Through the Gateway: Marijuana Production, Governance, and the Drug War Détente

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Through the Gateway: Marijuana Production, Governance, and the Drug War Détente

By

Michael Polson

A dissertation submitted to the Graduate Faculty in Anthropology in partial fulfillment of the requirements for the degree of Doctor of Philosophy, The City University of New York

2016
Through the Gateway: Marijuana Production, Governance and the New Drug War Détente

by

Michael Polson

This manuscript has been read and accepted for the Graduate Faculty in Anthropology to satisfy the dissertation Requirement for the degree of Doctor of Philosophy.

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THE CITY UNIVERSITY OF NEW YORK
Abstract

Through the Gateway: Marijuana Production, Governance and the New Drug War Détente

By

Michael Polson

Adviser: Professor Leith Mullings

Since the 1996 voter approval of medical marijuana laws in California, marijuana policy has become increasingly liberalized. Producers, however, have remained in the greyest of grey market zones. Federal anti-drug laws and supply-side tactics have intensively targeted them even as marijuana has become more licit. In this legally unstable environment, marijuana patient-cultivators and underground producers have begun to articulate and assert themselves politically and economically, particularly as the likelihood of full legalization increased. This dissertation explores how producers navigated the nebulous zone between underground and medical markets. I argue that even as producers supplied marijuana to a formalizing, regulated medical industry they proved trenchantly resistant to government regulation. In the process they carved out new claims on citizenship, well being, property rights, community, and relations to nature. This politics provides an insight into how the emergence of marijuana production into civic life is transforming the political economy of rural and exurban Northern California, a region that has been a historical locus of marijuana production in the United States. More broadly, this politics from the informal-illegal margins offers a unique insight into the role of domestic marijuana producers in challenging the global War on Drugs. As a gateway moment for “the gateway drug,” this dissertation points to the new drug war détente.
The dissertation is based on 19 months of participant-observation fieldwork in Northern California, spanning from 2010 to 2014. It is focused on two subregions: the North Coast and the Sierra Foothills. Both case studies are explored in three chapters focused on: the historical entrenchment of marijuana prohibition and production; the destabilization of these systems as producers vied for political voice; and the governmental retrenchment of the War on Drugs. Prior to these explorations, I narrate a legal, medical, and economic history of marijuana and, in conclusion, I explore some of the implications of this study for our understanding of Northern California’s political economy, domestic marijuana politics, politics of the new peasantry and the informal market, systems of criminalization and social control and recent efforts to reform them, and the relation of the War on Drugs to the arc of US global empire.
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For people living in legally unstable situations, talking with anthropologists can be a dicey and anxious interaction. There was no reason for people to talk to me, good reasons they shouldn’t have, and yet so many did. This dissertation would not have been possible without them and their desire to make their stories known and build a grounded knowledge of their world that was not contained in headlines, caricatures, and simplistic debates over policy. This dissertation is dedicated to all the people who took their time with me and, more importantly, for all the people who have fought against the war machine called the War on Drugs. They have seen that this perpetual war is less a war against plants and more a war against people that fall outside the dominant systems of political-economic rule.

When I first arrived in Humboldt County I found myself not knowing a soul, living in a moldy room, having asthma attacks nightly. Without Pam Brown, the wonderful, dynamic freedom fighter, teacher, and human being (and also Faculty Emeritus of the Social Work Department at HSU), and her boy Oliver, my landing would have been much more rough and my research much less fruitful. I was blessed to find quick friends in Tibora Bea and Blake Hill and held from afar by Tom Kindling. Half of this research wouldn’t have been possible without the trust that Tom and Lauren Liberty had in me. They opened their home and their hearts to me and I am very grateful.

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Over a decade ago I was first offered a glimpse into how intricately marijuana was interwoven into the fabric of Northern California. I am thankful to Joey, Eric, and Megan for those insights and to Dennis and Mary who first showed me the power of marijuana—and the bonds formed around it—to heal deep wounds.

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my lack of income, life stress, and endless deadlines as I have completed this process. And I am thankful to my brothers and sisters for providing four wonderful nephews that have brightened my life and mood at many low moments. Finally, thank you to my Philly family, particularly Alisha and David for pulling me to the city, and Amy, Nazia, Sarah, Debby, Blake, Andrew and, my love, Scott, for keeping me here. Though Scott has only come late into the picture, he has provided endless shoulder rubs and pulled me away from anxietal-depressive spirals at many moments.

Writing this narrative of gratitude is a humbling process. We come to know the world through the people that surround us and I am grateful to be surrounded by such a rich cast of characters. I am of course responsible for the views and faults of this piece but I hope this product of labor and love does justice to all those who trusted, supported, criticized, and taught me.

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Glossary

9.31: Mendocino farmer regulation program

BTTL: back to the land

CAMP: Campaign Against Marijuana Planting

CERT: Cannabis Eradication and Reclamation Teams

CPR: Collective Patient Resources

COG: Citizen’s Observation Group

Cole Memo: 2011 DOJ memo affirming federal abilities to prosecute medical marijuana

CSA: Controlled Substances Act of 1971

DOJ: Department of Justice

DARE: Drug Abuse Resistance Education

DEA: Drug Enforcement Administration (founded under the CSA)

Emerald Triangle: hilly marijuana-growing region at the intersection of Mendocino, Trinity, and Humboldt counties

EGA: Emerald Growers Association

HAG: Hemp Awareness Group

HIA: Hemp Industries Alliance

HPRC: Humboldt Patient Resource Center

FBN: Federal Bureau of Narcotics under the Department of Treasury

GPU: General Plan Update

GIITS: Grow It in the Sun

HBDTF: Humboldt Bay Drug Task Force
HGA: Humboldt Growers’ Association

HuMMAP: Humboldt Medical Marijuana Advisory Panel

HumCPR: Humboldt Coalition of Property Rights

NIDA: National Institute on Drug Abuse

NORML: National Organization for the Reform of Marijuana Laws

Ogden Memo: 2009 US DOJ memo allowing medical marijuana in compliance with state law

Prop 19: Proposition 19, legalization ballot proposed and defeated in 2010

Prop 215: Successful 1996 ballot to decriminalize medical marijuana in California

SB420: Senate Bill 420 of 2004 regulating medical marijuana in California

THC: Tea House Collective

UFCW: United Food and Commercial Workers
I. Through the Gateway

Gates, Crossings, Relations

Peter hopped out of the pickup and went back to lock the gate behind us. We roared up the steep grade of the hill and eventually came to a stop at another gate, which he unlocked, drove through, and then locked. Another 100 yards and we were at the barn. Judging from the pick-ups parked outside, the electrician already arrived, as had a day laborer from the Hispanic labor pool. Peter punched a code into the door and a quiet buzz, click signaled our time to enter. Upon entry a large laminated poster greeted us, declaring that each marijuana plant in this barn was being grown for a specific hospice patient. If there were any questions the listed lawyer should be contacted. Below this sign lay a notebook of xeroxed medical marijuana recommendations—the last in a series of gates attempting to shield the barn’s product. The year was 2005 and this was one of the first marijuana farms I would step foot on.

Throughout my research in northern California, I spent a good amount of time crossing and dwelling behind (or sometimes remaining outside) gates, both actual and figurative. The “gateway” referenced in this dissertation’s title is, of course, a reference to the construction of marijuana as “the gateway drug.” Marijuana has been looked to as the corrupting agent of moral, bodily, and/or societal health—a gateway to racial contamination, Communist insurgence, or biological degradation, depending on the era. According to prohibitionist logic, marijuana must be prohibited—the gateway must remain closed and well guarded. The modern variant of this theory is “the gateway hypothesis,” which gained wide currency in the 1980s under Robert DuPont, the nation’s second drug czar and the first director of the National Institute on Drug Abuse (DuPont 1984; see also Bennett 2015). In neurologically reductionist fashion, DuPont
argued that marijuana use would predispose users to future abuse of “hard” drugs like cocaine and heroin, thus functioning as a “gateway” into other drug use. Though the title acknowledges this notion of the “gateway,” the dissertation concerns itself with a more general understanding of the term.

