the low end, I assumed that each plant produces one pound of processed marijuana. This is consistent with Gettman’s (2006)<sup>80</sup> model for estimating the value of marijuana production in the United States, and is less than estimates generated by an anonymous marijuana cultivator survey I conducted in Nevada County in 2014.<sup>81</sup> On the high end, I used a figure provided by Sergeant Guy Selleck, who stated that “the average mature marijuana plant yields anywhere from one to six pounds of processed marijuana. The Narcotics Task Force has estimated that a conservative average yield is three to three and a half pounds of processed marijuana per plant” (Official Transcript from Nevada County Board of Supervisors’ Meeting, April 24, 2012). Total value is thus calculated in the following way:

$(\# \text{ of Plants Remaining}) \times (\text{Pounds of Processed Marijuana Per Plant}) \times (\text{Price Per Pound})$

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<sup>80</sup> Gettman, Jon (2006). “Marijuana Production in the United States.” *The Bulletin Of Cannabis Reform*. <http://www.drugscience.org/bcr/index.html>.

<sup>81</sup> According to the 31 completed surveys, cultivators in Nevada County produce 1.62 pounds per plant on average. If broken into indoor and outdoor figures, cultivators produce an average of 1.31 pounds per plant when grown indoors and 1.85 pounds per plant when grown outdoors.

The average price of marijuana per pound is based on findings from an anonymous survey (n=31) I conducted in 2014 with marijuana cultivators in Nevada County and calculations based on Gettman's (2006) analysis. According to this survey, prices per pound were as follows:

<b>Year</b>	<b>Outdoor-Grown</b>	<b>Indoor-Grown</b>
2008	\$2,000	\$4,000
2009	\$2,000	\$4,000
2010	\$1,700	\$3,500
2011	\$1,700	\$3,000
2012	\$1,400	\$2,500
2013	\$1,400	\$2,500

### **Total Value of Marijuana Production in Nevada County**

*\* Based on production level of 1 pound per plant*

	<b>Estimated Total Value of Indoor and Outdoor Marijuana Production in Nevada County (10% seizure rate)</b>	<b>Estimated Total Value of Indoor and Outdoor Marijuana Production in Nevada County (5% seizure rate)</b>
<b>2008</b>	\$106,060,000	\$212,120,000
<b>2009</b>	\$592,940,000	\$1,185,880,000
<b>2010</b>	\$1,221,134,000	\$2,442,268,000
<b>2011</b>	\$162,402,000	\$324,804,000
<b>2012</b>	\$363,329,120	\$726,658,240
<b>2013</b>	\$51,521,160	\$103,042,320
<b>Averages: 2008-2013</b>	<b>\$416,231,047</b>	<b>\$832,462,093</b>

*\* Based on production level of 3 pounds per plant*

	<b>Estimated Total Value of Remaining Indoor and Outdoor Plants (10% rate)</b>	<b>Estimated Total Value of Remaining Indoor and Outdoor Plants (5% rate)</b>
<b>2008</b>	\$318,180,000	\$636,360,000
<b>2009</b>	\$1,778,820,000	\$3,557,640,000
<b>2010</b>	\$3,663,402,000	\$7,326,804,000
<b>2011</b>	\$487,206,000	\$974,412,000
<b>2012</b>	\$1,089,987,360	\$2,179,974,720
<b>2013</b>	\$154,563,480	\$309,126,960
<b>Averages: 2008-2013</b>	<b>\$1,248,693,140</b>	<b>\$2,497,386,280</b>

Several factors are important to consider when evaluating these figures. First, there is a significant difference in the amount of marijuana that was seized annually by the Sheriff's department between 2008 and 2013 – ranging from 2,841 plants in 2008 to 71,292 plants in 2010. According to a lieutenant sheriff on the Narcotics Task Force in Nevada County,

One of the big reasons for the increase in plant count is that we began conducting more over flights and encountered several illegal (DTO) Drug Trafficking Organizations AKA: Mexican gardens in our rural areas of the county. These types of gardens range in size from a couple thousand plants to fifty thousand plants or more (personal correspondence, 2014).

As such, not all of the money produced from the marijuana industry in Nevada County is staying in the County. However, if I take an average of the years in which only smaller-scale seizure operations took place, I arrive at an alternative estimation of the total value of marijuana production in Nevada County between 2008 and 2013. As these figures are less likely to include large-scale operations and/or DTOs, they arguably reflect money that is more likely to stay within the local economy:

*\* Based on production level of 1 pound per plant*

	<b>Estimated Total Value of Indoor and Outdoor Marijuana Production in Nevada County (10% seizure rate)</b>	<b>Estimated Total Value of Indoor and Outdoor Marijuana Production in Nevada County (5% seizure rate)</b>
<b>2008</b>	\$106,060,000	\$212,120,000
<b>2011</b>	\$162,402,000	\$324,804,000
<b>2013</b>	\$51,521,160	\$103,042,320
<b>Averages: 2008-2013</b>	<b>\$106,661,053</b>	<b>\$213,322,107</b>

*\* Based on production level of 3 pounds per plant*

	<b>Estimated Total Value of Remaining Indoor and Outdoor Plants (10% rate)</b>	<b>Estimated Total Value of Remaining Indoor and Outdoor Plants (5% rate)</b>
<b>2008</b>	\$318,180,000	\$636,360,000
<b>2011</b>	\$487,206,000	\$974,412,000
<b>2013</b>	\$154,563,480	\$309,126,960
<b>Averages: 2008-2013</b>	<b>\$319,983,160</b>	<b>\$639,966,320</b>

## Appendix 3: Nevada County Ordinance 2349



### **ORDINANCE No.** 2349

#### **OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA**

##### **AN URGENCY ORDINANCE ADDING ARTICLE 5 TO CHAPTER IV OF THE NEVADA COUNTY GENERAL CODE REGARDING MEDICAL MARIJUANA CULTIVATION**

THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS

##### SECTION I:

Article 5 of Chapter IV of the Nevada County General Code is hereby added to read as shown in Exhibit A attached hereto and incorporated herein by this reference.

##### SECTION II:

The County finds that this Article is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the following categorical exemptions apply: Sections 15308 (actions taken as authorized by local ordinance to assure protection of the environment) and 15321 (action by agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency, including by direct referral to the County Counsel as appropriate for judicial enforcement).

##### SECTION III:

Severability. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the remainder of this Article, including the application of such part or provision to other circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Article are severable. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one (1) or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.

SECTION IV:

Pursuant to Government Code section 25123(d), this Ordinance shall take effect and be in force immediately upon the passage hereof, and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the Supervisors voting for and against same in the Union & Sierra Sun a newspaper of general circulation printed and published in the County of Nevada.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 8<sup>th</sup> day of May, 2012, by the following vote of said Board:

Ayes: Supervisors Nathan Beason, Edward Scofield, and Hank Weston, and Ted S. Owens.

Noes: Supervisor Terry Lamphier.

Absent: None.

Abstain: None.

ATTEST:

DONNA LANDI  
Clerk of the Board of Supervisors

By: Donna Landi

Ted S. Owens  
Ted S. Owens, Chair

MM/DD/YYYY cc: Sheriff  
5/9/2012 County Counsel  
The Union  
Sierra Sun

## EXHIBIT A

### MEDICAL MARIJUANA CULTIVATION

#### Section G-IV 5.1 Authority and Title.

Pursuant to the authority granted by Article XI, section 7 of the California Constitution, Health and Safety Code section 11362.83, and Government Code section 25845, the Board of Supervisors does enact this Article.

