

Capital & Main

High Times: Marijuana Coverage





Illustration by Manoel Magalhaes

High Times: A New Series Looks at How Legalizing Marijuana Would Transform California

By Steven Mikulan

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As California voters prepare to make a historic decision about legalizing the recreational use of marijuana, promises and omens have become part of the debate over the state's future if Proposition 64 is passed. Will the traditional small-time pot farmers be replaced by industrial grow operations? Will employees in this newly legalized commerce receive decent pay, working conditions and benefits? Or will the new cannabis worker have more in common with the low-wage, immigrant farm laborers who toil in California's fields and orchards? Will a highly regulated, inspected and lab-tested product push the black marketers out of business or make underground marijuana a cheaper alternative? And will the taxes on pot that will finance the machinery of regulation also

be enough to finally redress the 40-year fiscal drain imposed by Proposition 13?

This week Capital & Main looks at these and other aspects of the Adult Use of Marijuana Act:

- **Piper McDaniel** examines how one small community in rural Northern California, whose residents turned to illegal marijuana growing in order to escape the region's poverty, faces an uncertain future if legalized cannabis inaugurates an era of industrial pot production. Meanwhile, the county sheriff's department, with its eight deputies, can barely keep up enforcing state drug laws. See: High Times — The Hidden Poverty in Marijuana's Black Market.



Photos by Pandora Young

- **Judith Lewis Mernit** hears from experts about a little-known aspect of illegal marijuana cultivation – the brutal environmental damage it has inflicted, from growers’ diversion of rivers and creeks to the degradation of other waterways that are home to endangered salmon. See: Marijuana Growing and the Environment.
- **Melissa Chadburn** sorts out the hype from reasonable expectations about Proposition 64. Will California see the kind of economic windfall experienced by Colorado, which legalized pot in 2012? Why would the estimated 80 percent of California pot users who are considered heavy users switch from black market products to higher-priced legal marijuana? And if they stick with outlaw pot, can the new legitimate industry sustain itself in the first critical years of legalization? See What Happens If Marijuana Is Legalized?

- **Judith Lewis Mernit** looks at the potential for a brand-new legalized industry to get labor issues right the first time – not only with wages and job security, but in workplace safety. Even in states where some marijuana usage is legal, cannabis workers are subject to banned pesticides, carpal tunnel injuries and incredibly long work shifts during harvest season. Pot’s Wild West days of topless bud trimmers may be nearing their end with Proposition 64, but, as one person tells Lewis Mernit, with the right rules a legalized industry could “form the backbone of a new labor market in this country.” See: How Will Budtenders and Trimmigrants Fare If Pot Is Legalized?
- **Pandora Young’s** photographs capture scenes from two medical marijuana dispensaries – one, a union shop – in downtown Los Angeles and in Sherman Oaks.

Editor’s Note: Pandora Young recently visited two medical marijuana dispensaries in downtown Los Angeles and in Sherman Oaks. This may be the last summer when recreational pot possession is a crime in California – if Proposition 64 passes in November, medical marijuana dispensaries will no longer be the only legal way to obtain and use cannabis products. One of the dispensaries represented here – Sherman Oaks’ Higher Path Collective – is a union shop, a fact that could become part of the larger reality of the state’s post-Prop. 64 marijuana landscape.



What Happens If Marijuana Is Legalized?

By Melissa Chadburn

When we speak of legalizing marijuana we are really speaking of the Great Cannabis Debate. Come November, Californians will vote on Proposition 64, the Adult Use of Marijuana Act, which could bring safety and security for both cannabis consumers and farmers, and the sales taxes accrued could provide much-needed revenue to our state. Let’s look at a short list of possible unforeseen ramifications.

Local mom-and-pop cannabis growers fear that if we legalize the cultivation and distribution of marijuana, its distribution will be taken over by large corporations, such as Seattle’s Privateer Holdings, a private equity firm that strategically invests in legal medical cannabis. It was founded in 2010 by MBAs from Yale and San Francisco State University with ambitions to create new brands of pot products. The company’s portfolio has expanded to include a partnership with the Bob Marley estate, just as the Marley family

launched the cannabis brand Marley Natural.

In Ohio, a group known as ResponsibleOhio tried to carve out a monopoly by inserting into the state constitution language that only authorized 10 people to legally grow, process and sell marijuana. The Initiative, known as the Ohio Marijuana Legalization Initiative, or Issue 3, would have legalized marijuana, but *commercial* cannabis could have grown at only 10 sites owned by investors in the ResponsibleOhio campaign. The Ohio initiative did not pass; by contrast, through California’s Prop. 64, our state’s multibillion-dollar cannabis industry would be subject to the first-ever consumer protection regulations and licensure. Perhaps most important, its backers also point to the astronomical amounts of tax revenue they claim would stream in from what is now California’s largest underground industry.

Professor Mark Kleiman isn’t buying it, however. Kleiman, who



Photo by Pandora Young

teaches public policy at New York University, is an expert on drug and criminal justice policy. He is also an advocate for what he calls “grudging toleration,” a sort of middle ground between prohibition and legalization, one that favors heavy pot taxation, strict limits on promotion, age minimums, restrictions on public consumption and a personal quantity limit.

Professor Mark Kleiman isn’t buying it, however. Kleiman, who teaches public policy at New York University, is an expert on drug and criminal justice policy. He is also an advocate for what he calls “grudging toleration,” a sort of middle ground between prohibition and legalization, one that favors heavy pot taxation, strict limits on promotion, age minimums, restrictions on public consumption and a personal quantity limit.

“It is as much of a pipe-dream as the lottery,” Kleiman, told me about legalized pot’s increase of education funding. “They always say they’ll have lots of money for public schools, but the states do not spend more [lottery revenue] on public education – just look at Colorado.”

In fact, Colorado, whose voters legalized recreational use of marijuana in 2012, last year experienced a boon in tax revenue, collecting \$70 million off of marijuana sales—nearly double what was collected from that state’s alcohol sales. According to the fiscal impact statement for California’s Prop. 64, the net additional state and local tax revenues potentially range from the high hundreds of millions of dollars to over \$1 billion annually. And, similar to Colorado, most of these funds would be required to be spent for specific purposes, such as substance-use disorder education, prevention and treatment. Although the ballot language approved

by California’s Secretary of State claims passage of Prop. 64 will result in a windfall of money for “after-school programs,” it makes no mention of increased funds for public education itself.