The most abstract and overarching expression of gating this dissertation addresses is the line between the lawful and the outlaw. This line varied not just over time as new court decisions and policies emerged, but also across space as “the law” was adapted and diffused at different speeds to different effects in different places among different people. For marijuana—a substance the federal government prohibited, California voters affirmed, the state legislature shied from, and localities muddled through—the line between lawfulness and outlawry was often obscure and shifting.\(^1\) Despite the polarized abstractions of “the lawful” and “the outlaw,” the line between the two is a vibrant realm of social struggle that illuminates the contours of contemporary governance and power.

Gates seem to separate. Yet even separation is a form of relation. This dissertation looks to the inter-relation of the gated and the open, public and private, controlled and wild, legal and illegal. At the beginning of fieldwork in the California of 2010, marijuana was undergoing a process of reconstruction as the state debated the potential legalization of all marijuana—not just its medical variant. Though this legalization effort failed, the political and economic field surrounding marijuana shifted dramatically. The once-corralled marijuana realm came rushing forward into public life. Marijuana was going through a gateway moment in which its social existence was being transformed. The gateway drug now passed “through the gateway.”

\(^1\) Just down the road from Peter’s gated garden, 150 years prior, Black Bart, the notorious and revered Wells Fargo train robber, robbed his third train. As a poetry-writing folk hero and failed gold miner, Black Bart embodied the contradictions of a previous era in which the outlaw and the lawful blurred, when bankers and industrialists seemed at least as criminal as the thieves that pursued them.
In Northern California, a region renowned as a center of marijuana agriculture, the failed 2010 legalization measure fomented an anticipation of a fully legal market that unsettled regional patterns of political-economic order and everyday life. Marijuana producers, long barred from open participation in public life by prohibition, were at the center of this tumult. Prohibition had stimulated the growth of a widespread small-producer marijuana economy throughout the region. Since medical marijuana was passed in 1996, production had come to correlate closely with the medical market. Though this agricultural sector existed in the shadows of an already-grey market, the 2010 legalization debate pushed and pulled producers “into the light,” in the words of one advocate. Production, however, remained surprisingly resistant to rule as farmers struggled to create a space for themselves in this emerging market system. Producers were caught in a paradox: criminalization continuously threatened their security, but legalization threatened to destroy the basis of the small producer economy they had built. In response, they fought against formalization by dominant economic and governmental powers, struggled to retain control of the production sector, and, unique in US legalization efforts, articulated a producer politics of marijuana. The federal government, which had underestimated California medical marijuana activists in 1996, seemed determined not to repeat history. The terms of the legal marijuana economy would not be lead by activists, producers, and the unruly order they proposed. “The Feds” levied a crushing counteroffensive against California’s upstart legalization model and capital forces gathered on the horizon, waiting for the moment of formalization when marijuana agriculture—and the entire commodity chain—would succumb to the same formal rules that governed the economy more broadly. The outcome of these struggles, which are still in formulation, are what I call the new drug war “détente.”

This dissertation explores the formation of marijuana’s new gateway and documents how
the Northern California region passes through it. While it is a tale of marijuana, it is also a tale of the entire region of which marijuana had become a pivotal part. In light of this, I begin with an exploration of the region and the place of producers in it.

Regions, Edges, Producers

Since Siberians crossed the land bridge and fanned out through the Americas over ten thousand years ago in the Clovis Era (Haynes 2002; Fagan 2004), rural northern California has been a place of arrival and movement. It has also been a place of imperial visions and conquest, as with the fur-seeking Russians (Clifford 1997) and missionizing Spaniards (Lightfoot 2005). The Gold Rush of 1849 drastically transformed California (Brands 2002). It became a global destination for wealth seekers, “adventurers,” the dispossessed, and “freed” laborers of Europe, the Americas, and East Asia seeking all kinds of fortunes. Some of those fortunes seemed to their seeker to be preordained as “manifest destiny” (Turner 1893), a tautology requiring the decimation of Native peoples (Field 1999; Klein 1997; Kroeber 1925; Lindsay 2012). The notion of California as frontier has been inextricably bound to a broader US settler-colonial cultural imagination (Slotkin 1992), which holds out the possibility of the American (and Californian) Dream (Starr 1973) and utopian fantasy (Hine 1953) just as much as it elicits the nightmare and perversion of these fantasies and dreams (Butler 2008 [1983]; Davis 1998; Didion 1968; Pynchon 1990).

Once a frontier, California soon developed its own imperial force over the American West in general (McWilliams 1949). The hinterlands of Northern California, as Gray Brechin argues (1999), became subordinated to the rising metropolitan imperium of the San Francisco Bay in the late 19th and early 20th centuries. The city came to dominate the resources of the
contado (xxxi)—the countryside surrounding and dominated by an urban center. The hinterland was a reservoir for extraction and the construction of urban life and infrastructure. This dissertation focuses on this vast rural expanse of Northern California contado contained in a 48-county area which runs from the North Coast redwoods to the peaks of the Klamath Mountains and Trinity Alps, down the length of the snowy Sierra Nevada Range to Yosemite Valley, across the Central Valley, Fresno, and Stockton to the Central Coast and up to the major metropolitan San Jose-San Francisco-Sacramento corridor.

It is important to understand how this region became subordinated to the production of urban living and the massive amounts of consumption it required. Yet, Brechin’s framing of the rural as subordinated, an imperial hinterland, can obscure the sub-regional and equally complex dynamics and relations comprising rural life and its internal tensions between town and country, exurbs and wilderness, public lands and private property. Brechin runs the risk of configuring the rural as a social absence, only good for extraction, thus rendering invisible the struggle over space, labor, and the terms of social reproduction in these places.

With this in mind, I approach the Northern California contado in terms of its own complex political economies as well as how it scales outward toward metropoles and upward to regional, national, and international dimensions. My specific focus is on lands that lie beyond the flat, agricultural expanses of the Central Valley, in the forests and hills just beyond. These areas border “wilderness” and “the urban,” but are neither. They are a kind of geographical and social edge. Their edge-ness is not determined by geography, but rather by social-historical forces that have rendered these regions as edges. These were not the “remote” reaches of the Modoc Plateau or the open, arid agricultural fields of the Central Valley or the settled places of the San Francisco Bay.
For a century and a half since the Gold Rush, these places have been a center of extraction, and extractionists held power. They were not exceptions to the “resource curse,” in which extraction-based economies trend toward control by a rentier ruling bloc, anemic government, and a hegemony of private property (see DiJohn 2002; Robinson, Torvik & Verdier 2008; Ross 1999; Coronil 1997). This said, their political form and dynamics were not determined by geography, but rather by politics and social organization (see Brunnschweiler & Bulte 2008; Watts 2004).

Government was a late arrival to these regions, where violence and land claims preceded such organization. By the time government took shape in the region’s urban centers in the late 1800s, claimants had already laid stake to the region’s resources and lands. In the hard-to-access forest and hills, the dominance of private property obscured the governmental gaze and fostered a laissez-faire, pro-extraction governmental approach to natural resources on Native (e.g. Nelson 1978) and US lands (Widick 2009) alike. Even toward the end of the 20th century, the reach of government only went so far. Many still lived “off the grid,” communities organized their own public services, and extraction companies and landed interests held sway over government.

As a result, lawlessness inhered throughout Northern California’s extractive regions. Like the region in general, these edgy territories were born in violent genocides against Native peoples (e.g. Raphael 1974), underwent a formative period of lawless claims to land rights (e.g. Limbaugh 2003), and only with the rise of labor organization did local government gain more comprehensive capacities to mediate the relation between capital and labor (Widick 2009). Even then, government was often partial to the interests of extractionists and the local ruling blocs of which they were a part (see Duane 1999; Limbaugh 2003; Widick 2009).

The lawlessness of extractionism fostered a rugged rural social life, where government
rarely made interventions, conflict was resolved between neighbors, and the values of liberty and private property gave shape to everyday life. The exception to this was on Native lands, where government was highly interventionist, imposed a rule of property and settler-colonial law, and habitually violated those rules and laws under paternalist logics. While these places were disciplined by white supremacy and white control of property—excluding and ejecting people of color (Pfaelzer 2007) and foreigners (Brands 2002)—privilege did not extend to all white citizens. Rather, these places were characterized by intense white poverty (Sherman 2009), far from the racially diverse labor forces of California’s agricultural and urban areas (Mitchell 1996; Wells 1997; Davis 1992; Brechin 1999). It was in this space that marijuana production would take shape, its economy peopled by radicals, “criminals,” the disaffected, and marginalized of US society.