#### Section G-IV 5.2 Findings and Purpose

- (A) In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code Section 11362.5 and entitled "The Compassionate Use Act of 1996").
- (B) Proposition 215 was intended to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. Proposition 215 further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes." The ballot arguments supporting Proposition 215 expressly acknowledged that "Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere."
- (C) In 2004, the Legislature enacted SB 420 (codified as California Health and Safety Code Section 11362.7 *et seq.*) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes.
- (D) California Health & Safety Code section 11362.83 expressly allows cities and counties to adopt and enforce ordinances that are consistent with Senate Bill 420.
- (E) The Federal Controlled Substances Act, 21 U.S.C. sections 801, *et seq.*, classifies marijuana as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense marijuana. The Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of marijuana for medical purposes.
- (F) The County's unique geographic and climatic conditions, which include dense forested areas receiving substantial precipitation, along with the sparse population in many areas of the County, provide conditions that are favorable to marijuana cultivation. Marijuana growers can achieve a high per-plant yield because of the County's favorable growing conditions. The Federal Drug Enforcement Administration reports that various types of marijuana plants under various planting conditions may yield averages of 236 grams (about one-half pound) to 846 grams (nearly two pounds). Based on law enforcement

seizures, yields in Nevada County have tended to be at the higher end of this range. The “street value” of a single cannabis plant is substantial. As of 2012, per pound prices for domestically produced high-grade cannabis sold illegally within Northern California can reach \$2,000 to \$5000. A single marijuana plant cultivated within the County can thus yield \$4,000 or more in saleable marijuana.

- (G) Proposition 215 and Senate Bill 420 primarily address the criminal law, providing qualifying patients and primary caregivers with limited immunity from state criminal prosecution under certain identified statutes. Neither Proposition 215 nor Senate Bill 420, nor the Attorney General’s August 2008 *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use* adopted pursuant to Senate Bill 420, provides comprehensive civil regulation of premises used for marijuana cultivation. The unregulated cultivation of marijuana in the unincorporated area of Nevada County can adversely affect the health, safety, and well-being of the County and its residents. Comprehensive civil regulation of premises used for marijuana cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated marijuana cultivation. These risks are especially significant if the amount of marijuana cultivated on a single premises is not regulated and substantial amounts of marijuana are thereby allowed to be concentrated in one place.
- (H) Cultivation of any amount of marijuana at locations or premises within 1000 feet of schools, school bus stops, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities creates unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with marijuana cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of marijuana in such locations or premises is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the marijuana.
- (I) As recognized by the Attorney General’s August 2008 *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use*, the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime. In addition, the Indoor Cultivation of Marijuana without compliance with basic building code requirements creates increased risks of electrical fire, mold, mildew, plumbing issues and other damage to persons and property.
- (J) It is the purpose and intent of this Article to implement State law by regulating the cultivation of medical marijuana in a manner consistent with State law. It is also the intent of this Article to balance the needs of medical patients and their caregivers and which promotes the health, safety, and general welfare of the residents and businesses within the unincorporated territory of the County of Nevada. This Article is intended to be consistent with Proposition 215 and Senate Bill 420 and towards that end, it is not intended to prohibit persons from individually, collectively, or cooperatively exercising any right otherwise granted by State law. Rather, the intent and purpose of this Article is to establish reasonable regulations regarding the manner in which marijuana may be cultivated, including restrictions on the amount of marijuana that may be individually,

collectively, or cooperatively cultivated in any location or premises, in order to protect the public health, safety, and welfare in Nevada County.

- (K) The limited right of qualified patients and their primary caregivers under State law to cultivate marijuana plants for medical purposes does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Article, the County will achieve a significant reduction in the aforementioned harms caused or threatened by the unregulated cultivation of marijuana in the unincorporated area of Nevada County.
- (L) Nothing in this Article shall be construed to allow the use of marijuana for non-medical purposes, or allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal under State or Federal law. No provision of this Article shall be deemed to be a defense or immunity to any action brought against any person in Nevada County by the Nevada County District Attorney, the Attorney General of the State of California, or the United States of America.
- (M) According to the Nevada County Sheriff, the amount of Marijuana cultivated in Nevada County increases significantly with each growing season and is increasingly occurring in residential areas, in close proximity to residences, and on vacant, unsupervised and unsecured properties. In 2011, Nevada County has experienced a dramatic increase in citizen complaints regarding the odor, threats to public safety and other nuisances that unregulated Cultivation sites can create.
- (N) Cultivation sites have been the subject of serious criminal activity and associated violence including armed robberies, assault, battery, home invasion robberies and burglaries. An increasing number of sites are very visible to, and easily accessible by, the public, including children and youth. To protect the Marijuana, some of these Cultivation sites use aggressive and vicious dogs, booby-trap devices and persons with weapons that threaten severe bodily harm or death to those who attempt to access the site. Left unregulated, Cultivation sites also result in loitering, increased traffic, noise, environmental health issues, unreasonable odors and other public nuisances that are harmful to the public health, safety and welfare of the surrounding community and its residents.
- (O) In Nevada County, the typical growing season for Marijuana is approximately April through September of each year. Surrounding counties have adopted restrictions and, in some cases, bans on the Cultivation of Marijuana in their jurisdictions. If left unregulated for another growing season, it is likely that Nevada County will encounter increasing numbers of Marijuana Cultivation sites of increasing sizes, in locations which conflict with the provisions of this Ordinance and operated in manners which creates public nuisance to the surrounding community and its residents. Due to the start of the current Marijuana grow season there is an immediate need to provide certainty and guidance to those who might choose to Cultivate Marijuana in Nevada County and preserve the public peace, health and safety of Nevada County residents by regulating and addressing the public nuisances associated with Medical Marijuana Cultivation. In addition, if Medical Marijuana cultivation is not immediately regulated, large quantities of illegal Marijuana cultivation sites will be introduced into the local market in the near term.

Section G-IV 5.3 Definitions. As used herein the following definitions shall apply:

- (A) "Child Care Center" means any licensed child care center, daycare center, or childcare home, or any preschool.
- (B) "Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.
- (C) "Cultivation" or "Cultivate" means the planting, growing, harvesting, drying, processing or storage of one or more Marijuana plants or any part thereof in any location, indoor or outdoor, including from within a fully enclosed and secure building.
- (D) "Enforcing Officer" means the Sheriff, or his authorized deputies or designees, who is authorized to enforce this Article.
- (E) "Fence" is defined in Section L-II 4.2.6 of the Nevada County Land Use and Development Code and Section G-IV 5.4(l)(1) of this Article, and is further defined as a wall or barrier connected by boards, masonry, rails, panels or any other materials approved by the Planning Director for the purpose of enclosing space or separating parcels of land. For purposes of this Article, the term "Fence" does not include walls, tarpaulins, scrap material, bushes or hedgerows.
- (F) "Hazardous Materials" means any substance that is "flammable, reactive, corrosive or toxic", as further defined in California Health and Safety Code Sections 25501 and 25503.5, as may be amended.
- (G) "Hearing Officer" means a person designated by the Board of Supervisors to conduct administrative lien hearings as provided in Section G-IV 5.9 of this Article.
- (H) "Identification card" shall have the same definition as California Health and Safety Code Section 11362.5 et seq., as may be amended.
- (I) "Indoor" or "Indoors" means within a fully enclosed and secure structure that complies with the California Building Code (CBC), as adopted by the County of Nevada, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" x 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. . requirement.
- (J) "Legal Parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the California Government Code).
- (K) "Marijuana" shall have the same meaning as that set forth in Health and Safety Code section 11018, as may be amended. Marijuana, Medical Marijuana, and the Cultivation thereof, as defined in this Article shall not be considered an agricultural activity, operation or facility under Civil Code section 3482.5 or an Agricultural Product as defined in Section

L-II 3.3 of the Nevada County Land Use and Development Code, or an Agricultural Operation as defined in Sections L-II 3.3, L-II 6.1 and L-XIV 1.1 of the Nevada County Land Use and Development Code.