Some people fear that Prop. 64 will increase marijuana use and are concerned about its potential marketing to minors. Yet the legalization of cannabis will require inspections of the product and establish packaging, labeling, advertising and marketing standards. The ballot measure states that the new law would prohibit the advertising of marijuana to minors. There are questions as to whether or not marijuana will take on an advertising model that mirrors that of alcohol or tobacco. Kleiman made an interesting point: “Why advertise at all?” he asked. This goes back to his model of grudging toleration, which favors strict limits on promotion. When asked about the potential inequities in the quality and marketing of marijuana to people in lower income neighborhoods, Kleiman replied, with some agitation, “If you’re asking me, ‘How many people are gonna be stuck with a bad cannabis habit and how many of them otherwise belong to disadvantaged groups?’ my answer is, *A lot and most.*”

In order to succeed, the regulation of legal pot needs to be balanced: Legal sales have to be high enough to destroy the black market, but taxes can’t be so high that illegal pot becomes much cheaper. Otherwise the heavy users—estimated to be about 80 percent of the market—will continue to buy illegal pot. (The inspections regime isn’t seen as enough of a draw since longtime marijuana users have been buying uninspected, “unsafe” pot already, probably with little demonstrable effect.) Counterintuitively, therefore, legal pot could

result in a greater need for resource expenditure by law enforcement than advertised by Prop. 64’s backers.

Should the ballot measure pass, the state excise tax on the retail sales of marijuana will be equal to 15 percent of the sales price. This would seem to be a reasonable price increase for the ability to purchase pot without legal risk. There is a projected cost reduction in the tens of millions of dollars—to potentially exceed \$100 million annually—related to the justice system’s no longer having to enforce certain marijuana-related criminal offenses, as well as ending the incarceration and supervision of marijuana offenders. Meanwhile, space in overcrowded prisons would suddenly be freed up for those convicted of violent crimes.

The initiative will also authorize resentencing and the destruction of records for prior marijuana convictions, including those of people who may have been arrested on possession or conspiracy to sell, but who had two prior felony convictions and the arrest proved to be their third strike. This raises a simple moral question: How does a society come to punish a person more harshly for selling marijuana than for killing someone with a gun?

As Alice Huffman, the president of the NAACP has stated:

“Creating a legal, responsible and regulated framework for marijuana is a predominant civil rights issue and it’s long overdue. The current system is counterproductive, financially wasteful and racially biased, and the people of California have repeatedly called for it to be fixed.”

Two potential scenarios seem to lie ahead for California, should the legalization initiative pass. If Prop. 64 is poorly implemented, the cannabis industry could be corporatized, with state agencies only certifying a few powerful companies to grow and distribute pot, while putting smaller grow operations out of business. Raising the costs of cannabis to such a degree that poorer people are left to purchase lower quality, cheaper black market pot could lead to more or less the same number of cannabis-related arrests for lower income users as there are today.

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– Alice Huffman,
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The other scenario, though, could see the return of good-paying blue collar jobs in warehouses and factories – jobs that provide those who work in the cannabis industry with benefits and safe working conditions. (As opposed to the continued shuffling of blue-collar professionals into service industries throughout California’s boomtowns—including Silicon Valley, which experienced a historical tech explosion but whose service-sector employees have been priced out of the housing market.)

Then again, the reality may lie somewhere in the middle. Armed with the benefit of hindsight about how the legalization of marijuana is playing out in other states, California will have a better sense of what doesn’t work, even while getting a handle on what does work. These are the provisions that make Prop. 64 an attractive candidate for passage:

- a moderate sales tax (with the exception of medicinal marijuana)
- tax on cultivation
- regulation against advertising to minors
- legalization of possession and cultivation (although Prop. 64 limits possession to an ounce and cultivation to six plants)
- has measures that prohibit the possibility of a monopoly
- dedicates revenue to education (specifically, substance abuse education)

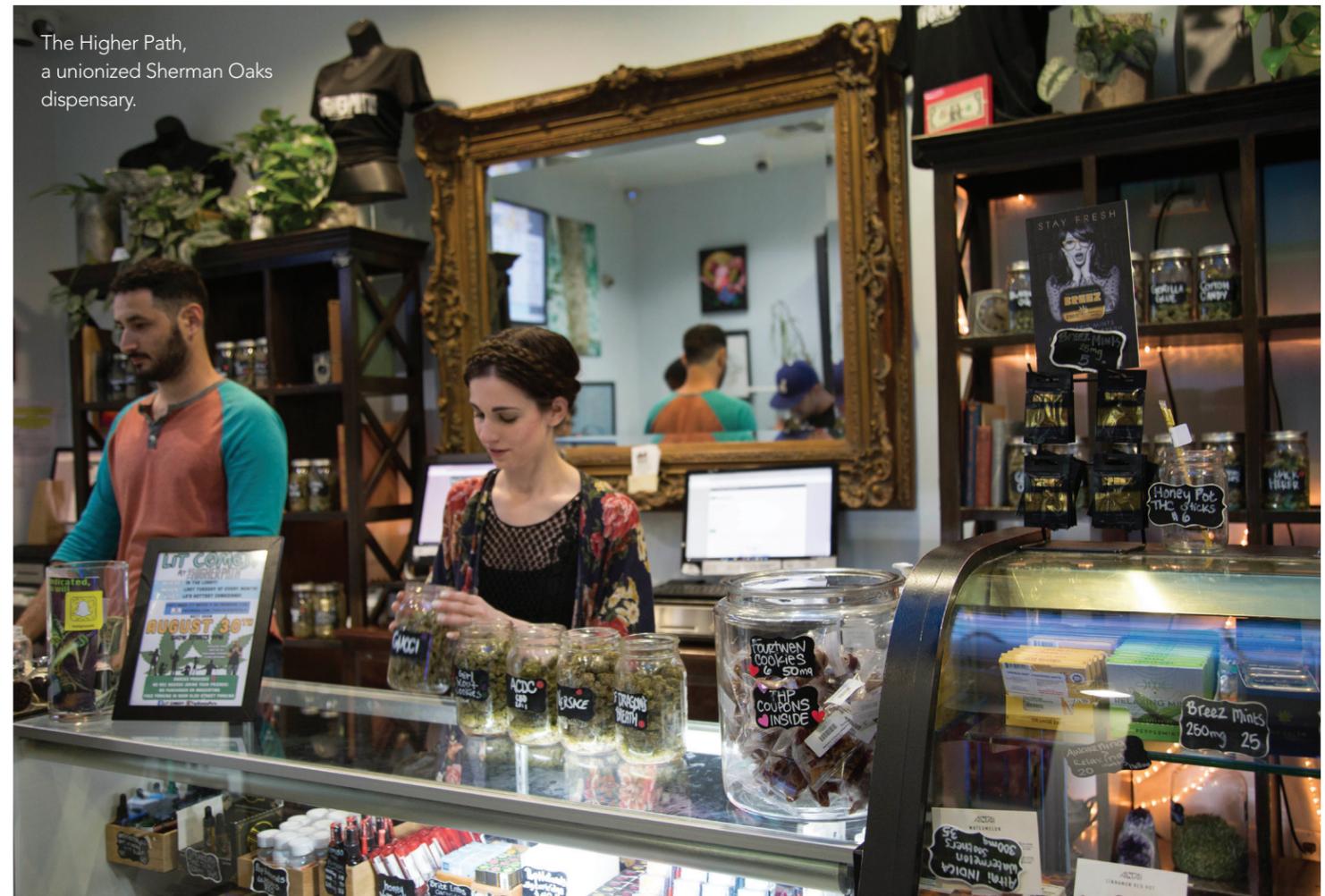
Ultimately the benefits of decriminalization, along with the revenues that could come from Prop. 64, far outweigh any concerns raised by its opponents. California is a state of dream seekers—we’re too innovative to continue to incur costs associated with policing personal habits, social rituals and medicinal remedies found in cannabis consumption.