The regions discussed in this dissertation, then, are “edgy” in both a geographical and a sociopolitical sense. “Edgy” geographical spaces, prized for their resources and distance from metropoles, have frequently been a place for radical political and social ferment (see Agrawal 2005; Campbell 2015; Le Billon 2013; Linebaugh 1976; Neumann 2001; Thompson 1975; Tsing 2005). This social ferment may be viewed as criminal by some and revolutionary, utopian, or countercultural by others. In sum, extraction, private property, weak government, inequality, and a degree of lawlessness were oppressive elements in these regions. Paradoxically, however, they fostered the very social latitude that made possible radical, edgy social spaces—spaces that laid the groundwork for the growth of an edgy plant.

Whether in the forests and hills of Tennessee, Arkansas, Ohio, Hawaii, Oregon, Washington, or northern California, edgy places were a favorable social environment for the cultivation of marijuana. In Northern California, marijuana’s star rose during the decline of
extraction economies. In the mid-20th century, California’s resource economy boomed in the wake of World War II only to go through a several decade deflation as technology replaced labor, and innovations in transport and markets sped the rate of globalization. In the 1980s, a wave of mergers and acquisitions allowed corporations to consolidate under finance capital, shed workers, and, following a general trend of deregulation, “liquidate” entire forests and quarries under this ravenous shareholder logic. In Northern California, deindustrialized workers of all sorts joined with back-to-the-land radicals and workers in the informal and illegal economies to build a marijuana industry.

Marijuana production after the 1970s brought along a new form of rural governance—prohibition—which helped to foster a rural, law-and-order moral conservatism. Prohibition offered a rationale for managing rural inequality even as it pitted the racialized urban poor against an idealized moral rurality. Poverty and inequality were managed through both prohibition and the marijuana economy. Prices escalated and marijuana’s proceeds were scattered among a population of deindustrialized, otherwise-impoverished whites in a time of welfare withdrawal. The marijuana economy became a shadow safety net, particularly in the hard-scrabble, anti-welfare, bootstrap mentalities among poor whites (Sherman 2009). This safety net, however, required the outcasts of rural society to live in legal jeopardy, risking arrest through the terms of their economic activity. The shadow safety net and job market—an unregulated market par excellence—produced subjects committed to economic freedom and freedom from government in a way that dovetailed neatly with the history of extraction and the rule of private property. For areas that had minimal infrastructure (as typical of extraction areas [Wilk 2014]), sparse wealth distribution, and an aversion to state assistance, involvement in the drug economy was a gamble but, then again, so was everyday life in these boom-and-bust zones.
In Northern California, marijuana articulated with the reformulation of the regional political economy in diverse ways. At times it bolstered a *rentier* class of property owners, at other moments it supported environmental radicals and rural progressives. At other times it tethered disparate social groups together—deindustrialized white workers and back-to-the-land hippies; elderly white people with chronic illnesses and young growers of color; Native American growers and unemployed loggers. In short, marijuana’s production and prohibition deeply affected social relations, spaces, and political economies.

Correlatively, marijuana’s current liberalization marks a profoundly important transformation for the region. Because the State of California has abdicated much of its responsibility in guiding the (medical) liberalization of marijuana (up until 2015) and the federal government remains staunchly prohibitionist, the politics of marijuana has settled at the county level. For this reason, my research approach is designed to analyze marijuana through counties and the regions in which they lie. On the North Coast I focus on Mendocino and Humboldt but draw upon research in Sonoma (which is part of the “North Bay” area) and Trinity County (which is not a North Coast county but is part of “the Emerald Triangle,” named for its importance in marijuana production). The second sub-region I studied, the Sierra Foothills, is a less defined area that, at maximum, includes eight counties from Mariposa in the south to Yuba and Nevada in the north. My research focused on three counties within this broader area: Amador, Calaveras, and Tuolumne, an area known as “Gold Country” for its history of mining and extraction. I also conducted research in Madera, El Dorado, and the Central Valley areas of San Joaquin and Sacramento counties to complement and contextualize the work from Gold Country.² From this county-based framework the social dimensions of this study found shape

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² Fieldwork often took me to places like Stockton, Sacramento, Sonoma County, Monterey Bay, and the Bay Area cities and the observations I made there have informed this work.
Within the political-economic networks of the counties and regions I studied (and during the time I was there), no actor was more pivotal than producers. Their entry into public debates marked two significant moments. First, it marked a directed challenge to the grip of prohibition in the region, which had important implications for the balance of power and management of inequality in the region. Second, it marked a new articulation of medical marijuana in the region. Since passage of the law permitting medical marijuana in 1996, it had been a marginal force in marijuana’s production, particularly in rural areas where much of the product went to illegalized markets. In 2010, as I have mentioned, producers were pushed and pulled into public discussions on legalization. Medical marijuana and prohibition were transformed as production garnered contentious public attention.

Legalization is a moment of peril and possibility for producers and the Northern California region as a whole. Legal marijuana, some worry, could lead to mono-cropping and technology-intensive agriculture. Indeed, in the transition from illegality to legality, capital gains wider latitude. Barriers to banking, investment, accumulation are removed, and property gains protections via state regulation. Producers now face a high-stakes political question: caught between prohibition on the one hand and the capitalist state on the other, can they articulate a political voice to protect their socio-economic position as small producers and build a thriving rural society centered on this core industry? Or will the region succumb to the well-trod history of small producers in the US as they become eclipsed by an “inevitable” capitalist rationality? It

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3 As a study of regions, this work speaks to a growing body of literature addressing the renewed articulation of regions in global capitalism, stemming from the work of Piore & Sabel (1984) on the Second Industrial Divide. Their work was important in flagging a renewed regionalization of global capitalism in the “postindustrial” era but as Narotzky & Smith (2006; see also Blim 1990; Schneider & Schneider 1976; Hadjimichalis 2006) argue, this “new regionalism” needs to be understood in terms of capitalism, power, and difference—a frame that was often lost in the boosterism of the “new regionalism.” Thus, this dissertation focuses not on the emergence of a vibrant and rejuvenating marijuana localism, but rather on how relations of inequality and power become transformed in the unique dynamics of this region.
was producers’ labor, many argue, that created the practice, networks, and knowledges that now stand to be incorporated into formal markets. They have a right to this market. Yet capitalist markets are not sentimental, or are to the degree states make them so. As marijuana production moves out of the societally marginalized hills, forests, and urban neighborhoods to “mainstream” realms, it appears that marijuana legalization is much more than a simple unqualified march to freedom. It is the transformation of the personnel, ethics, and operation of an entire industry that has been barred from public life for over 40 years.

Decriminalization, Legalization and the Formal Commodity

This dissertation examines three processes: decriminalization, legalization, and formal commoditization. These processes require some theoretical unpacking so that we may understand their dynamics in ethnographic terms.

In the Division of Labor in Society, Emile Durkheim (1997 [1893]) postulated that crime is not biological or part of the human condition, but rather it is social. As society became more complex in its functioning and social life more regulated, he believed law, even penal law, becomes less necessary. Law, he argued, would become normative and corrective rather than punitive and vengeful. “Punishment is above all intended to have its effect upon honest people” (63). Society was supposed to become de-criminalized as life became self-regulating, a proposition that figured importantly into Foucault’s theorization of the transformation of social control mechanisms from punitive to correctional and disciplinary to bio-political, neo-liberal and self-regulatory (1995; 2007). As Roger Lancaster (2011) has pointed out, Foucault, in this Durkheimian paradigm in the 1970s, couldn’t have predicted the punitive resurgence in the US.

More successful at this prediction may have been some Marxist historians and
criminologists (see Greenberg 1981) who drew upon Rusche & Kirchheimer’s 1939 theory of a constantly shifting punishment regime linked (somewhat mechanistically) to the exigencies of capital’s modes of production. Structural Marxist theories, however, lead to a kind of instrumentalist view of crime that could correlate too simply to economic modes (however useful they might be; cf. Beckett & Western 2001).

As an alternative to the Marxist base/superstructure duality, British historians E.P. Thompson (1975), Peter Linebaugh (1990) and Christopher Hill (1996), among others, put forward a historical-political paradigm that framed crime not as a matter of capitalist modes of production or a development of liberalizing-normative governance, but as both. Their work illuminated the intricate relation between liberal rule of law and capitalist social relations in a complex historical and political frame that prevented economic reductionism; it cast law (and its criminalizing processes) as a critical component of capitalism’s establishment. Political-legal rule and capitalist economic forces needed to be understood in dialectical and historical relationship, they argued, drawing upon Gramsci’s foundational work on the importance of hegemony to the development and management of liberal capitalism (Gramsci 1971).