- (L) "Medical Marijuana" shall mean Marijuana recommended by a licensed physician, in accordance with California Health and Safety Code sections 11362.5 through 11362.83, commonly referred to as the Compassionate Use Act and the Medical Marijuana Program Act.
- (M) "Medical Marijuana Collective" means Qualified Patients and/or designated Primary Caregivers of Qualified Patients, who associate, or form a cooperative in accordance with Section 12300 of the Corporations Code, within the unincorporated area of the County in order to collectively or cooperatively cultivate Marijuana for medical purposes, as provided in Health and Safety Code Section 11362.775, as may be amended. The term collective shall include "cooperative" unless the context clearly indicates otherwise.
- (N) "Outdoor" or "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.
- (O) (O) "Outdoor Living Area" means any patio, deck, barbecue, sitting area, dining area, , pool, hot tub, enclosed yard or other outdoor space or amenity which is designed and/or used for outdoor living and entertainment.
- (P) "Parcel" means a "Legal Parcel" as defined herein.
- (Q) "Premises" means a single, Legal Parcel of property. Where contiguous Legal Parcels are under common ownership or control, such contiguous Legal Parcels shall be counted as a single "Premises" for purposes of this Article.
- (R) "Primary Caregiver" shall have the definition as Health and Safety Code Section 11362.7(d), as may be amended.
- (S) "Qualified Patient" shall have the definition as Health and Safety Code Sections 11362.7(c) and (f), as may be amended.
- (T) "Residence" shall mean a fully enclosed structure used for human occupancy and shall have the same meaning as "domicile."
- (U) "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.
- (V) "School Bus Stop" means any location designated in accordance with California Code of Regulations, Title 13, section 1238, to receive school buses, as defined in California Vehicle Code section 233, or school pupil activity buses, as defined in Vehicle Code section 546.

- (W) "School Evacuation Site" means any location designated by formal action of the governing body, Superintendent, or principal of any school as a location to which juveniles are to be evacuated to, or are to assemble at, in the event of any emergency or other incident at the school.
- (X) "Sheriff" or "Sheriff's Office" means the Nevada County Sheriff's Office or the authorized representatives thereof.
- (Y) "Youth-oriented facility" means any facility that caters to or provides services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

Section G-IV 5.4 Nuisance Declared; Cultivation Restrictions.

- (A) The Cultivation of Marijuana, either Indoors or Outdoors, on any Parcel or Premises in an area or in a quantity greater than as provided herein, or in any other way not in conformance with or in violation of the provisions of this Article, is hereby declared to be a public nuisance that may be abated in accordance with this Article, and by any other means available by law. The provisions of Section L-II 5.19 (Nonconforming Uses and Structures) of the Nevada County Land Use and Development Code shall not apply to the Cultivation of Marijuana hereby declared to be a public nuisance.
- (B) Medical Marijuana Cultivation is prohibited on any Parcel or Premises within the unincorporated territory of Nevada County except as an accessory use to a legally established Residence on a Legal Parcel.
- (C) Except as provided in Section 5.4(D) of this Article, Medical Marijuana Cultivation may be undertaken only by a Qualified Patient who occupies a legal Residence on a Legal Parcel or Premises proposed for Cultivation as his or her primary place of residence.
- (D) A Primary Caregiver may cultivate Medical Marijuana on behalf of his or her Qualified Patient(s), but only at the Qualified Patient's primary Residence and/or at the Primary Caregiver's primary Residence, and only in conformance with all applicable State and local regulations and all limitations set forth in this Article.
- (E) Indoor Cultivation may occur only within a legal structure that meets the definition of Indoor and complies with all applicable provisions of the County's Land Use and Development Code. Any accessory structure used for Cultivation of Marijuana shall be ventilated with odor control filters, and shall not create an odor, humidity or mold problem on the Premises or on adjacent Premises. Cultivation within any detached accessory structure that does not meet the definition of Indoor shall be considered Outdoor Cultivation.
- (F) All electrical and plumbing used for Indoor Cultivation of Marijuana shall be installed with valid electrical and plumbing permits issued and inspected by the Nevada County Building Department, which building permits shall only be issued to the legal owner of the Premises. The collective draw from all electrical appliances on the Premises shall not exceed the maximum rating of the approved electrical panel for the primary legal

Residence on the Parcel. The maximum rating shall be as established in the manufacturer specifications for the approved electrical panel.

- (G) The following limitations apply to Cultivation of Medical Marijuana on each Premises located within the unincorporated area of Nevada County, regardless of the number of Qualified Patients or Primary Caregivers residing at the Premises or participating directly or indirectly in the Medical Marijuana Cultivation activity. These limitations shall be imposed notwithstanding any assertion that the person(s) Cultivating the Marijuana are the Primary Caregiver(s) for Qualified Patients or that such person(s) are collectively or cooperatively Cultivating Marijuana.
- (1) Premises located within any area zoned primarily for residential uses (e.g., R-1, R-2, R-3 or R-A) shall be limited to the following:
- a. Premises with a gross area of less than two acres shall be limited to 100 contiguous square feet of Indoor Cultivation area.
  - b. Premises with a gross area of two acres or more shall be limited to:
    - a. 75 contiguous square feet of Outdoor Cultivation area; or
    - b. Outdoor Cultivation of up to six (6) mature or immature Marijuana plants if grown in grow bags or pots which are 25-gallons or smaller, and all such plants are grown in a single, clearly designated contiguous grow area; or
    - c. 100 contiguous square feet of Indoor Cultivation area.
- (2) Premises located within any area zoned primarily for rural uses (e.g., AG, AE, FR, or TPZ) shall be limited to the following:
- a. Premises with a gross area of less than two acres shall be limited to 100 contiguous square feet of Indoor Cultivation area or 150 contiguous square feet of Outdoor Cultivation area.
  - b. Premises with a gross area of two acres but less than five acres shall be limited to 300 contiguous square feet of Outdoor Cultivation area or 100 contiguous square feet of Indoor Cultivation area.
  - c. Premises with a gross area of five acres but less than ten acres shall be limited to 400 contiguous square feet of Outdoor Cultivation area or 100 contiguous square feet of Indoor Cultivation area.
  - d. Premises with a gross area of ten acres but less than twenty acres shall be limited to 600 contiguous square feet of Outdoor Cultivation area or 100 contiguous square feet of Indoor Cultivation area.
  - e. Premises with a gross area of 20 acres or more shall be limited to 1000 contiguous square feet of Outdoor Cultivation area or 100 contiguous square feet of Indoor Cultivation area.

(3) The Indoor or Outdoor Cultivation of Marijuana, in any amount or quantity, on property located in any other zoning district is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this Article.

(H) The following setbacks shall apply to all Indoor and Outdoor Cultivation areas and shall be measured in a straight line from the nearest point of the Fence or other enclosure required by Section G-IV 5.4(l)(1) to either the nearest exterior wall of a residential structure on a Legal Parcel under separate ownership or the nearest boundary line of any Outdoor Living Area on a Legal Parcel under separate ownership.

(1) On Parcels located within any area zoned primarily for residential uses (e.g., R-1, R-2, R-3 or R-A):

- a. If the Parcel is less than two gross acres, one hundred (100) feet from any legal Residence or Outdoor Living Area located on an adjacent separate Legal Parcel.
- b. If the Parcel is 2 gross acres or greater, two hundred (200) feet from any legal Residence or Outdoor Living Area located on an adjacent separate Legal Parcel.