Paul Tullis contributed research to this article.



ShowGrow dispensary, downtown Los Angeles.

Photo by Pandora Young



The Higher Path, a unionized Sherman Oaks dispensary.

Photo by Pandora Young

How Will Budtenders and Trimmigrants Fare If Pot Is Legalized?

By Judith Lewis Mernit

In February of 2013, the employees of Wellness Connection, a medical marijuana provider based in Auburn, Maine, were worried about their product. They'd observed mold and fungus on their plants too often; bugs were infesting their work areas. Some of the chemicals they were being asked to use, such as the insecticide pyrethrin, had known health effects. Brittany Wallingford told the Portland Press Herald at the time that about a quarter of her colleagues were sick, and suspected the mold was at fault; others

blamed the insecticide, which Maine law prohibits using on medical marijuana plants. The workers weren't just concerned about their own health. They also feared for their clients, some of whom were already seriously ill. That February, several employees at the company's Auburn cultivation site staged a one-day walkout. One month later when, despite management promises, nothing changed, several employees joined the United Food and Commercial Workers union, and made plans to organize their workplace.

(Disclosure: The UFCW is a financial supporter of Capital & Main.)

Medical marijuana dispensaries had been legal in Maine for four years by the time Wellness Connection's staff members lodged their complaints. The industry had begun to supplant blueberries as the state's top cash crop, bringing in an estimated \$78 million. But because the federal government classified marijuana in 2013, as it does today, as a dangerous and illegal drug with no recognized medical uses, organizing could be risky. Both the UFCW and the Teamsters had already successfully organized cannabis operations elsewhere. But if an employer retaliated against a worker for organizing, that worker might have nowhere to complain. It wasn't clear whether the National Labor Relations Board would step in to defend employees of what was, on a federal level at least, a criminal operation.

The Maine case was extreme. When state inspectors investigated the employee complaints, they found Wellness Connection of Maine guilty of 20 different violations, including use of pesticides and the manufacture of a highly concentrated form of marijuana called "kief" that was prohibited under the state's medical marijuana law. Employees also alleged the company had used

intimidation tactics to interfere with their organizing efforts, and asked the NLRB to intervene.

The federal agency's advice memo on the Wellness Connection of Maine complaints is rich with detail about the specific tasks of cannabis workers, from the rough trimming of leaves and stems to the processing of bud through a machine called a "twister." ("The twister uses a rotational vacuum and cutting process to remove the remaining stems and leaves from the buds, which have the most medicinal value.") The document also succinctly summarizes the state of the market as it existed in late October 2013, when the memo came out: "The state-authorized medical marijuana industry is currently worth approximately \$1.5 billion," it reads, "and could grow to \$6 billion in 2018." It was already a market too big and too persistent to ignore. It was, therefore, "appropriate for the Board to assert jurisdiction . . . even though the Employer's enterprise violates federal laws."

"That was a turning point for us," says Jeff Ferro, lead organizer with the UFCW's Cannabis Workers Rising campaign, which was established in 2011. "Until then, the federal government hadn't weighed in on workers' rights in the cannabis industry."



Photo by Pandora Young

It was a huge step toward legitimizing jobs within a nationally booming business.

Thirty-two states and the District of Columbia have now passed laws legalizing some form of medical marijuana; Alaska, Colorado, Oregon, Washington and the District of Columbia have additionally lifted prohibitions on recreational use. Other states, including California, have measures on their November ballots to consider the end of cannabis prohibition. Both the Teamsters and the UFCW have organized dozens of marijuana-related businesses in several states, with contracts that guarantee everything from pension plans to tuition reimbursements for employees and their offspring.

All has not gone smoothly. In April of 2015, the UFCW in New Jersey withdrew an organizing petition in the face of legal complications; one year later, a cannabis dispensary worker in Colorado was allegedly fired for his organizing activity. Ferro believes that labor rights will firm up as cannabis continues to go mainstream, due to the industry's need for strict standards and a skilled workforce. "A budtender needs to understand what a consumer needs and should expect. They have to know the strains — indica, sativa, all the hybrids out there — and be trained in them." Standards have to be developed; tests have to be run. Legalization could lead to entirely new job categories.

"These are not dead-end jobs we're securing," Ferro says. "They're career-builders."

California's Adult Use of Marijuana Act, which will appear on the November ballot as Proposition 64, emerged from strenuous negotiations in the legislature with a "labor peace" agreement attached, which prohibits cannabis business owners from interfering with organizing efforts. "It doesn't mean we won't disagree on what a good contract looks like," Ferro says. But it does mean workers won't need to call in the NLRB.

To hear Ferro tell it, the industry now has the potential to revive the middle-class in the states where it's legal, and compel other states to follow suit. For the moment, at least, while other countries' laws remain strict and exporting marijuana remains a felony, "Jobs in the cannabis industry are jobs that can't be offshored. They are jobs that are confined within the states where they're permitted. Owners can make money and still afford to pay their workers enough for the employees to raise their families and send their kids to school.