Although some thinkers (e.g. Garland 2001; Young 2003; Katz 1988) have advanced a theory that links a late modern condition to the punitive turn, criminal justice reforms of the past several years have intimated a different direction in the matter of punishment (see Lancaster forthcoming on the relation of these late modernity theories and recent reforms in criminal justice). Similar to the belief in the 1970s that prisons were disappearing and criminalization was an expiring form of social control, the belief that the punitive turn will go on in perpetuity as part of the late modern psyche will also likely find itself mistaken. Instead, it is important to theorize what is behind the process of “decriminalization.”
Decriminalization is often discussed as a type of policy measure or group of measures that ease or eliminate certain forms of criminalization. As such, it can refer to a wide range of actions, from the elimination of incarceration and punishment for a crime to the shifting of social discourses that link certain types of actions to a state of criminality. The lifting or alleviation of one process—criminalization—does not suggest what replaces that process. Therefore, decriminalization indicates a wide array of possible actions, which have no determinate conclusion. Because of these malleable, indeterminate contours, “decriminalization” is best understood not as a moment or a thing but as a process that only takes shape in its substantive, social elaboration. What it looks like depends upon what forces and pressures shape its everyday articulation and broader political-economic valences.

If criminalization is a process dominated by the state, decriminalization is an easing of this form of state power. As such, the extent to which decriminalization advances, and the form it takes, is always related to the willingness of the state to relinquish its rule. This relinquishing is a political and social process, too, but one that is more opaque, hidden as it is in the state’s ability to protect itself, to take exception, to govern according to its raison d’etat. Thus, decriminalization is at the discretion of the state and is always haunted by the potential for re-criminalization.

Decriminalization marks a moment when the criminal enters the civil sphere. That which has been criminally excluded is brought into the civic fold through a discretionary and opaque governmental recalibration—this person not that person, this way not that way, this set of rules not that set of rules. In the case of marijuana, the federal prohibition has supremacy; state and local governments experiment with decriminalization. Individuals are placed in jeopardy by this vague process even as each reform the state allows is celebrated as an advance of freedom and
liberty. If we understand criminalization as a waging of war against one’s own population, the passive and open-ended process of decriminalization allows the state to transform from a coercive, repressive force to a civil, liberal presence without its legitimacy being questioned. Indeed, the state can not be too involved in the process of decriminalization without admitting its policy failure and sparking demands for reconciliation, truth, and reparations. This happened in Guatemala and South Africa, and nearly happened in the Reconstruction period following the US Civil War. By assuming a distanced stance, the decriminalizing state enables (but does not directly construct) the emergence of a broader social governance around formerly criminalized actions. Decriminalization allows for the self-organization and auto-equilibration of economic and social life around this once-illegal activity into categories of respectable/unrespectable, compliant/non-compliant, permitted/unpermitted, and licit/illicit. People are less likely to demand reparations or reconciliation if they get the “right to earn a piece of the pie.” They will not challenge the legitimacy of the government but will clamor for legitimation by the government. In this way decriminalization is a type of government-from-a-distance in the face of the failure of the state and its need to recuperate its legitimacy by floating governance out into society and its terms of self-organization. Once this system of social governance is more settled, a rehabilitated, formerly-punitive state comes to assume a new role as a regulatory state, in an utterly different relation to the formerly-criminalized activity. It is not just the state that is recuperated. A mythology of progress and freedom that tethers the liberal-capitalist state to the populations it rules is also recuperated (Foner 1999; Losurdo 2011).

This dissertation explores decriminalization under this definition: as a socially-determined yet state-centered process comprising a discretionary and uneven practice of power. The outcome of decentralized social governmentalization is that the state has the option of
picking and choosing, targeting and allowing, such that some developments are enabled and others disabled. As a state decision not to criminalize, to create an exception to the state’s right, decriminalization is highly political in the Agambenian sense that it places people into a legally-nebulous zone (of indistinction), where their status as friend or foe is unclear. Zedner (2010) defines this as a kind of “probationary” state of affairs—people might be allowed to be citizens in new ways but the pall of suspicion hangs over them until they can prove their ability to conform to dominant modes of legal, medical, economic, and political conduct. In this zone, those who have been criminally excluded find some agency, just as dominant constituencies attempt to organize this zone into ruling logics, discourses, and institutions.

In light of the open-endedness of decriminalization, it is important to attend to moments of flux, struggle, and disruption, when disequilibrium and contestation occurs—when people in their various roles determine the future social organization of formerly-criminalized activity. It is in these recuperative and unstable moments that political possibilities emerge, pointing to other social formations and ways of life beyond those bound to liberal rule of law and the capitalist property system it protects. By highlighting these terms of struggle, this dissertation seeks to amplify voices of political possibility—before the moment when these voices are silenced, re-criminalized, compromised, or memorialized in official(ized) historical narratives.

Decriminalization shouldn’t be confused with the term “legalization.” Decriminalization may ameliorate or eliminate criminalization but legalization does not necessarily follow. Colloquially, legalization can indicate the making legal of an activity or thing—a policy moment that switches a status. In this dissertation, however, legalization refers to a process that involves the attachment of new valences of meaning and practice to a thing or a phenomenon (cf. Comaroff & Comaroff 2006). Legalization can work alongside many other process such as
medicalization, economization, formalization, spatialization, etc. For instance, Patricia Kelly (2008), in her work on state-run brothels in Mexico, traced how prostitution became “legalized” through cumulative, multi-jurisdictional processes imposed upon brothels and women’s bodies, ranging from public health inspections to special zoning to codified market practices. Legalization was not a change in legal status but was a layering of legally-inflected processes upon an activity (prostitution).

Legalization does not mean that an activity has been ungoverned by other codes, rules, and customs. Law is simply one mode of imposing order. When studying illegal realms, it is important that other modes of rule-setting and order-imposing are explained so that law is not seen as the only source of legitimate social organization. By considering rule and order beyond the law, we can make sense of what stakes exist in moments of legal reformulation—what is lost and what is made. Law’s application alters and confronts social logics that exist beyond law. As such, is a contentious process through which power, inequality, citizenship, and the textures of social relations are produced. A multi-valenced process of legalization is, as Comaroff & Comaroff (2006) argue, characteristic of modern society’s competing jurisdictions, authorities, and social logics. Legalization, then, is a process through which social relations, discourses, and practices take on legal valence, thus confronting other logics of rule and order in the shaping of social relations.

The third process this dissertation explores is the transition from criminal commoditization to formal commoditization. Commodities are bearers of value and a material remnant of the social and productive relations that produce that value. Under capitalism, the owner requires a legal relation to secure a property right to the commodity, preserving it from confiscation by the state or dispossession by others. Liberal economics as well as Marx’s labor
theory of value assume this legal relation—free laborers, freedom of contract, a neutral state, free circulation—in their models of economic activity. When a commodity is illegal, however, it is not protected from state and social predations and thus conjures another set of social, productive, and market relations. The commodity’s value is formed in these alternative-criminal relations, which the commodity then bears in the (illegal) marketplace. Criminal commodities do not operate as formal-legal commodities. While they may acquire value from labor, their main valuation comes from government-produced risk and its inflationary effect on exchange value (see Coronil 1997 for discussion of states, rent, and value; also see Polson 2013 on marijuana value). In essence, the value of an illegal commodity is amplified and metered through state illegalization (aka prohibition). While the value of formal-legal commodities are produced by a fundamental relation between capital and labor, the value of illegal commodities depends upon the relation between state and market.