(2) On Parcels located within any area zoned primarily for rural uses (e.g., AG, AE, FR, TPZ):

- a. If the Parcel is less than two gross acres, one hundred (100) feet from any legal Residence or Outdoor Living Area located on an adjacent separate Legal Parcel.
- b. If the Parcel is at least 2 gross acres but less than 10 acres, One hundred fifty (150) feet from any legal Residence or Outdoor Living Area located on an adjacent separate Legal Parcel.
- c. If the Parcel is at least 5 gross acres but less than 10 acres, Two hundred (200) feet from any legal Residence or Outdoor Living Area located on an adjacent separate Legal Parcel.
- d. If the Parcel is at least 10 gross acres but less than 20 acres, two hundred-fifty(250) feet from any legal Residence or Outdoor Living Area located on an adjacent separate Legal Parcel.
- e. If the Parcel is 20 gross acres or greater, three hundred (300) feet from any legal Residence or Outdoor Living Area located on an adjacent separate Legal Parcel.

(3) In a mobile home park as defined in Health and Safety Code Section 18214.1, one hundred (100) feet from a mobile home that is under separate ownership.

- (I) Cultivation of Marijuana is prohibited on any Parcel or Premises located within the following areas:
- (1) Upon any Premises located within one thousand (1000) feet of any School, School Bus Stop, School Evacuation Site, Church, Park, Child Care Center, or Youth-Oriented Facility Such distance shall be measured in a straight line from the Fence or other enclosure required by Section G-IV(l)(1) to the nearest boundary line of the Premises upon which the School, School Bus Stop, School Evacuation Site, Church, Park, Child Care Center, or Youth-Oriented Facility is located.
  - (2) In any location where the Marijuana would be visible from the public right of way or publicly traveled private roads at any stage of growth.
  - (3) Within any setback area required by Section G-IV 5.4(H).
- (J) All Cultivation areas shall comply with the following requirements:
- (1) All Marijuana Cultivated Outdoors must be fully enclosed within an translucent (but not transparent), sight obscuring Fence of at least six (6) but not more than eight (8) feet in height that fully encloses the garden area. The Marijuana shall be shielded from public view at all stages of growth. Should the Marijuana plant(s) grow higher than the Fence, the plants shall be cut so as to not extend higher than such Fence. All Fences shall comply with Section L-II 4.2.6 of the Nevada County Land Use and Development Code and shall be sufficient to conceal the Marijuana from public view. The Fence must be adequately secure to prevent unauthorized entry and include a locking gate that shall remain locked at all times when a Qualified Patient or Primary Caregiver is not present within the Cultivation area. Said Fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the Fence. Bushes or hedgerows shall not constitute an adequate Fence under this subsection. All Indoor Cultivation areas shall be adequately secure to prevent unauthorized entry, including a secure locking mechanism that shall remain locked at all times when a Qualified Patient or Primary Caregiver is not present within the Cultivation area.
  - (2) There shall be no exterior evidence of Indoor or Outdoor Cultivation from a public right-of-way or publicly traveled private road.
  - (3) Outdoor Cultivation areas shall be on a single plane and shall be clearly staked or marked as an Outdoor Cultivation area for purposes of determining compliance with the requirements set forth in Section G-IV 5.4(G). No portion of any Marijuana plant, including any portion of the plant's canopy, shall extend outside of the Outdoor Cultivation area.
  - (4) Marijuana Cultivation shall not adversely affect the health, safety, or general welfare of persons at the Cultivation site or at any nearby residence by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, or vibration, by the use or storage of hazardous materials, processes, products or wastes, or by any

other way. The Indoor or Outdoor Cultivation of Marijuana shall not subject residents of neighboring parcels who are of normal sensitivity to reasonably objectionable odors.

- (5) No person owning, leasing, occupying, or having charge or possession of any Parcel or Premises within the County shall cause, allow, suffer, or permit such Premises to be used for the Outdoor or Indoor Cultivation of Medical Marijuana in violation of the California Health and Safety Code or this Article.
- (6) The use of light assistance for the Outdoor Cultivation of Marijuana shall not exceed a maximum of four hundred (400) watts of lighting capacity per one hundred (100) square feet of Cultivation area.
- (7) All lights used for the Indoor or Outdoor Cultivation of Marijuana shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the Parcel upon which they are placed, and shall comply with the requirements of Section L-II 4.2.8.D. of the Nevada County Land Use and Development Code. Grow light systems associated with Indoor Cultivation shall be shielded to confine light and glare to the interior of the structure and shall conform to all applicable building and electrical codes. Grow light systems shall not be allowed for Outdoor Cultivation.
- (8) The Indoor or Outdoor Cultivation of Marijuana shall not exceed the noise level standards as set forth in the County General Plan.
- (9) Wherever Medical Marijuana is grown, a copy of a current and valid, State-issued Medical Marijuana identification card, physician recommendation or Affidavit as set forth in this Section must be displayed in such a manner as to allow law enforcement officers to easily see the recommendation or Affidavit without having to enter any building of any type. If a Qualified Patient has a verbal medical recommendation, then the Qualified Patient shall provide an Affidavit setting forth the name and contact information of the physician making the recommendation, the date of the recommendation and amount(s) of Marijuana recommended by the physician. The Affidavit shall be signed under penalty of perjury under the laws of the State of California.
- (10) If the person(s) Cultivating Marijuana on any Legal Parcel is/are not the legal owner(s) of the parcel, the person(s) who is Cultivating Marijuana on such Parcel shall (a) give written notice to the legal owner(s) of the Parcel prior to commencing Cultivation of Marijuana on such Parcel, and (b) shall obtain a signed and notarized letter from the legal owner(s) consenting to the Cultivation of Marijuana on the Parcel. The person(s) Cultivating Marijuana shall obtain this written letter of consent from the legal owner prior to Cultivating Marijuana on the Premises and at least annually thereafter. A copy of the most current letter of consent shall be displayed in the same immediate area as the recommendations set forth in section G-IV 5.4(J)(9), in such a manner as to allow law enforcement officers to easily see the letter of consent without having to enter any building of any type. The person(s) Cultivating Marijuana shall maintain the original letter of consent on the Premises at which Marijuana is being Cultivated and shall provide the original

letter to the Enforcing Officer for review and copying upon request. The Sheriff may prescribe forms for such letters.

(11) The use of Hazardous Materials shall be prohibited in the Cultivation of Marijuana except for limited quantities of Hazardous Materials that are below State of California threshold levels of 55 gallons of liquid, 500 pounds of solid, or 200 cubic feet of compressed gas. Any Hazardous Materials stored shall maintain a minimum setback distance of 100-feet from any private drinking water well, spring, water canal, creek or other surface water body, and 200-feet from any public water supply well. The production of any Hazardous Waste as part of the Cultivation process shall be prohibited.

(K) Nothing herein shall limit the ability of Fire District or other appropriate County employees or agents from entering the property to conduct the inspections authorized by or necessary to ensure compliance with this Article or the ability of the Sheriff to make initial inspections or independent compliance checks. The Sheriff is authorized to determine the number and timing of inspections that may be required.

#### Section G-IV 5.5 Change in Land Use.

The County shall encourage any person proposing to construct or operate a new or relocated School, School Bus Stop, School Evacuation Site, Church, Park, Child Care Center, or Youth-Oriented Facility to consider whether the proposed location of such use is within one thousand (1000) feet of a Premises upon which Marijuana is known to be cultivated. Upon request, the Sheriff's Office shall inform any person proposing to construct or operate a new or relocated School, School Bus Stop, School Evacuation Site, Church, Park, Child Care Center, or Youth-Oriented Facility regarding whether there is a Premises upon which Marijuana is known to be Cultivated within one thousand (1000) feet of the proposed location of such use, and, if so, shall also inform the person, owning, leasing, occupying, or having charge or possession of the Premises upon which Marijuana is known to be cultivated that such a use is being proposed within one thousand (1000) feet of the Premises.