"If we build it right, we can make these jobs into good, sustainable, well-paying, stable jobs. They'll form the backbone of a new labor market in this country."

If it is a huge word, and the challenge to building the cannabis industry into Ferro's ideal is a daunting one, starting first with the decades-long nature of a shadow economy about which little is commonly known. From the "budtenders" who mind the dispensary counters to the "trimmigrants" who clip the cured bud during the fall harvest season, the cannabis labor market has



ShowGrow dispensary,
downtown Los Angeles.

Photo by Pandora Young

more variables than indica has strains.

This uncertainty comes into play especially at the harvesting and processing ends of the pot trade, which in California happen mostly within the Emerald Triangle (comprised of Humboldt, Mendocino and Trinity counties) from September through December. Itinerant laborers flock to "trim camps" during those months to potentially earn \$200 a day grooming bud for the market, working long shifts and sleeping on site. First-person accounts of their experiences abound on the Internet, most of them relatively idyllic, as agricultural-job stories go. "A lot of the workers enjoy meditation, yoga and playing light music in the evenings," promises the "Trim Camp Counselor" on RealitySandwich.com, adding that your employer will generally provide vegetarian meals — "and if you are lucky, they will be organic." Writer Sorcha O'Higgins on the Matador Network, tells of equally good times — O'Higgins made \$5,000 over five weeks and spent half the time "drinking and dancing."

But O'Higgins, who like most trim-camp blog memoirists, writes from the privileged perspective of a dabbler, admits there's a downside. "After a few weeks your hands are calloused, your lower back crippled, your wrists ache and all the days merge into a green haze, so much so that the spiky, conifered ridges of the Californian mountains look like lines of untrimmed buds just itching to be snipped," she writes. "Trim camp consumes you."

The stories of workplace abuse are "infinite and chilling," she

adds, and include "foreign trimmers getting their passports stolen, growers not paying them and throwing them off the farm, sex-starved rednecks paying more for girls to trim with their tops off."

The plural of anecdote might be data, to paraphrase the late political scientist Raymond Wolfinger, but at the moment, no one has collected enough hard information to scientifically establish what life is like for marijuana workers. "We don't know the past and current conditions of the labor force," says Fred Krissman, an anthropology professor at Humboldt State University in Arcata. The studies — the thorough, comprehensive and peer-reviewed academic kind — have not been done, Krissman says.

No one even knows, for instance, how many undocumented foreign workers labor in the Emerald Triangle's fields, forests and greenhouses. Mikal Jakubal, whose documentary film *One Good Year* chronicles the lives of Humboldt County pot growers, puts the figure at 10 percent; the California Growers' Association, an alliance of industry professionals, says it's more like 40 percent.

"If longtime growers with deep roots in the industry have such divergent points of view, who knows?" Krissman says.

He finds this strange, but not a mystery. Marijuana's federal classification under the Controlled Substance Act makes universities and foundations reluctant to back studies of anything having to do with the drug. While some researchers do conduct federally funded

research into marijuana’s medical benefits and psychoactive effects, they need to clear a series of subjectively placed hoops to qualify for government support.

“When I studied immigration and legal crops, every grant I wrote received funding for 25 years,” Krissman says. “I couldn’t fend off all the money being thrown at me. The federal government, California, private foundations — no one knew how to say no.” Marijuana has been different. “I’ve applied to the National Science Foundation [NSF] and several private foundations and received no interest.”

With the caveat that “everything I can say for now is speculative,” Krissman says he nevertheless believes that, at this moment in time, most marijuana growers curry their employees’ loyalty more often than they abuse them. “Their ethic is, ‘We want to treat our workers well so they don’t rise up and screw us over,’” Krissman says. “If you can make big bucks and pay your employees well to safeguard your security, it’s worth it.” If, on the other hand, you pay sub-minimum wage and abuse your workers, “what’s to keep them from telling their friends where the grows are and organizing a ripoff?”

He also floats a “somewhat squishier” explanation for the decent labor conditions: Cannabis culture was founded on ideals of individual freedom and compassion that haven’t completely gone away. “In cannabis culture people tend to be more cooperative, and want a better planet for everybody. They’re not just getting everything they can for themselves.”

For those “very diverse reasons, currently the marijuana industry is an agricultural anomaly,” he says. Anecdotally speaking, “the conditions and wages of labor are far superior for marijuana workers than for any legal agricultural industry.”

Krissman doesn’t necessarily expect those conditions to prevail once marijuana becomes legal in California. Producers of a regulated commercial concern all face the same calculus — “reducing inputs,” is how Krissman puts it — and few can afford to put people over

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profits. Wages are one of the few expenses that can be cut. If you’re managing a corporate agricultural enterprise, “you can’t tell John Deere you want a lower price on a tractor. You can’t demand a lower price for land. You can’t negotiate with Dow Chemical or Monsanto for a price break on your chemicals.” You can, however, exploit your workers.

Which is why, Krissman says, traditional agribusiness prefers a workforce made up of undocumented immigrants. Over time, corporate marijuana will, too.

The UFCW doesn’t have statistics on the demographics of marijuana

laborers, either. But in Washington State, where marijuana was made legal for recreational use in 2012, the union has begun to at least gather data on what cultivating weed does to one’s body, with the help and interest of the National Institute for Occupational Safety and Health.

“We brought NIOSH out to a cultivation place in Tacoma, and had them put sensors on people,” Jeff Ferro says. “[Cultivators] wore air monitors to determine what they were being exposed to. The trimmers wore gloves that monitored hand motion to see if there was a danger of repetitive stress.” As it turns out, there’s a high risk of carpal tunnel inherent in the task of snipping leaves away from tumescent colas, one that can be lessened by well-timed, workplace-mandated breaks.

Krissman, for his part, is working with the California Growers Association to codify the best practices of growers who are already committed to treating their workers fairly. “I would love it if the NSF or some other big foundation gave me \$150,000 to do a group study of diverse types of marijuana grows across the Emerald Triangle,” he says. But for now, “I’m focusing on the growers who have organized themselves into groups to legitimize their industry, such as the California Growers’ Association. “At least I’ll be able to say, ‘This is the way we can do it right.’ Maybe from there, we can establish some standards.”