It is important to stipulate: the social relations encapsulated in the criminal commodity are not an exception to the overall relations of capitalism. Rather, criminal commodities have been a critical component of capitalism since its emergence. The very basis for commoditization and the property relation is based upon the criminalization of people who have alternative sets of claims, as Marx (1991) showed in his exploration of enclosures. Extra-legal seizures of land and resources were pivotal in the founding and maintenance of capitalist enterprise, particularly for extractive industries where the rule of law thins out over vast landscapes, as Thompson (1975), Tsing (2005), Linebaugh (1982), Le Billon (2013), and many others have shown. David Harvey (2005) has shown how illegal, quasi-legal, and illegitimate expropriation is not limited to extractive industries, but is in fact characteristic of the ongoing process of accumulation by dispossession.
Market prohibition produces a particular variant of crime, value, and commoditization. As I have discussed elsewhere (Polson 2013), prohibition escalates the value of the prohibited commodity by inducing risk into the production and marketing process. This risk-based rent is captured by producers (through sale and laundering), by the government (through seizure), or by actors in land, finance, or transport that facilitate the production and circulation of the commodity. Just like enclosures, prohibition creates value out of something that was not valued; prohibition is a value-producing regime. The formation of lines between legality and illegality becomes a pivotal force in the production of a criminal commodity’s value.

In a cursory review of prohibition, the justice system opposes the free market. Certain commodities are made exceptional to the protections of the law and brought under the exclusive power of the coercive-punitive state. Prohibition is the exception to the free market, the place of un-free containment. The commodity’s value—and the social relations that produce this value—are rendered illegitimate, and thus seizable by the state. This is critical: it is not just prohibited commodities that are policed and targeted but the entire set of social relations that comprise the commodity chain. On the face, prohibition is a socially neutral policy that targets a commodity. Substantively, however, prohibition always targets a particular set of relations, which has its own situation within racial, sexual, gender, class, and other hierarchies. The magic of prohibition is that it makes this substantive targeting seem accidental. We must, then, understand not how justice and market systems are opposed, but rather how they work in tandem to abstract il/legal markets from embedded, substantive social and historical contexts (see Pashukanis 1924).

To begin, the justice system uses the same rational-choice criteria found in neoclassical economics: did an individual choose to commit a crime or not? The social context and historical forces surrounding the individual choice are expunged. In this logic, all criminal defendants—
just like all buyers and sellers—are equal under the eyes of the law, free to do as they wish, and individually culpable for their actions. Both the market and justice systems construct subjects as governable individuals that either follow the rules of property or lie in violation of them. Just as the commodity is severed from its productive relations in the abstractions of the market, criminals are severed from their social relations in the rendering of justice. This severance clears a space for the illiberal punishment of the criminal—for a suspension of liberal rule of law. “Justice” becomes liberalism’s exception to itself. Freedom, equality, and liberty, which are necessary to the extraction of surplus capital from labor, find their limits in the justice system—they are only tolerated to the degree they do not violate capital’s value extracting process.

Because the criminalized commodity is fetishistically regarded as a thing by the justice system, it can become a malleable tool for targeting different groups of people. The criminal commodity is an empty social container that, in its substantive everyday circulation, can criminalize and target different social groups at different times for different purposes. Unlike Jim Crow laws or immigrant exclusion acts, market prohibition is a technique of criminalization that functions not through overt discrimination, but rather in the abstractions of the market. As liberal capitalism has been forced to become progressively more inclusive (Habermas 1989), modes of social control that at least appear impartial have become more necessary.

As prohibited commodities become decriminalized and formalized, they enter into a new set of social and productive relations, or a new value regime. The state, which had been key to the production of value through the imposition of risk, recedes from importance. In its place, legally-protected capital now becomes pivotal. The production of value shifts from risk-based rents to labor, thus significantly altering the industrial organization and power dynamics of the commodity’s production. Like prohibition, formal-legal commodity production is also a socially
discriminatory process. Instead of differentiating between the criminal and the law-abiding citizen, however, it differentiates between labor and capital and between different types of racialized, gendered laborers. New types of criminalization emerge in the formal commodity relation and legal market. Avoiding regulations and taxes, polluting, growing on public land, and so on, constitute re-criminalized actions amidst decriminalization/legalization. Bank repossessions, taxation, and labor exploitation replace forfeiture and seizure as the system of dispossession. Non-citizen status, lack of “social capital,” and stigmatizing zoning laws stand in for prohibition’s systems of criminal marginalization. The liberal capitalist system carries its own forms of coercion that are less exceptional, more normalized, and thus more insidious.

This dissertation focuses on the transition from criminalization to decriminalization, from illegalization to legalization, and from criminal commodity to formal commodity—all various kinds of gateway processes. As I have discussed above, these processes can only be understood by taking into account the social formations that underlie them. It is critical to understand the political rationalities, imaginaries, and struggles that characterize these shifts. Politics are important barometers of how social relations are transforming—from what and to what. In particular, the struggle to change marijuana’s commodity status has mobilized a particular form of politics of the informal and illegalized. As Van Schendel & Abraham (2005), Roitman (2005) and Galemba (2013) document, formal circulation is not the only or perhaps even the primary way that much of the world moves commodities in an era characterized by the rise of the global informal economy (see Portes, Castells & Benton 1989; Castells & Mollenkopf 1991). Particularly in a time of marketizing governmental reforms (Chalfin 2010), government facilitates but does not control (if ever it did) the flow of commodities. Carolyn Nordstrom (2007) has shown how contraband commodities travel the same circuits of “free trade,”
becoming a kind of always-present shadow cargo enabled by market-based governance. As the mythologies of the state as omniscient regulator of the industrial market crumble under free market ideologies, and unregulated economic activity increases, informal economic actors have come to express themselves in political spheres (Van Schendel & Abraham 2005; Roitman 2005; Hibou 2004). They articulate a new claim for jurisdiction, authority, and order in an era characterized by the dispersion of rule-making and authority-wielding jurisdictional forces (Comaroff & Comaroff 2009; Hadjimichalis 2006; Von Benda-Beckmann & Von Benda-Beckmann 2009). This dissertation is a study of informal unsanctioned politics, just as it is a study of formal market-based politics and the possibilities and limitations that inhere in them (e.g. Guthman 2004 on organics; Dávila 2012 on Latino identity; Blok 2011 on carbon markets; Biehl 2004 on pharmaceutical citizenship). Between the formal and informal, legal and illegal, criminalized and decriminalized, political claims arise from the margins of a reordering society. Knowing what these claims are, how others seek to control and direct them, and what effect they have in altering patterns of political-economic order, is critical to understanding the world prohibition has created and what world is possible in its wake.

The Plan and the Method

I have constructed a two-part body of this dissertation, with three chapters in each part. One chapter set focuses on California’s North Coast, which includes California’s oldest marijuana-producing region, called “the Emerald Triangle.” The other set of chapters addresses the Sierra Foothills in the exurban fringes of Sacramento, Stockton, and Modesto. The first chapter of each set explores marijuana’s integration into each area’s historical political economy from the 1970s to 2010. While marijuana production was critical to the North Coast political economy, it was
marijuana prohibition that was the critical factor in the Sierra Foothills. The second chapter of each set examines emergent forms of marijuana politics since 2010. On the North Coast, these politics articulated with economic development and the organization of wholesale production. In the Foothills, politics centered on medical rights and collective small-scale cultivation. The third chapter of each set takes up the realignment of various governmental capacities in this changing social context. On the North Coast, tribes became a focal point of federal prohibition’s retrenchment. In the Sierra Foothills, prohibition’s rationalities found their way into contentious battles over land use, law enforcement, and prosecutorial powers. Preceding this two-part body, I trace marijuana’s broader legal, medical, and economic histories.