#### Section G-IV 5.6 Notice to Abate Unlawful Marijuana Cultivation.

Whenever the Enforcing Officer determines that a public nuisance as described in this Article exists on any Premises within the unincorporated area of Nevada County, he or she is authorized to notify the owner(s) and/or occupant(s) of the Premises, through issuance of a "Notice to Abate Unlawful Marijuana Cultivation;" provided, however, that nothing in this Article shall affect or preclude the Sheriff from taking immediate abatement action without notice of any Marijuana which is Cultivated, possessed, or distributed in violation of state law.

#### Section G-IV 5.7 Contents of Notice

The Notice set forth in Section G-IV 5.6 shall be in writing and shall:

(A) Identify the owner(s) of the Parcel upon which the nuisance exists, as named in the records of the County Assessor, and identify the occupant(s), if other than the owner(s), and if known or reasonably identifiable.

- (B) Describe the location of such Parcel by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.
- (C) Identify such Parcel by reference to the Assessor's Parcel Number.
- (D) Contain a statement that unlawful Marijuana Cultivation exists on the Parcel and that it has been determined by the Enforcing Officer to be a public nuisance as described in this Article.
- (E) Describe the unlawful Marijuana Cultivation that exists and the actions required to abate it.
- (F) Contain a statement that the legal owner or occupant is required to abate the unlawful Marijuana Cultivation within five (5) calendar days after the date that said Notice was served.
- (G) Contain a statement that the legal owner or occupant may, within five (5) calendar days after the date that said Notice was served, make a request in writing to the Clerk of the Board of Supervisors for a hearing to appeal the determination of the Enforcing Officer that the conditions existing constitute a public nuisance, or to show other cause why those conditions should not be abated in accordance with the Notice and the provisions of this Article.
- (H) Contain a statement that, unless the legal owner or occupant abates the unlawful Marijuana Cultivation, or requests a hearing before the Board of Supervisors or its designee, within the time prescribed in the Notice, the Enforcing Officer will abate the nuisance at the legal owner and/or occupant's expense. It shall also state that the abatement costs, including administrative costs, may be made a special assessment added to the County assessment roll and become a lien on the real property, or be placed on the unsecured tax roll.

Section G-IV 5.8 Service of Notice to Abate

The Notice set forth in Sections G-IV 5.6 and G-IV 5.7 shall be served in the following manner:

- (A) By delivering it personally to the legal owner of the Parcel and to the occupant, or by mailing it by regular United States mail, together with a certificate of mailing, to the occupant of the Parcel at the address thereof, and to any non-occupying legal owner at his or her address as it appears on the last equalized assessment roll, except that:
  - (1) If the records of the County Assessor show that the ownership has changed since the last equalized assessment roll was completed, the Notice shall also be mailed to the new owner at his or her address as it appears in said records, or
  - (2) In the event that, after reasonable effort, the Enforcing Officer is unable to serve the Notice as set forth above, service shall be accomplished by posting a copy of the Notice on the Parcel upon which the nuisance exists as follows: Copies of the Notice shall be posted along the frontage of the subject Parcel, and at such other locations on the Parcel reasonably likely to provide notice to the owner and any

person known by the Enforcing Officer to be in possession of the Parcel. In no event shall fewer than two (2) copies of the Notice be posted on a Parcel pursuant to this section.

- (B) The date of service is deemed to be the date of personal delivery or posting, or three (3) days after deposit in the U.S. Mail.

Section G-IV 5.9 Administrative Review.

- (A) The Board of Supervisors delegates the responsibility to conduct a lien hearing in conformance with this Article to a Hearing Officer.
- (B) Any person upon whom a Notice to Abate Unlawful Marijuana Cultivation has been served may appeal the determination of the Enforcing Officer that the conditions set forth in the Notice constitute a public nuisance to the Hearing Officer, or may show cause before the Hearing Officer why those conditions should not be abated in accordance with the provisions of this Article. Any such administrative review shall be commenced by filing a written request for a hearing with the Sheriff's Office within five (5) calendar days after the date that said Notice was served. The written request shall include a statement of all facts supporting the appeal. The time requirement for filing such a written request shall be deemed jurisdictional and may not be waived. In the absence of a timely filed written request that complies fully with the requirements of this Section, the findings of the Enforcing Officer contained in the Notice shall become final and conclusive on the sixth day following service of the Notice.
- (C) Upon timely receipt of a written request for hearing which complies with the requirements of this Section, the Sheriff's Office shall set a hearing date not less than five (5) days or more than thirty (30) days from the date the request was filed. The Sheriff's Office shall send written notice of the hearing date to the requesting party, to any other parties upon whom the Notice was served, and to the Enforcing Officer.
- (D) Any hearing conducted pursuant to this Article need not be conducted according to technical rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
- (E) The Hearing Officer may continue the administrative hearing from time to time.
- (F) The Hearing Officer shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the Notice to Abate Unlawful Marijuana Cultivation. The Hearing Officer shall issue a written decision in the form of a resolution, which shall include findings relating to the existence or nonexistence of the alleged unlawful Marijuana Cultivation, as well as findings concerning the propriety and means of abatement of the conditions set forth in the Notice. Such decision shall be mailed to, or personally served upon, the party requesting the hearing, any other parties upon whom the Notice was served, and the Enforcing Officer.

(G) The decision of the Hearing Officer shall be final and conclusive.

Section G-IV 5.10 Liability for Costs.

- (A) In any enforcement action brought pursuant to this Article, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes, permits, suffers, or maintains the unlawful Marijuana Cultivation to exist shall be liable for all costs incurred by the County, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this Article, whether those costs are incurred prior to, during, or following enactment of this Article;
- (B) In any action by the Enforcing Officer to abate unlawful marijuana cultivation under this Article, whether by administrative proceedings, judicial proceedings, or summary abatement, the prevailing party shall be entitled to a recovery of the reasonable attorneys' fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the County elects, at the initiation of that action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the County in the action or proceeding.

Section G-IV 5.11 Abatement by Owner or Occupant.

Any owner or occupant may abate the unlawful Marijuana Cultivation or cause it to be abated at any time prior to commencement of abatement by, or at the direction of, the Enforcing Officer.

Section G-IV 5.12 Enforcement.

- (A) Whenever the Enforcing Officer becomes aware that an owner or occupant has failed to abate any unlawful Marijuana Cultivation within five (5) days of the date of service of the Notice to Unlawful Marijuana Cultivation, unless timely appealed, or as of the date of the decision of the Hearing Officer requiring such abatement, the Enforcing Officer may take one or more of the following actions:
- (1) Enter upon the property and abate the nuisance by County personnel, or by private contractor under the direction of the Enforcing Officer. The Enforcing Officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary. If any part of the work is to be accomplished by private contract, that contract shall be submitted to and approved by the Board of Supervisors prior to commencement of work. Nothing herein shall be construed to require that any private contract under this Code be awarded through competitive bidding procedures where such procedures are not required by the general laws of the State of California; and/or
  - (2) Request that the County Counsel commence a civil action to redress, enjoin, and abate the public nuisance; and/or

- (3) Issue administrative citations in accordance with Section L-II 5.23, et seq., of the Nevada County Land Use and Development Code; and/or
- (4) Take any other legal action as may be authorized under State or local law to abate and/or enforce the provisions of this Article.

Section G-IV 5.13 Accounting.

The Enforcing Officer shall keep an account of the cost of every abatement carried out and shall render a report in writing, itemized by parcel, to the Hearing Officer showing the cost of abatement and the administrative costs for each parcel.

Section G-IV 5.14 Notice of Hearing on Accounting; Waiver by Payment.