Forest cleared for marijuana greenhouse complex

Marijuana Growing and the Environment

By Judith Lewis Mernit

In his sunny office on the edge of town in Arcata, California, Scott Greacen pulls up a slideshow on his large high-resolution monitor. As wildflowers sway in the wind outside a window, a woody guitar solo starts to play along with the pictures. Greacen mutes it; he wants to focus on destruction. Aerial images of clear-cut plots within the coastal forest, bounded by dusty roads and dotted with trucks, show the intrusion of industrial marijuana cultivation into redwood groves and hillsides. Some plots are small, barely detectable. Others cover hundreds of acres with row upon row of oblong structures covered with white tarps, blighting the landscape like giant predatory maggots.

“Look,” Greacen says, pointing to the screen. “Eleven greenhouses on the top of a ridge. Where does the water come from?”

Greacen, who has the genial appearance of a scholarly mountain man — neatly trimmed beard, wire-rimmed glasses, long hair parted in the middle and tied back — is the executive director of Friends of the Eel River, a nonprofit founded in 1994 to promote the restoration of California’s third-largest watershed. The 200-mile long Eel runs south to north from Mendocino County to the Pacific Ocean below the central Humboldt County city of Eureka. It has been hammered by industry for more than a century, dammed and drained to serve municipal water demand in Mendocino and Sonoma counties. Timber companies, too, have done their share of damage, stripping slide-prone land of stabilizing vegetation and causing sediment to clog the river’s already diminished flows.



Choose Your Poison:
Rodenticides used at
one grow site.



Wheels of Fortune:
Tire dump found at
illegal grow.

“Our coast range has a seismic uplift equivalent to the Himalayas,” Greacen says. “If it weren’t for erosion, we’d have a Mount Everest.” Mountains lifted out of the ancient seabed typically shed a certain amount of fine sediment into the Eel, but at a rate the river’s flow can handle. The accelerated spalling caused by roads, traffic and grading, sifts in much more. Anadromous salmon travel hundreds of miles from the ocean inland to spawn in the river bed’s oxygenated gravel. If that gravel is clogged with sediment, the eggs will suffocate before they hatch.

The Eel, its forks and many smaller tributaries had only recently begun to recover from timber’s assaults when, in the 1990s, a relatively benign, back-to-the-land cannabis movement exploded in Humboldt’s mountains. The Compassionate Use Act of 1996, passed by voters as Proposition 215, legalized marijuana for medical use, opening a whole new market for weed. Growing operations multiplied on public and private land in California, particularly in the forested reaches of Mendocino, Trinity and Humboldt counties, a region so full of cannabis crops it’s known as the “Emerald Triangle.”

The ecological toll marijuana cultivation has exacted on those lands has been well-documented. Growers poison wildlife with

rodenticide, hire armed guards to shoot bear and deer, run noisy and polluting diesel generators to light their indoor grows. Weekly trips by 40-ton water trucks tear up old timber roads built for only a few trips a year. Cannabis plants use massive amounts of water, which comes from rivers and creeks already suffering from intermittent drought (despite a relatively wet winter, the U.S. Drought Monitor currently ranks all of Humboldt County “abnormally dry.”) In a 2015 study, Scott Bauer of the California Department of Fish and Wildlife estimated that marijuana cultivation draws down nearly a quarter of river flows in some watersheds, with “lethal or sub-lethal effects” on federally endangered salmon.

Ten years ago, Bauer’s agency considered fish pretty much stabilized in the old timber company lands, Greacen says. “Their strategy was, ‘Let’s see if we can bring them back in the “hippie zone” – the good habitats on the west side of the Eel’s South Fork. “Instead,” Greacen laments, “it’s gone exactly backwards.” All because of weed. Or, rather, not weed, he clarifies, but “weed-driven development. We’re developing in places that don’t make any sense.”

One might say that about the whole Emerald Triangle, where

water is scarce and habitats fragile. Virtually any place would be better for growing marijuana, from Central California’s already industrialized agricultural counties to the Mississippi River Valley, where cannabis could thrive in loam soil with abundant summer rains. Marijuana cultivation didn’t become an industry in the Emerald Triangle because of any beneficial peculiarities of climate or soil. Though some make the argument that cool nights and warm days produce particularly potent strains of indica, Humboldt County was never any kind of Shangri-La for cannabis. Marijuana cultivation took off in Northern California’s remote wildlands because, as the drug war set in, its forests offered excellent cover.

Nor does indoor cultivation reduce the environmental problems associated with pot cultivation. Indoor grows still use water; some need pesticides to control mites. They have huge carbon footprints. In 2011, energy researcher Evan Mills estimated that, in California alone, “indoor cultivation is responsible for three percent of all electricity use” in the state, consuming the annual equivalent of one million average homes.”

Now, as California heads toward full legalization with Proposition 64 on the November ballot, the Emerald Triangle counties are

trying to make the most of their growth industry as it emerges from the shadows. Some people believe that with regulation the environmental picture will improve. Others are not so sure. Humboldt County’s land-use ordinance, passed in January, will still grant permits to growers who draw water from rivers and streams; it also grandfathered in existing growing operations on less-than-ideal parcels. “The rules are being written by people with long histories in the property-rights movement,” Greacen notes. “They have zero interest in environmental protection.”

In the 20 years since medical marijuana became legal in California, the plant’s entire lifecycle, from seed to consumption, has occupied a nebulous realm of tangled regulation and conflicting laws. In 2004, Senate Bill 420 (yes, seriously) formally instituted California’s medical marijuana program, setting limits on possession and cultivation for patients and primary caregivers; in 2008, a state appeals court ruled those limits unconstitutional. Cities and counties still set cultivation limits (Mendocino’s is 26 plants), and some cities and counties have banned pot growing altogether.

Further loading up the legal soup, the federal government recently affirmed marijuana’s status on the Schedule I list — useful for



Clear-cut forest, prepared for a new grow site.

nothing and dangerous to all — even as individual states rapidly move toward more tolerant policies.

Tony Silvaggio, a sociology professor at Humboldt State University and a faculty member at the Humboldt Institute for Interdisciplinary Marijuana Research (HIIMR), blames that legal gray area for causing most of pot’s problems. “It’s a setup that rewards illegal practices,” he says. “Conditions have been right for growers to be irresponsible.” He insists that there’s nothing inherently destructive about growing pot, and rejects some of the “racially coded and anti-immigrant rhetoric about ‘cartels’ and Bulgarians” used to disparage people from other countries who have come to California in large numbers to grow pot. (“It’s just because they also grow weed in Bulgaria,” he says. “They grow really good weed in Bulgaria.”)