Getting the material to construct these chapters required a gateway-crossing methodology. The most obvious gateway crossed was between legal and illegal realms. A handy tool for this crossing was the Certificate of Confidentiality, granted by the National Institutes of Health to protect against claims to my information by federal (and other forms) of law enforcement. The bifurcation of the federal government as enforcer of and protector from prohibition is indicative of the federal government’s own ambivalence over drugs as a law enforcement or medical issue. During fieldwork, it was revealed that intelligence agencies and anti-drug enforcement agencies were operating covertly, particularly via the tools of federal metadata and communication surveillance. Though I might be protected by the Certificate, it was no guarantee I wouldn’t be followed and surveilled in ways that would leave a trail between numerous marijuana activists, producers, traffickers, and others. As revealed in 2015, the DEA has been collecting data of the kind revealed by Edward Snowden since at least 1992 and perhaps 1987, well before the PATRIOT Act of 2001 (Gallagher 2015). I would often check my car wheel cavities for tracking devices, turn off phones and other GPS-enabled devices as I neared destinations, write phone
numbers and coded names in a codebook kept in a lockbox and only use those coded names in my field notes in case they were ever compromised. I drove the speed limit, kept data in encrypted files on my computer, and limited phone calls to coded references and brief logistical planning when dealing with people in illegalized positions. I kept my lockbox locked and hidden, and carried my computer almost everywhere. At a time when government officials (even sheriffs) were being threatened with prosecution by the federal government for engaging with policy formation around marijuana, my caution around data extended to all informants, not just “criminals.” Some precautions were likely unnecessary (or perhaps ineffective, given the broad scope of government surveillance being revealed daily in that period) but taking them meant I was doing everything I could to ensure the safety of people who had chosen to trust me. Despite this, the Certificate was crucial in assuring people that their information would not be used against them. Yet it was also a hindrance: people targeted by the federal government are not inclined to trust assurances by the federal government. While the Certificate opened some doors, it closed others. Further, the Certificate is framed around worst-case scenarios (confiscation by law enforcement) that amplified people’s fears of talking to me. By the end of fieldwork I began to feel that, in this document and more broadly, I had overestimated risk and consequences, estimations of which are required for research approval, and this had been a hindrance in the collection of data. Yet this may be part of the magic of the surveillance state—it may feel like a superstition or a harmless presence, until it comes crashing down.

The Certificate was critical for passing another gateway: the Institutional Review Board. The IRB at CUNY, which approves research through institutions, hadn’t had a project that required a Certificate for approximately a decade. In order to acquire the Certificate I had to first get a provisional permission from the IRB saying they would approve my research if the NIH granted
the Certificate. Since the NIH couldn’t grant the certificate until I had IRB approval, there was a
dance of conditionalities that ended in my ultimate approval, suspended between two institutions
and their sharing of liability and responsibility for the project.

In addition to the Certificate as a passcode for some gates, there was the less formal passcode
of social connections. I had lived in California for five years in the early 2000s and had
numerous connections to the marijuana economy. I hoped to not have to use these networks, as it
could lead to a conflict in how I understood and reported on these networks. In a region where
marijuana suffused social life, connecting to people in the marijuana realm was simply a matter
of putting myself in social situations—of scratching the surface. The most fruitful avenue for this
was through engaging with groups that were stepping out into political venues. Through these
groups, I was led to individuals and relationships that would range from one-off interviews to
deeper friendships.

Sometimes the Certificate became a kind of objectified form of trust while at other times
trust was won through days and weeks spent with people in the course of building a relationship
over multiple seasons. I would always bring a gift when encountering a person for the first time,
unless they were in an official capacity (e.g. a county supervisor). As relationships deepened
with people, I spent more and more time with them, ranging from a few days to over a month—a
period that would have not only been an imposition but an impossibility at the beginning of
fieldwork. Gates needed to be opened first. I found that a sign of trust and a way to build trust
was to stay at people’s houses. Covering a region that is bigger than most states (one county I
studied in was larger than Rhode Island) gave me an excuse to invite myself to stay (though
often the invitation was already offered). During fieldwork I traveled a lot, checking in with
different people over wide geographical areas. Traveling was important for establishing a rhythm
with informants and helped to build relationships over time, in episodic fashion. This ensured that the time we spent was not just centered on “research” moments but could take on a more social rhythm. These rhythms were the foundation of this dissertation, even if at times they got collapsed into interview sound bytes, policy analyses, and historical overviews.

In a method inspired by grounded theory, I would spend time with people, note what themes emerged, explore those themes with other people and in other situations, and then return back to the original informant to discuss observations and start the cycle anew around the same or new themes. Within these feedback loops, I would consult relevant theory to give shape to my observations. I would often draw conceptual-social maps to situate my findings and identify areas of importance that I had yet to explore and areas that I understood to be saturated (which I measured by the amount of repetition in participants’ observations).

Another important passcode to cross gateways was a medical marijuana recommendation, which I got after arriving in California. The recommendation exempted me from most state laws criminalizing marijuana, and allowed me to conduct research in dispensaries. The question often arises whether and how often I smoked with “informants.” Smoking or otherwise using marijuana was an important part of building trust with some informants but wasn’t necessary to my studies. As Adler (1985) noted, researching under the influence of marijuana is helpful for insights but not always for maintaining focused exploration. For this reason, using marijuana, which was a passcode of its own sort, was usually at more symbolic moments when, as one informant put it, I could show people I wasn’t “a Narc” or when I wanted to mark a shift in my mode of inquiry from investigation to participant-observation.

Given the fact that I was crossing from legal to illegal realms and working in settings as diverse as Native tribal ceremonies, medical laboratories, policy meetings, deputy ride-alongs,
and illegalized farms, I had to become many things to many people. Against my instinct to be my “self,” I partly allowed myself to become the things people wanted me to be, ranging from a pro-prohibition advocate, to a wannabe grower, to a misfit New Yorker, to a pot expert. It was challenging to study a field that was at first was swarming with public attention and later became the object of a devastating federal crackdown. In 2010, people were excited to talk as legalization loomed; in 2011, people were media-weary, having been analyzed for over a year; by 2012, people were media-leery, viewing journalists as irresponsible and dangerous interlopers who threatened people’s anonymity in a time of crackdown. I had to continuously reassure people I was not a journalist. I was a researcher and my aim wasn’t to expose anything but was to understand them and the larger context they were operating in over a longer stretch of time.

Soon after beginning fieldwork, I found myself enmeshed in a wide network of varied actors ranging from marijuana producers, patients, and policymakers to police, public health officials, realtors, and accountants. This wide range of people comprised the object of my study—“marijuana-centric networks.” These networks are the set of relations through which marijuana—as a plant, as a commodity, as a legal-criminal-medical object, and more—is materially and discursively produced. People in this network may or may not know each other, are far from homogenous, and reach across the line between legality and illegality. Marijuana-centric networks provide insight into the broader political economy of which they are a part, thus becoming a way of uniting a study of ethnography and political economy (Roseberry 1989; Di Leonardo 1993, 2006; Farmer 1996).

Seen methodologically, each person represented a different nodal perspective from which to understand the transforming political economy of the region. I took a page from the literature on “policy networks” (Hajer & Wagenaar 2003; Kenis & Schneider 1991) to grasp how this wide
network\(^4\) of people, reaching well beyond policymakers, came to affect the production of social policy. I also drew from the literature on criminal networks (see Paoli 2002; Desroches 2007) not only to understand how the legalized marijuana market worked but to make connections between illicit criminal networks and their relation to policy networks.\(^5\) Too often the line between licit/illicit and legal/illegal is reproduced in analyses that imagine the two to be separate rather than articulating with each other. A subculture or moral economy is held to be absolutely separate from the society of which it is a part (see Roitman 2006 for critique). Conversely, theories of criminal firms, entrepreneurs, or professions can reduce crime to rational economic action, thus making no distinction between legality and illegality. Whether viewing the legal and illegal as distinct or similar, each of these analytical modes struggles to see the lived and everyday connections between legal and illegal realms, how social life is holistically comprised across lines separating the illegal/legal, formal/informal, regulated/unregulated, and rational/irrational. In keeping with my gateway methodology, I traversed these legal/illegal realms methodologically, highlighting what is unique to and shared between each.

I was in the field for 19 months between 2010 and 2014, and collected data through semi-structured interviews and participant observation. I had dedicated interviews with 72 people but held discussions with and took notes on many more. On the North Coast, I conducted participant

\(^4\) I define a network in two ways: 1) a set of social relations that have a particular density, structure, and cohering characteristics and rules; and 2) a socially-produced imaginary of interconnections through which discourses circulate, power flows, relations are built, and network practices emerge.