Upon receipt of the account of the Enforcing Officer, the Sheriff's Office shall deposit a copy of the account pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time not less than five (5) business days after the date of mailing of the notice, the Hearing Officer will meet to review the account and that the owner may appear at said time and be heard. The owner may waive the hearing on the accounting by paying the cost of abatement and the cost of administration to the Enforcing Officer prior to the time set for the hearing by the Hearing Officer. Unless otherwise expressly stated by the owner, payment of the cost of abatement and the cost of administration prior to said hearing shall be deemed a waiver of the right thereto and an admission that said accounting is accurate and reasonable.

Section G-IV 5.15 Hearing on Accounting.

- (A) At the time fixed, the Hearing Officer shall meet to review the report of the Enforcing Officer. An owner may appear at said time and be heard on the questions whether the accounting, so far as it pertains to the cost of abating a nuisance upon the land of the owner is accurate and the amounts reported reasonable. The cost of administration shall also be reviewed.
- (B) The report of the Enforcing Officer shall be admitted into evidence. The owner shall bear the burden of proving that the accounting is not accurate and reasonable.
- (C) The Hearing Officer shall also determine whether or not the owner(s) had actual knowledge of the unlawful Marijuana Cultivation, or could have acquired such knowledge through the exercise of reasonable diligence. If it is determined at the hearing that the owner(s) did not have actual knowledge of the unlawful Marijuana Cultivation, and could not have acquired such knowledge through the exercise of reasonable diligence, costs for the abatement shall not be assessed against such Parcel or otherwise attempted to be collected from the owner(s) of such Parcel.

Section G-IV 5.16 Modifications.

The Hearing Officer shall make such modifications in the accounting as it deems necessary and thereafter shall confirm the report by resolution.

Section G-IV 5.17 Special Assessments and Lien.

The Board of Supervisors may order that the cost of abating nuisances pursuant to this Article and the administrative costs as confirmed by the Board be placed upon the County tax roll by the County Auditor as special assessments against the respective parcels of land, or placed on the unsecured roll, pursuant to section 25845 of the Government Code; provided, however, that the cost of abatement and the cost of administration as finally determined shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll. The Board of Supervisors may also cause notices of abatement lien to be recorded against the respective parcels of real property pursuant to section 25845 of the Government Code.

Section G-IV 5.18 Summary Abatement.

Notwithstanding any other provision of this Article, when any unlawful Marijuana Cultivation constitutes an immediate threat to the public health or safety, and where the procedures set forth in Sections G-IV 5.6 through G-IV 5.12 would not result in abatement of that nuisance within a short enough time period to avoid that threat, the Enforcing Officer may direct any officer or employee of the County to summarily abate the nuisance. The Enforcing Officer shall make reasonable efforts to notify the persons identified in Section G-IV 5.7 but the formal notice and hearing procedures set forth in this Article shall not apply. The County may nevertheless recover its costs for abating that nuisance in the manner set forth in Sections G-IV 5.13 through G-IV 5.17.

Section G-IV 5.19 No Duty to Enforce.

Nothing in this Article shall be construed as imposing on the Enforcing Officer or the County of Nevada any duty to issue a Notice to Abate Unlawful Marijuana Cultivation, nor to abate any unlawful Marijuana Cultivation, nor to take any other action with regard to any unlawful Marijuana Cultivation, and neither the Enforcing Officer nor the County shall be held liable for failure to issue an order to abate any unlawful Marijuana Cultivation, nor for failure to abate any unlawful Marijuana Cultivation, nor for failure to take any other action with regard to any unlawful Marijuana Cultivation.

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JUN 18 2013

COUNTY COUNSEL

## Appendix 4: Measure S

### The Safe Cultivation Act of Nevada County

Whereas a majority of Nevada County citizens voted for Prop 215, and

Whereas the intent of Prop 215 and SB 420 Health & Safety Code Sec. 11362.7 was to insure that any patient in need of Medical Marijuana has safe, affordable and convenient access to Medical Marijuana, and

Whereas Medical marijuana has been found to be an effective therapy for treating many conditions and debilitating diseases, and

Whereas the California Attorney General's "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Purposes acknowledges Collectives and Cooperatives that provide medicine for their members comply with State law, and

Whereas the California Supreme Court in the City of Riverside v The Inland Empire Patients Health & Wellbeing Collective decision acknowledged that it was incumbent on citizens to use the initiative process to define regulations in their communities,

Whereas strict regulations ensure the non-diversion of Medical Marijuana into the illicit drug market,

THEREFORE, BE IT RESOLVED that the County of Nevada does hereby enact the following:

#### Section 1. TITLE

These provisions of the Nevada County General Code shall be known as the Safe Cultivation Act of Nevada County

#### Section 2. PURPOSE AND INTENT

To help ensure that Qualified Patients of Nevada County can cultivate or obtain cannabis for medical purposes when deemed appropriate by a licensed physician in accordance with CA law

To create clear guidelines for the cultivation, distribution, transportation, storage, and use practices for Medical Marijuana in unincorporated area of Nevada County.

To amend Ordinance #2349 Article 5 of Chapter IV of the Nevada County General Code pertaining to the cultivation of Medical Marijuana and replace it with the Safe Cultivation Act of Nevada County.

Nothing in this Ordinance purports to permit activities that are otherwise illegal under state or local law.

#### Section 3. DEFINITIONS

Marijuana shall be defined as the usable medicinal parts of the plant.

(a) "Usable marijuana" means the seeds, leaves and flowers of marijuana and any mixture or preparation made from marijuana.

(b) The term does not include the stalks or roots of the plant.

Qualified Patient, Qualified Caregiver, Collective are the same as those in Health and Safety Code Sec11362.7 (SB420).

Indoor Cultivation shall apply to any legal structure, such as, a Primary Residence, Guest House, Out-buildings, Barns, as defined by Nevada County Code. For purposes of this ordinance, the use of a Greenhouse is considered "outside" cultivation.

#### **Section 4. LAND USE CODE AMENDED**

(1) Ordinance #2349 Article 5, Chapter IV of the Nevada County General Code is hereby repealed and replaced as follows:

(A) Medical Marijuana Cultivation may only be undertaken by Qualified Patient(s) or a Qualified Primary Caregiver on a Legal Parcel or a Legal Premises that is occupied by at least one Qualified Patient or Qualified Caregiver.

(B) Pursuant to this Ordinance, Collectives and Cooperatives that receive compensation for actual expenses incurred in carrying out activities that are in compliance with these guidelines, including reasonable compensation incurred for services provided to the members or the organization, shall not be subject to prosecution or punishment either civilly or criminally, solely on that basis.

(C) Indoor Cultivation may occur within any legal structure that meets all applicable provisions of the County's Land Use and Development Code. Cultivation within any detached accessory structure that does not meet the definition of Indoor, such as a Greenhouse, shall be considered Outdoor Cultivation.

(D) All electrical and plumbing used for Indoor Cultivation of Medical Marijuana shall be installed according to all applicable County Codes.

(E) The following limitations apply to Cultivation of Medical Marijuana located on Residential properties within the unincorporated area of Nevada County.

(1) Premises located within any area zoned primarily for residential uses (e.g. R-1, R-2 or R-3) shall be limited to the following:

a. The defined areas of cultivation are in accordance with this section, and the cultivation does not exceed the allowances listed below.

1. Indoor Grow areas are restricted to one hundred (100) square feet in R-1, R-2, and R-3 zones. An additional allowance of one hundred (100) square feet of indoor cultivation is allowed if two (2) or more patients live on the property.

a. The indoor space may be divided to allow for a Vegetative Room and a Flowering Room. The total cultivation area shall not exceed the maximum allowable space.

b. Indoor Grows in Residential Zones R1 - R3 shall not exceed two hundred (200) square feet regardless of the number of qualified patients that live on the premises.

c. Precautions shall be taken to mitigate the odor, light, or noise from disturbing neighbors, i.e., install carbon filters and block light from escaping outside the Cultivation Room.