To Silvaggio, the solution lies in statewide legalization, combined with a suite of laws Governor Jerry Brown signed last year that will come into effect January 1, 2018. The laws create a state licensing board governing all stages of marijuana production and sales, and classify marijuana as an agricultural product, with restrictions on land and water use.

“We could help push out those folks that are doing environmentally harmful practices, and address some of the most egregious growers that are sucking from sensitive watersheds,” Silvaggio says. “Regulation could work to limit some of the damage to the ecosystem.”

Greacen would like to believe that Silvaggio is right. “What I’ve been hoping is that we would build a critical mass of legal growers who would demand protection from their competitors,” he says. “My hope is that those growers would push for effective enforcement in the years to come.” But for that to happen, enough illegal growers have to emerge from the shadows. Early indicators in Humboldt County seem to indicate that they won’t.

As of August 10, only 846 marijuana businesses had applied for permits under Humboldt County’s relatively permissive zoning ordinance, according to the Lost Coast Outpost. Few of them are new; most are longstanding operations. No one knows for sure how many more contribute to Humboldt County’s \$1 billion industry; the California Department of Fish and Wildlife last year put the number at around 4,000; Greacen thinks it’s higher, more like 8,000 or 10,000. By either count, it appears that fewer than a quarter of currently operating growers intend to come correct.

The permitting workload, however, has been enough to induce stress-related illnesses among the county’s planning staff. “The foundation of our operational capacity is cracking and getting worse,” wrote four senior planning staffers in a memo to the board of supervisors in May. “We are heading toward a catastrophe.”

If Proposition 64 passes in November, and marijuana becomes a legal drug, legitimate growing operations will pay state cultivation taxes \$9.25 per ounce of flowers and \$2.75 per ounce of leaves. Retail sales will be taxed at 15 percent. The Humboldt County supervisors on August 9 elected to put an additional tax on the county’s ballot, of \$1 to \$3 per square foot of cultivation. The county tax, should voters approve it, has been earmarked for local public services, which presumably include some for law enforcement. The threat of a costly and disruptive bust remains the most powerful incentive for growers to move into the light of legal operations.

Alison Malsbury, a Seattle-based attorney who has watched the legalization of recreational marijuana roll out in Washington State, thinks there might be yet another inducement to exploit with growers: Consumer choice. The California legislature is currently working on regulations for both the medical marijuana and recreational marijuana industry. “Part of their goal,” Malsbury says, “is to address the environmental problem,” setting standards for energy, water and land use. Once they’re in place, those regulations could provide a framework that rewards sustainable growers with higher profits while the black market operators wither away.

“Once you make cannabis legally accessible to people, provide a regulated product that has to be grown by licensed cultivators and tested by labs, the incentive for buying a black market

“Once you make cannabis legally accessible to people, provide a regulated product that has to be grown by licensed cultivators and tested by labs, the incentive for buying a black market product goes away.”

– Alison Malsbury, Seattle-based attorney



product goes away,” she says. “You’re providing people with a safe product,” reliably tested for potency and chemistry. Some people who want a strain higher in the less psychoactive cannabidiol (CBD) and lower in the tetrahydrocannabinol (THC) that makes some people paranoid, for instance, can reliably get it from dispensaries that contract with licensed growers.

For Emerald Triangle growers who want to protect their market dominance, Malsbury suggests developing some sort of artisanal branding or appellation, much like vintners have. “It’s a great idea for consumers who want to make sure that their product has the distinguishing characteristic of Humboldt County growers,” she says.

Silvaggio agrees. “An appellation will help us not lose our edge in cannabis,” he says. “We have a name and a reputation.”

Scott Greacen, however, remains skeptical that any branding scheme could ameliorate the environmental destruction of cannabis farms. “The idea that we could, with an effective base of legal regulation, build a superstructure of real, consumer-based marketing that’s about the environment? It makes for a really good story,” he says. “It’s a story people are writing poetry about.” And certainly some people will buy into it. “Some people will pay a lot more money for wine and beer that has funny taste or a good story or their friends think is great.”

Many more people will not. “The majority of wine sold today is Gallo, and the vast majority of beer sold is Budweiser,” he says. “And the people who buy Gallo don’t care about the lack of salmon in Napa’s streams.

“If we’re looking for consumer preferences and consumer demand to protect our fish,” he says, “we’re looking in the wrong place.”



Jacob, a long-time marijuana farmer, in his kitchen with vegetable starters on the kitchen table. Hayfork, California.

Photo by Talia Herman



The Family Dairy Store, Hayfork, California.

Photo by Talia Herman

The Hidden Poverty in Marijuana's Black Market

By Piper McDaniel

How Economic Hardship Is Shaping One Rural Community

Rural Trinity County is home to 13,500 people in Northern California and marijuana production is rampant there. Along with Humboldt and Mendocino counties, Trinity comprises California's "Emerald Triangle," a region known for its prolific marijuana farming. Hayfork is Trinity County's second largest town, and an area of concentrated production.

Trinity has been subject to a series of natural resource economic booms: In the eras before marijuana, both the gold and timber industries thrived in its rugged expanse of mountains. Hayfork in particular was singularly tied to those economies. When the timber

business went bust in the early 1990s, Hayfork's economy tanked. The town, once home to seven timber mills, lost its final mill in 1996, and overnight 160 jobs were lost. Since then, the economy has failed to stabilize.

In the wake of the timber industry's collapse, many long-time locals turned to marijuana to support themselves, while at the same time early participants in the trade began moving to Hayfork to establish outdoor farms. In Hayfork, a town with no stoplights, no major banks or stores, no resources for higher education, and located two hours from the nearest urban center, the average price per acre of vacant land has skyrocketed from \$17,071 in 2005 to \$33,350 in 2015. Current property listings for undeveloped 1.5 acre parcels range from \$75,000 to \$150,000, breaking down to a

value of \$50,000 to \$100,000 per acre.