\(^5\) My aim was not to map networks, which could potentially compromise informants. Further, social networking can focus on people who overtly broker relations and dominate resources rather than grasping less overt forms of power, such as everyday discourses and the practices of non-dominant actors. This was especially important in studying criminalized populations, whose effect on the formal-public sphere is often indirect. I relied on Actor-Network Theory (ANT; see Routledge 2008; Riles 2001) to tease out not just who held power but how power was crafted through discourses and practices. I use a network approach rather than a “social life” of marijuana approach (Appadurai 1988) so as to direct my attention to the networked relations, discourses, and practices that operate through and on marijuana as opposed to analytically centering the commodity itself and granting it agency. Prohibition has already done a good job of centering marijuana as a commodity—marijuana (not prohibition and the racist, xenophobic, and classist forces that undergird it) destroys lives. Legalization advocates can reproduce this same commodity fetish, yet a freed marijuana does not undo the systems of inequality marijuana prohibition cultivated and protected.
observation, made contacts, and determined who was necessary to interview largely through political groups organizing around county marijuana policy. In the Sierra Foothills, I attached myself to a medical marijuana patient advocacy group that similarly allowed me to expand contacts and participants. Both of these investigations were supplemented by trips to the Bay Area and Sacramento to gather statewide and regional data. I usually used interviews for people who were only tangentially (and professionally) related to marijuana—policymakers, law enforcement, bureaucrats, real estate brokers, financiers, accountants, lawyers. I mostly did participant observation with people whose lives centered around marijuana—patients, cultivators, activists. I chose people to interview and spend time with based on the adapted grounded theory method described above, and tried to get several interviews with each “type” of person, such as medical dispensary owners and workers, patient-cultivators, county bureaucrats, etc. I covered many field sites including a medical dispensary, several series of policy deliberations, activist meetings, a quality and safety testing laboratory, a marijuana industry educational facility, a smoking club, a bar, a court case, and a circuit of trade shows, conferences, and other convenings. The choice of sites was based on the serendipity of the gates opened to me and what issues necessitated further research. I used a SmartPen, which allowed me to record interviews, write with the recorder, and then upload both notes and audio to a single format that I could explore with ease. Interviews were semi-structured around themes that emerged in previous interviews and data analysis and unearthed in conceptual-social maps. Interview questions differed with each interview because of the broad array of interviewees with whom I engaged.

While I sought out key figures in political positions—central activists, politicians, key lawyers, etc—I aimed to avoid doing “big man” research that would privilege and prioritize those who possessed the most social power and neglect those without. This is particularly a
problem in the social dynamic where many would-be leaders are consigned to illegality while those who step out can be spotlight-seekers. People who were politically active often were those who most readily saw the value in what I was doing and, likely, saw speaking with me as part of their political work. Because illegality kept many from political participation, however, I had to spend more time fostering underground relationships than I did with activists and officials.

When I returned from the field I spent several months transcribing interviews, organizing field notes, and presenting initial findings at conferences. Many of the interviews I transcribed myself, but when they were low enough sensitivity I hired an agency to transcribe them. I transferred the file through a secure file transfer protocol (FTP) and supplied the company with my Certificate of Confidentiality to reference in case they were contacted by government agencies. I coded field notes but found it more helpful to “write through” interviews, organizing them into themes as I explored the content of the interview. This work resulted in the chapter structure and first draft of the dissertation. Those drafts were longer versions of the present chapters and not all chapters were included in this dissertation. It was my aim to edit the chapters down to a point that retained complexity and represented individuals and scenarios without being too prolix. Theory—harnessed from academia and generated from fieldwork—helped to streamline this process. This said, I have tried to avoid a long theoretical exegesis in order to convey the low- to mid-level data from which I drew conclusions. It is to this work I now turn.
II. History of the Marijuana Gateway: Moments of Transition

Prohibition did not arise from one historical cause, but emerged from a convergence of social forces that have sculpted prohibition over time. In this historical overview, I parse out three historical trajectories—criminalization, medicalization, and economization—to situate marijuana and the systems of locks, gates, and terms of passage that have comprised marijuana’s prohibition. I bring particular focus to California’s prohibition history but explore national and international dynamics too. I frame marijuana history in a tripartite chronology, preceding the period under study. The first period spans from the Progressive era’s establishment of marijuana prohibition (beginning in California in 1913 and nationally in 1937) to the passage of the Controlled Substances Act of 1970. The second covers 1970-1996 in the build-up of the “War on Drugs,” ending with the passage of medical marijuana in California in 1996. The third period spans from 1996 to 2010, encompassing a struggle over the reach of federal power and ending in the near-passage of fully-legal marijuana in 2010 in California. The period following 2010, including the passage of legalization measures in four states and Washington DC, comprises a fourth period in my chronology, and is the subject of this dissertation.

Race, Crime, and Labor

Marijuana was first prohibited in California in 1913. The action was taken by the Board of Pharmacy (discussed in the next section), despite little to no public expressions of concern or moral panics to justify its ban (Gieringer 1999). The lack of panic was not for lack of trying. Henry Finger, a member of the Board of Pharmacy and a delegate to the world’s first anti-drug summit at The Hague in 1911, attempted to foment moral concern around marijuana. In
particular, he targeted “Indian hemp” and the “Hindoos,” or more accurately East Indian Sikh and Punjabi farmworkers (Gieringer 1999). At the bottom of the mercurial farmworker racial hierarchy, South Asians were considered by Finger to be “a very undesirable lot” who would initiate “our whites into this habit” (Gieringer 1999: 19). Finger’s fear of racial contagion would set a pattern for the rollout of marijuana’s prohibition nationally. Yet, with only 2000 South Asians in California in the early 1910s, Finger’s racial alarmism did not provoke the public panic he hoped for—unlike the anti-Japanese fervor that resulted in California’s Alien Land Law of 1913 (the same year as marijuana prohibition), which lumped South Asian laborers in its racial definition of “Asian” people and the “Yellow Peril” they ostensibly presented. Finger’s anti-South Asian biases were part of a long history of criminalizing Asian laborers once they either became peripheral to economic production or began to acquire political and economic power to rival white economic interests. The backlash against Chinese labor in the 1870s and 1880s had led to one of the nation’s first drug laws in 1875 San Francisco. The narcotic ban of 1907 similarly targeted Asian workers. The racial and labor components of drug prohibition were interlocking and had been evident for some time.

As Hall et al. (1978) postulated, criminal laws precede criminal acts and presage the formation of “panics.” Thus, it wasn’t until after marijuana’s prohibition that prohibition’s first major target emerged: Mexican workers and communities. Mexicans had been propelled north by Mexico’s Civil War, seeking work and at times bearing a cousin of Indian hemp known as “marihuana.” It was because of all these factors—fear of political radicalism, economic competition, racial difference, and unfamiliar substances—that the Mexican community of Los Angeles’ Sonoratown (Gieringer 1999) became the site of California’s first marijuana raid.

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Marijuana prohibition was but one measure taken to control and devalue California’s agricultural labor through racializing stigmatization, much like the public health efforts, labor camps, and quarantining of farmworkers in the years following California’s Wheatland Riot of 1913.7

The year 1913 was a pivotal year in California governance: marijuana prohibition was passed to guard against “Hindoos” (and Mexicans soon after), the Alien Land Law prohibited “Asian” people from buying and owning land (particularly the Japanese who were beginning to buy property [Brechin 1999; Pfaelzer 2007]), the Wheatland Riots incited widespread fear over farmworkers uniting across racial lines, and LA, which had just opened its aqueduct and jumpstarted its explosive urbanization, was locked down by police forces under martial law after years of labor unrest and free speech activism came to a head. Marijuana prohibition was born in the tumult of race, labor, and Progressive and racist policies to govern a stratified society. In the wake of this period, marijuana (and other drugs) facilitated the rise of a significant policing force to criminalize California’s residents. In the 1920s, a quarter of LA’s arrests were for marijuana, already a high number, but this number climbed to 60% in the 1930s (Gieringer 1999).

Replacing Japanese and other Asian workers, Mexicans became the valued rural labor force of the 1910s (Mitchell 1996). By the 1930s they were vilified in racial terms and were arrested in ever-greater numbers. 8 The American Federation of Labor had been pushing for years to end Mexican laborer immigration but had been opposed by major farm and commercial interests seeking cheap labor. When Mexicans began organizing after 1928, however, agricultural interests sought a means to control Mexican labor without deporting them or stopping immigration. Marijuana became a useful device toward this end. During the Depression, a backlash against Mexican laborers exploded throughout the Southwest, which was home to 90%

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7 See Mitchell 1996 on the new rationales and disciplinary spatial regimes of farmworker control.
of the US’s Mexican population. Marijuana criminalization dovetailed with the general antipathy of US workers to Mexican labor—a theme that continues today.