2. R-1, R-2, and R-3 Parcels on less than two (2) acres are limited to Indoor Cultivation only.

3. Residential Parcels located in Residential Zones R-1, R-2, or R-3, over two (2) acres are restricted to twelve (12) immature plants or six (6) mature plants for Outdoor Cultivation regardless of the number of qualified patients that reside on the parcel.

4. The use of Greenhouses is encouraged to control odors, obscure the garden from public sight, and increase safety measures. If enclosed within a Greenhouse, the plant count on R-1, R-2, and R-3 parcels over two acres shall be increased to twelve (12) mature plants.

(F) The following limitations apply to the Cultivation of Medical Marijuana for properties zoned RA, AG, AE, FR, or TPZ, located within the unincorporated area of Nevada County. Indoor and Outdoor Cultivation may occur simultaneously.

1. For parcels less than five (5) acres, twenty-four (24) immature or eighteen (18) mature plants may be cultivated outdoors. One hundred (100) square feet of Indoor Cultivation per Qualified Patient is allowed with a maximum of two hundred (200) square feet regardless of the number of members patients in the Collective or Cooperative.

2. For parcels five (5) acres, but less than ten (10) acres, thirty-six (36) immature or twenty-four (24) mature plants may be cultivated outdoors. One hundred (100) square feet of Indoor Cultivation per Qualified Patient is allowed with a maximum of three hundred (300) square feet regardless of the number of members in the Collective or Cooperative.

3. For parcels ten (10) acres, but less than twenty (20) acres, forty-eight (48) immature or thirty-six (36) mature plants may be cultivated outdoors. One hundred (100) square feet of Indoor Cultivation per Qualified Patient is allowed with a maximum of four hundred (400) square feet regardless of the number of members in the Collective or Cooperative.

4. For parcels twenty acres (20) acres, but less than thirty (30) acres, a total of 60 immature or forty-eight (48) mature plants may be cultivated outdoors. One hundred (100) square feet of Indoor Cultivation per Qualified Patient is allowed with a maximum

of five hundred (500) square feet regardless of the number of members in the Collective or Cooperative.

5. For parcels thirty (30) acres or more, a total of ninety-nine (99) immature plants or sixty (60) mature plants may be cultivated outdoors. One hundred (100) square feet of Indoor Cultivation per Qualified Patient is allowed with a maximum of six hundred (600) square feet regardless of the number of members in the Collective or Cooperative.

(G) The following setbacks shall apply to all Outdoor Cultivation areas and shall be measured in a straight line from the nearest point of the Cultivation area to the nearest exterior wall of the neighboring primary living structure and/or rental units if occupied.

(1) On all Residential R-1, R-2 and R-3 Parcels, the Cultivation Area shall be at least one hundred (100) feet from any legal residence located on an adjacent separate Legal Parcel measured from the edge of the cannabis garden to the closest exterior wall of the primary residence next door.

(2) On all Parcels zoned RA, AG, AE, FR, or TPZ, the Cultivation Area shall be at least two hundred (200) feet from any legal residence located on an adjacent separate Legal Parcel measured from the edge of the cannabis garden to the closest exterior wall of the primary residence next door.

(3) Pursuant to CA State law, all Marijuana Cultivation Areas shall be at least 600' (feet) from any School, Church, Public Park, licensed Child Care Center, or any facilities that primary cater to children.

(4) Marijuana shall not be visible from the Public View at any stage of growth when viewed from ground level.

(5) Wherever Medical Marijuana is grown, a copy of a current, valid State-issued MMJ Identification Card, or Physician Recommendation or Affidavit shall be posted inside the Cultivation Area.

#### **Severability of Provisions**

The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

BALLOT TITLE:

Medical Marijuana Cultivation Measure

BALLOT SUMMARY:

If adopted by a majority of the voters, this initiative would repeal existing County regulations as contained in Nevada County Ordinance No. 2349 and establish new regulations regarding the size, location and manner in which marijuana may be cultivated for medical purposes by qualified individuals in unincorporated areas of Nevada County. Under the proposed initiative, medical marijuana cultivation may be undertaken by a Qualified Patient(s) or a Qualified Caregiver(s) on a legal parcel or legal premises occupied by at least one such qualified persons, whether or not the property is the person's primary residence. The proposed initiative would protect collectives and cooperatives who comply with the new regulations from civil or criminal prosecution or punishment under local law.

The proposed initiative would amend existing law regarding the size of cultivation areas by (a) increasing the maximum square footage allowed for indoor cultivation in all areas; (b) eliminating square footage limitations and increasing the number of plants allowed in outdoor grow areas for properties over two acres located in R-1, R-2, and R-3 residential zones; (c) eliminating square footage limitations, using plant counts for establishing outdoor cultivation limitations, and increasing the maximum size of indoor and outdoor grow areas on properties located in residential-agricultural (RA), agricultural (AG and AE), forest reserve (FR) and timber production (TPZ) zones (ranging from twenty-four (24) immature or eighteen (18) mature plants on parcels of less than 5 acres to a maximum of 99 immature plants or 60 mature plants on parcels of 30 acres or more); and (d) eliminating cultivation restrictions for properties in all other zoning districts.

The proposed initiative would amend existing law regarding the locations of cultivation areas by (a) reducing required distances between cultivation areas and adjacent residences; (b) reducing the required distances between cultivation areas and schools, churches, parks and other youth oriented facilities from 1000' to 600'; (c) eliminating requirements for minimum distances between cultivation areas and school bus stops, school evacuation sites, and outdoor living areas on adjacent parcels; (d) eliminating minimum distance requirements in mobile home parks; and (e) changing the manner in which setbacks are measured.

The proposed initiative would also amend existing law by redefining the term "marijuana" to include only the "usable portions" of the plant (excluding stalks or roots), and eliminating various regulations and restrictions pertaining to the cultivation of marijuana including: (a) odor control, noise, dust, traffic, glare, noxious gasses, and

smoke restrictions; (b) fencing and security requirements; (c) fence and garden height limitations; (d) the requirement that tenants obtain written, notarized consent to cultivate medical marijuana from the legal parcel owner; (e) restrictions regarding the use or storage of hazardous materials; (f) indoor and outdoor lighting restrictions and anti-glare requirements; and (g) restrictions on terracing of cultivation areas.

Comparison Between Current County Code and Proposed Initiative  
Re: Cultivation Area Limitations

Zone	Current County Code			Proposed Initiative		
	Parcel Size	Indoor Limit	Outdoor Limit	Parcel Size	Indoor Limit	Outdoor Limit
R-1, R-2, & R-3	< 2 acres	100 sf	Not allowed	< 2 acres	100 sf; 200 sf if 2 or more patients live on property	Not allowed
	> 2 acres	100 sf	75 sf; or 6 immature or mature plants in 25-gal or smaller grow bags	> 2 acres	100 sf; 200 sf if 2 or more patients live on property	12 immature or 6 mature plants w/o greenhouse; 12 immature or 12 mature plants in greenhouse
R-A	Same as AG, AE, FR and TPZ (below)					
AG, AE, FR or TPZ	<2 acres	100 sf	150 sf	< 5 acres	100 sf per qualified patient; 200 sf max	24 immature or 18 mature plants
	2-5 acres	100 sf	300 sf	5-10 acres	100 sf per qualified patient; 300 sf max	36 immature or 24 mature plants
	5-10 acres	100 sf	400 sf	10-20 acres	100 sf per qualified patient; 400 sf max	48 immature or 36 mature plants
	10-20 acres	100 sf	600 sf	20-30 acres	100 sf per qualified patient; 500 sf max	60 immature or 48 mature plants
	20+ acres	100 sf	1000 sf	30 acres+	100 sf per qualified patient; 600 sf max	99 immature or 60 mature plants
All other zones	All	Not allowed	Not allowed	All, limitations	Allowed, No limitations	Allowed, No limitations
Misc. Provisions	<ul style="list-style-type: none"> <li>• Allows indoor OR outdoor cultivation area on same parcel</li> <li>• Requires contiguous cultivation area</li> <li>• Requires cultivation areas to be on a single plane (no terracing)</li> <li>• Prohibits visibility from the public right of way or publicly traveled private roads (applies to all parts of the marijuana plant)</li> </ul>					

**Appendix 5: Addition to Submission of Medical Marijuana Cultivation Measure to Board of Supervisors**

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NEVADA COUNTY  
BOARD OF SUPERVISORS

EACH SUPERVISOR REC'D.