The passage of Proposition 215 in 1996 introduced a legal gray area that allowed for the use and cultivation of medical marijuana under state law, but didn't provide a regulatory framework for sales, production, distribution or even qualification for medicinal use. In this quasi-legal context, the risk of producing and selling was reduced, and many people began growing — some for medicinal uses and some to sell on the black market for income. Two decades later, California's cannabis industry is estimated to be worth billions. In the Emerald Triangle, where the industry was already present, marijuana has become a prevalent economic force, with growers taking advantage of the opportune convergence of inexpensive land, good growing conditions and significantly reduced legal exposure.

The local sheriff's department estimates there are 2,000 individual, private marijuana "grows" in Hayfork, a town with a population of about 2,500. Cultivation is both obvious and prevalent: It doesn't take much effort to spot the many marijuana gardens within its boundaries — they are plainly visible from most roads in town, cropping up in backyards and behind fences. A windshield survey recently counted 42 observable cannabis gardens along a 7.2-mile

stretch of Highway 3, the main route through town.

Local bulletin boards are plastered with requests for marijuana work, complete with phone numbers and promises of discretion and trustworthiness. Notices posted in the local laundromat tell customers they aren't allowed to wash clothes dirtied with marijuana, and exasperated warnings in some bars state that patrons aren't allowed to smoke weed on the premises, while acceptance is taken for granted in other establishments, whose patrons get high on decks and patios outside. Conversations about the industry — troubleshooting pests and molds, the realities of the marijuana market, run-ins with law enforcement — are commonly overheard and easily shared, even with strangers.

By common consensus, the cannabis industry is Hayfork's primary economic driver. In 2015 an informal survey of the town's workforce counted just 424 jobs, leaving self-employment options or commutes to work outside town as the next alternatives. Extensive interviews with law enforcement agencies and multiple residents suggest that a majority of townspeople are involved in the industry, and many — perhaps most — are producing and selling illegally. In this rarefied context, participation in the black market is an integrated component of life and culture. In Hayfork,



Mary, who farms a small garden for supplemental income with her partner Sam, with her daughter in their home. Hayfork, California.

Photo by Talia Herman

marijuana farming has become the new normal.

The prevalence of Hayfork's marijuana industry has been uniquely shaped by economic hardship. The polar ends of the trade — law enforcement and small-scale black market marijuana farmers — share a common relationship to marijuana that is defined by financial strife. On one side, a significant funding handicap has stymied law enforcement, allowing the marijuana industry to proliferate; on the other, poverty, economic struggle and a lack of alternatives have provided an incentive for many locals to dive into the black market.

(Note: Some names and identifying characteristics have been

“This really is the product that keeps a lot of families fed, quite frankly. Rural California is not an affluent place.”

Hezekiah Allen,
CGA's executive director



years [marijuana] basically just paid for property improvements. It paid for things that would pop up and take a couple of grand that I wouldn't have in savings. It helped pay my mortgage.”

changed for this article.)

Mary is a mother in her 30s who is a part-time working professional and also grows and sells marijuana. Like many marijuana farmers, she straddles legal and illegal activity — producing marijuana under nebulous state law, and selling it on the black market. A Northern California native, she eventually purchased a home in Trinity County in 2009 and began farming shortly afterward.

“I hadn't planned on farming,” she says, “but when I assessed the reality of my situation, as a single person working part time, when I started really looking at my costs living here, it was clear that I would need something to supplement my income a little bit. In the first couple



Corporal Ron Hanover, Code Enforcement Officer, at the Trinity County Sheriff's Department.

Photo by Talia Herman

Since then, Mary has maintained an outdoor cannabis garden that produces an annual crop harvested in the fall. She deliberately keeps her garden small, never cultivating more than 15 plants, a strategy she has adopted to minimize her risk in a morass of incomplete and evolving regulations. Mary's earnings from her comparatively small garden have typically fallen between \$5,000 and \$10,000 a year. Now she has a partner, Sam, who works in construction and carpentry, and they have a 3-year-old daughter. Mary earns about \$23,000 a year at her job and Sam does piecemeal work landscaping, logging and at construction gigs. They are continuing a small-scale farm to help them generate funds to develop a construction business for Sam, a move they hope will offer them long-term financial stability.

The money from their garden will be used to purchase start-up equipment such as tools and reliable transportation. Without this income helping to build a local business, Sam would have to travel for work, which would make childcare difficult and also put a strain on the family.

“I just need one more good year [of farming marijuana] and I won't need to do that garden ever again,” Sam says. “But a new truck right now will be helpful.”

Mary is just one of many everyday people who are dipping into California's weed trade. Now a vast network, much of the industry is supported by those who have turned to marijuana farming to support themselves, supplement their income or alleviate financial struggles. Marijuana growers are retirees, college graduates, single parents, teachers and many others with legitimate jobs or a lack of better alternatives.

The California Growers Association, a marijuana farmer advocacy group, calculates that there are at least 40,000 independent, private-land marijuana grows in California that provide an estimated 250,000 jobs. In many rural communities like Hayfork, where poverty and unemployment are high, marijuana has become a significant source of work.

“For the last 40 years this product has been the backbone of rural California,” says Hezekiah Allen, CGA's executive director. “This really is the product that keeps a lot of families fed, quite frankly. Rural California is not an affluent place.”

In Hayfork, underdevelopment has simultaneously limited alternative employment options and tax-based sources of funding. Trinity County has a large amount of federal and state-owned land (about 75 percent) and a low population base, meaning



Bob Brown, mobile and wood-arts maker at home in his studio. Brown typically grows 3-4 plants in his backyard annually for personal use. Hayfork, California.

Photo by Talia Herman



Omar Brown (Detective Sergeant, Narcotics Division) and Ron Hanover (Corporal, Code Enforcement Officer) attempt to cite a marijuana grow for county code violation. No one seemed to be home so they planned on coming back in an hour.

Photo by Talia Herman

that property and sales tax revenues are dismally low, and state funding allocations, typically based on population, are limited as well. The result is that county services and law enforcement are underfunded, and economic growth is stunted by isolation and limited development space. The few job options in Hayfork outside the marijuana industry generally don't pay competitive wages. Currently about a quarter of the population lives in poverty.

The funding realities of the Trinity County Sheriff's Department are bleak. Its budget supports only eight deputies. "We don't have enough staff to man the county 24 hours a day, seven days a week, which is the norm every place else," says Sheriff Bruce Haney. "The last time we had 24/7 coverage was in 1994."

This means there are times when no active officers are on duty throughout the entire county. If there is an emergency call, an officer will be dispatched from his home, adding delay when response time can already be quite lengthy (commutes between communities can be as long as three hours). It also means that the department routinely enters into dangerous situations understaffed. "On a normal domestic violence call," explains Deputy Omar Brown, "there would be five officers, but we will answer domestic violence calls with only one officer."

This lack of personnel also limits the department's ability to gather evidence needed for prosecutions. "Legal surveillance, for example, requires 24-hour coverage, but we don't have enough deputies to man a surveillance post for 24 hours," Brown says. To offset these staffing gaps, the sheriff's office requests support from other enforcement agencies, such as the Forest Service or California Highway Patrol to assist with raids or arrests — a system that is far from adequate or reliable, since these agencies generally can't plan and schedule this kind of partnership effort in advance.

Anticipated shifts in the status of marijuana as a drug are even impacting enforcement funding— Haney reports that additional funding for marijuana enforcement, such as grants, has become less available because of the uncertainty of regulation and of pot's legal status.

"Cannabis Eradication is a slowly diminishing source of funding," says Haney, "and those grants come with strings. It ties our hands to a point. We need guys that can be out patrolling, not going to 10 meetings throughout the state, or tied to specific outcomes. They are not where our focus needs to be."

The department also struggles to offer competitive salaries, which

makes recruitment and retention of personnel challenging. Starting wages for a sheriff's deputy in Trinity County average \$16 per hour, or about \$30,000 per year, far lower than typical pay rates, which range between \$58,000 and \$96,000 annually.

"It's hard to get deputies to come work here," says Brown. "And when they are here it's hard to keep them."

The stark reality is that it's impossible for eight deputies to take on thousands of marijuana grows. Already struggling with capacity, the department is also tasked with handling other criminal activity such as murder, theft and robbery. Marijuana is not always a priority, and the ongoing lack of marijuana enforcement has created a perception of relative lawlessness.

As a result, marijuana cultivation has become a creeping issue

"It's hard to get deputies to come work here. And when they are here it's hard to keep them."

— Deputy Omar Brown,
Trinity County Sheriff's Department

for the sheriff's department. Not only are more people farming, but their gardens are bigger. Many are attracted to the promise of profit, but the growing popularity of cannabis production has also created a supply glut that is driving down prices. While black market prices vary, local growers report significant drops in price. A pound that once netted \$4,000 now sells for around \$1,200 and sometimes as little as \$800. This drop in profitability has caused many to increase their production to offset falling prices.

"There are big grows and small grows, but the average is 150 to 200 plants," says Deputy Brown. "If we had had [more resources] 10 years ago we would be looking at 36-plant grows."

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Brown notes that even if funds were now more readily available,



Cattle along Hwy 3, Hayfork, California.

Photo by Talia Herman



Marijuana starter plants at a farmer's home that will be planted in an outdoor grow in Hayfork, California.

Photo by Talia Herman

production is so rampant that effective management doesn't seem like a viable outcome, a sentiment echoed by others in the department.

"I think we [have] probably reached a point where it's impossible to get it under control," says Deputy Chris Compton. "Even with a staff of 20, it would take us years and years and years and years."

California is forging a regulatory path for its gray market marijuana industry, but there are still many undecided variables. In 2015 California passed legislation to regulate the medicinal marijuana industry but the permitting, licensing and fee systems won't be finalized until 2018, and counties have the authority to develop their own cultivation ordinances as well. Additionally, the state passed a regulatory framework for medical marijuana in 2015, and Proposition 64, the Adult Use of Marijuana Act (AUMA), a new initiative to regulate recreational marijuana, will be on this November's ballot, potentially introducing yet another bureaucratic layer. These new regulations will shape the future of the industry, and in many ways will define who will be able to legally farm marijuana.

While marijuana regulation will bring potential benefits, such as tax revenue, environmental protections and a regulated end product for the consumer, the accumulating costs of legitimacy could wall out the small-scale players, and the full economic impact of this remains unknown. The costs and particulars of California's newly adopted medical marijuana regulatory system are still being decided, but expenses can be high—in Colorado fees vary widely depending on size and business set up, but can be upwards of \$20,000, and in New York licensing fees add up to \$210,000. Entry into the legitimate industry will include multiple fees payable to counties and states, as well as costs to product-testing facilities and distributors. Outdoor farmers, like Mary and Sam, will also have land and water regulations to contend with, such as the State Water Board's cannabis compliance program, and county and agency regulations.

As more states legalize and the industry continues to boom, there is increasing competition both within and between the legitimate and illegal markets. The numerous existing marijuana cultivators are left to test the viability of the emerging legitimate industry as entrepreneurs, weather the black market or do both.

Jacob and Jen are a couple that have been growing marijuana to sustain themselves financially for almost 30 years, beginning when they lived in the Bay Area.

"I was line cooking, and [Jen] was working retail," Jacob says of their pasts. "We were both coming to the end of our ropes. I couldn't keep line cooking — it was horrible for my health. We were both making 10 to 12 bucks an hour and paying \$800 a month rent. So we started growing enough to sustain our household."

The pair maintained a small indoor marijuana grow in their Berkeley apartment in the 1980s and saved the profits until they could afford to purchase a plot of land in Trinity County, where they began growing on an outdoor farm.

"It was really poor in the beginning," Jacob says of the early days of farming. "We made about \$15,000 to \$20,000, gross. We went up from there. The first year we did good — we had 40 pounds and they probably went for \$2,000 a pound. We paid off our land and our debts. But that's still just an income for two people."

Jacob and Jen have continued farming to support themselves, but their operations have remained small; last year they produced 70 pounds that grossed \$60,000. After decades of marijuana growing, they find themselves in a tenuous position, working to stay afloat in an uncertain and cutthroat market where a cannabis surplus has lowered prices.

Like many who have relied on the black market industry for their primary source of income, Jacob and Jen have few alternatives that would provide for them. "I have literally no idea what else I would do [if I wasn't farming]," Jacob says. "Aging out of the workforce is a problem. I probably couldn't get hired at a restaurant now, and [even if I did] I wouldn't like it."

Trinity County's law enforcement and marijuana producers are living in a time of questions. The sheriff's department remains limited in its capacity, and many small-scale farmers like Jacob and Jen, and Mary and Sam, face uncertainty about their livelihoods. The outcomes for both sides, tightly wed to economic viability, will manifest in the fallout of regulation — the emerging determiner that will decide what marijuana farming will look like for growers, enforcers and Hayfork alike.

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