April 20, 2014

Dear Supervisors,

Because our dialogue is so limited during the BOS meetings, I truly hope that you will take the time to review the materials included with this letter and most especially, to watch the short DVD entitled Charlotte's Web. My goal is to make the distinction between legitimate medical marijuana cultivators and illegal trespass growers.

Members of Americans for Safe Access - Nevada County have distinguished themselves by voluntarily adopting guidelines that are mandated by law for growers in Colorado - and we did so before their law passed. We have our products lab-tested for quality and purity. We grow organically without the use of toxic pesticides. Many of us have signed up for independent inspections to verify that we are following standards set by the American Herbal Products Association. We have started Project CBD to get these rare and valuable strains into the hands of parents and patients at no cost. (They are charging astronomical sums in Colorado.) We are not the problem!

Our measure isn't about being able to grow **more** marijuana; it about being able to grow **any** marijuana at all. Now that we have had two seasons to see the current Cultivation in practice, we have found that it is so full of poison pills that over 90% of the parcels in this county would be ineligible to grow anything.

Case in point are the overlapping school bus stop setbacks. I have sent three requests to Durham Transportation requesting a list of the locations of these stops but they refuse to respond. When we went there in person, we were told that they will not give out that information because they fear opening themselves to liability issues if the information fell into the hands of someone that might harm children.

I get calls from members whose only violation was being to close to a bus stop that has been inactive for decades. This provision is so vague that no one knows whether they are in compliance or not. We agreed during the BOS Meeting, May 12, 2012, to increase the setbacks from schools and churches from 600' to 1000' if the bus stops were eliminated, but they never were.

We intentionally left out enforcement measures because, if we have reasonable regulations we can follow, it won't be an issue. There are already state and federal laws that law enforcement can use to deal with the commercial growers in this County who won't follow this or any other regulation and there is nothing standing in the way of passing a new ordinance aimed at these illegal growers.

Tuesday, you have an excellent opportunity to right a wrong. Please adopt our initiative and save the County months of divisive campaigning, not to mention the costs of an election (estimated at between \$63,000 - \$75,000 to be included on the November ballot.)

Sincerely,

  
Nevada County Chair  
Americans for Safe Access

# Yes on S

## Project CBD

What do all of these children have in common? They all suffer from a type of catastrophic epilepsy that could not be controlled by anything that Western medicine had to offer. The only treatment that worked to control their seizures was a special blend of a CBD-rich oil made from marijuana.

Americans for Safe Access - Nevada County is working with Project CBD to help parents find these rare strains of marijuana that can stop their children's suffering.

CBD (cannabidiol) is a component of marijuana that does not cause a psychoactive high. Because these strains are considered rare, some unscrupulous profiteers are charging astronomical sums for CBD-rich marijuana.

Project CBD came to the rescue by offering free mother plants to collectives that agree to supply the medicine to patients in their area at no cost.

BECAUSE SOMETIMES,  
MARIJUANA IS THE ONLY  
THING THAT WORKS...

Hundreds of altruistic Collectives in Nevada County have volunteered to grow these strains at no cost so more children can reap the benefits of CBD oil.

### Higher Standards

Because we are growing medicine, our members strive to make sure their products are free of any kind of contaminants. We voluntarily follow the guidelines established by the American Herbal Products Association and have all of our medicine is tested for safety.

*To read more about these children, please visit our website:*

[www.asa-nc.com](http://www.asa-nc.com)



## CHARLOTTE

Charlotte suffered with over 300 seizures a week. When her doctors didn't have any other treatments left to offer, they recommended giving her a medication that was only approved for veterinary use. To her parents joy, a CBD rich cannabis oil worked with the first dose. Charlie is now able to walk and she is learning to speak.



## JULIAN

Julian had a complicated birth that resulted in his brain being deprived of oxygen for three minutes. At age four, he developed Lennox-Gastaut Syndrome causing him to have up to 40 seizures a week, some lasting for 5 terrifying minutes.

Julian recently spoke his first sentence. "I am good." It was music to his parents ears.



## SCARLETT

After nineteen anti-epileptic drugs failed to work, doctors removed half of Scarlett's brain to try to control her seizures. When that failed, she was placed in a chemically induced coma for a year, but her seizures returned with a vengeance.

Since using cannabis oil, Scarlett has only had four seizures in 25 weeks. She is a miracle.

My name is Gabriella and I am truly blessed to be the mother of the most resilient 5-year old daughter in the world, Scarlett.

Scarlett was born typically developing and began seizing at 5 months. At 6 months, she was diagnosed with Catastrophic Epilepsy and she began regressing. She became a little zombie who couldn't hold her head up by herself, smile or even cry. We were told that she had about 6 months left to live and to take her home and enjoy what little time we had with her.

I am so grateful to have been given these 5 years with her and hope for many more. Although they have been challenging, i wouldn't take any of it back. Many people ask me if I am angry because MMJ (medical marijuana) was the last thing we were told about and the one thing that worked. I simply don't have the energy or time to waste on being angry. She has been through 4 brain surgeries, including having almost half of her brain removed, 19 AED's (anti-epileptic drugs) and none of it stopped her seizures. She is non-verbal, legally blind, tube fed and has Cereberal Palsy.

Last March we literally ran out of options and I took matters into my own hands. We were in a horrible place and had our pediatrician and specialists writing letters in support of our DNR wishes. We were all agreed that Scarlett would not be with us much longer. I began making organic MMJ oil and having it lab tested to give to her through her feeding tube. It has been a long year of trial and error, but we found our magic 25 weeks ago. Scarlett used to seize 6 - 20 minutes of EVERY hour. Now she has had only four seizures in 25 weeks. Her dosage is always increasing and I believe we could have avoided the 4 seizures if we had access to enough medicine.

Scarlett uses over a pound a month and she only weighs 35 pounds. You can probably imagine the financial strain this has put on us. We live in an area with a very short growing season and extremely high winds. Americans for Safe Access have been a tremendous help in locating cultivators that have the CBD-rich strains of marijuana my daughter needs and they are supplying us free of charge.

Although most children respond to CBD only tinctures, we learned the hard way that Scarlett needed a blend of CBD and THC to control her seizures. A CBD only tincture actually caused Scarlett to have a gran mal seizure.

It breaks my heart to read about States passing CBD only legislation. To be perfectly honest, I would have been none the wiser myself if we hadn't experienced the ramifications ourselves. It is beyond important to me to get the word out that THC is not the enemy. We have to educate those who are drinking the Kool-Aid so to speak. THC is being villainized and people aren't recognizing the importance of the whole plant.

What ASA-NC is doing is IMPORTANT, not just to Scarlett, but to other kids and adults alike. Please know how much we appreciate all your efforts to help us obtain enough medicine to control Scarlett's seizures and improving the quality of our lives. We can't thank you enough for all of your hard work and LOVE.

Gabriella Bertolino  
Truckee

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