Californian and Southwestern racial animus was a critical factor leading to national marijuana prohibition in 1937. But that achievement would rely upon other critical factors: fears around African Americans and the corruption of white youth and women, as well as the actions of influential moral entrepreneurs, particularly the commissioner of the Federal Bureau of Narcotics (FBN), Harry Anslinger. After the cessation of alcohol Prohibition in 1933, there was an excess of state capacity built up in law enforcement institutions (cf. Gilmore 2006 on institutional surplus and crisis; see Sloman 1979). Anslinger got his start as the assistant commissioner for alcohol prohibition and, after its repeal, positioned himself to be the first commissioner of the FBN. A consummate administrative-managerial professional in the image of J. Edgar Hoover, Anslinger took bureaucratic initiative by spinning alcohol prohibition into a new marijuana-focused prohibition. For several years preceding the Marihuana Tax Act of 1937, Anslinger built the case for marijuana prohibition through a PR campaign that still echoes today. Hemp activist Jack Herer (2010) advanced a theory that behind marijuana’s illegalization lay an alliance between Harry Anslinger’s FBN, the DuPont and Hearst corporate empires (who feared hemp as a threat to wood-based paper and synthetic fibers), and Andrew Mellon (who not only appointed Anslinger as FBN commissioner but was the key financier of DuPont). It is true that 1) the Marijuana Tax Act illegalized all cannabis-derived products including hemp, thus failing to delineate between psychotropic and industrial uses; 2) that Hearst’s newspapers were a critical mouthpiece of Anslinger’s marijuana scare; and 3) that DuPont patented technology to transform oil and coal into plastics in 1937 (the year of the Tax Act), which could have been threatened by

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9 The term “marihuana” replaced the medical resonance of “cannabis” in a veiled effort to play upon racial and xenophobic impulses.
emerging hemp technologies. Regardless of the veracity of this conspiracy charge (which has been criticized by Wishnia 2008 and Gieringer 1999), one should not be distracted from the development of marijuana prohibition from the institutional apparatus of Prohibition and the broader anxieties over race that drove marijuana prohibition’s passage.

The case against marijuana was made simple in Anslinger’s public relations message: white people, particularly white women and youth, were endangered and corrupted by a violence-inducing substance purveyed by Mexicans and African Americans. The fear of African Americans was rooted in anxieties over racial mixing and miscegenation, particularly in the jazz venues of New Orleans and Los Angeles. This anxiety didn’t reach national proportions until it traveled north to 1930s Harlem during its black Renaissance, and throughout the jazz scene more broadly (Sloman 1979). Like the bars of the early 1900s, so disdained by Prohibition’s industrialist boosters, jazz clubs were a place of political ferment among an economically-depressed, itinerant laboring population. Fraternization across racial and gender lines threatened the system of racial division that structured the labor market—and the politicians that derived power from this division. Marijuana prohibition was passed the year that anti-Communist purges of labor unions went into full throttle (Lens 1973) and was one component in a larger effort to fight labor radicalism, construct the new productive (white) laborer, and stymie the potential for cross-racial labor unity.10

The prohibition of marijuana came in the same year that a significant shift in racial

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10 In the 1940s, Anslinger transformed the notion that marijuana created manic criminal behavior into the idea that it caused laziness and impeded productivity—an idea formulated in the 1970s as the “amotivational syndrome.” Marijuana prohibition became a war for a particular kind of productive white worker, threatened by people of color and the Communist threat. The year Prohibition ended, amidst the Great Depression, Benzedrine was approved and its indicated uses were widely expanded the year of marijuana’s prohibition. Biophysically and metaphorically, Benzedrine and its amphetamine variants reflected the biophysical attributes of the US’s industrial rise and its wartime mobilization (Rasmussen 2008; Grinspoon & Hedbom 1975), just as they fueled the armies of Germany, Japan, and later, the US (Owen 2007; Pine 2006). The US soldier, just like the US worker, was amphetamine-driven and pharmaceutically-dispersed; significantly, the supply was not agriculturally grown and distributed (ostensibly) through networks of people of color, in ways that facilitated miscegenation and radical ideas.
governance—and terror—was taking hold at a national level. Several of the “Scottsboro Boys,” supported as they were by the Communist Party USA, had just been acquitted in the Supreme Court. The anti-lynching Gavagan bill was being heatedly debated, underscoring disunity in the capitalist class over the contours of racialized social control in a nation built toward industrial-military mobilization. War required a moral cause and legitimacy. Caught between the moral legitimacy of US liberal ideals (equality, freedom, etc.) and the reality of racist US policies, overt racist violence became increasingly controversial even before the war. Marijuana thus came to serve as a form of crypto-racial governance—a governance found less in the act of lynching and more in the act of the drug raid. No example encapsulates this better than Billie Holiday’s final years after she wrote and performed “Strange Fruit,” a song exposing the reality of lynching to a broader American conscience. Anslinger, the architect of marijuana prohibition, destroyed her life by black-balling her from performance venues, harassing her with raids and trials, and even charging her with drug possession in the hospital where she would die, isolated and forbidden by Anslinger’s agents to receive visitors (Hari 2015).

Marijuana prohibition was racial warfare by different means. It came at a critical period when labor radicalism threatened racial-capitalist forms of accumulation. Marijuana was ostensibly not racial—a plant has no race. However, enforcement was anything but racially neutral. It re-racialized governance in a period when lynching and racist policies were being challenged by a rising anti-Fascist sentiment, Communist agitation, and a nascent civil rights movement. In the face of these forces, racial status alone was becoming less of a legitimate mode of operation for the justice system (see Alexander 2012). However, the contraband commodity form, rehearsed in alcohol prohibition, criminalized populations of color, disciplined white working populations, and preempted radical politics by means that concealed racial governance.
in the abstract social neutrality of the commodity.

The final factor undergirding marijuana prohibition in 1937 was the panic over white women and youth. African American jazz clubs were feared as threats to the purity of white womanhood, especially younger white women. Famously portrayed in the propaganda piece “Reefer Madness,” marijuana could apparently destroy families and corrupt the minds of youth, turning them into aggressive, violent, amoral individuals. Mexican Americans would push “marihuana” onto unsuspecting whites and African Americans would do the same at jazz clubs. At stake was the reproduction of the white race. White women and youth were saddled with these racial and gender anxieties. Marijuana prohibition was an appeal to buttress the patriarchal heterosexual white family—not from state policies and economic forces that endangered the white family’s privileged position, but rather from African Americans and Mexicans that purportedly sought to corrupt white women, turn children against parents, and spread social disorder through an innate drive to commit crime. Marijuana prohibition can be considered a covert means of racialization and a method of breaking incipient political unity by leveraging fears around gender, sexuality, race, and youth.

In the post-war period, marijuana became an important ingredient in Cold War politics. Domestically, it was critical to the red-bait targeting of Communist radicals and “subversives,” disciplinary concern over laborer productivity, the ongoing targeting of African-American and Mexican people, and a refurbished anxiety over white youth as they intermingled with people of color in the Beat movement.

Although several conventions on narcotics had been ratified in the 20th century, in 1961 marijuana prohibition went international with the formation of the Single Convention on Narcotics. The Single Convention, which was ratified by the US in 1967 and took legislative
form in the 1970 Controlled Substance Act, marked three significant shifts in US drug prohibition. First, it marked the official shift from de facto prohibition under the civil taxation authority of the Treasury’s FBN to de jure prohibition under the criminal enforcement authority of the Department of Justice. Second, marijuana prohibition was instituted at the highest level of US law. Under the Supremacy Clause, foreign treaties were on par with the Constitution as law of the land until repeal by Congress or the President.

Third, the Single Convention enabled the targeting of entire nations as prohibition enforcement zones. In the treaty’s terms, countries could handle their domestic drug users in ways they deemed fit (although a punitive approach was highly encouraged in the wording), but all signatories had to commit to establishing a global apparatus to cut off supply and to criminally punish drug commerce. A major source of foreign assistance and arms sales, the US leveraged its imperial role to coerce countries into compliance with the Single Convention (and the ever-more prohibitionist revisions the US forced in the early 1970s) and, after 1986 legislation, with all anti-drug efforts led by the US (see Scott 2010). As the world’s most widely-grown illegal drug (Decorte 2011) and the largest single illegal drug in circulation, marijuana was the central—and under-recognized—lever of US-led imperial drug war strategy. From Burma, Columbia, and Panama to Nicaragua, Jamaica, and, now, Mexico (Cockburn & St. Clair 1999; Conroy 2012; Gootenberg 1999; Grayson 2009), drug war interventions were cast as a simple matter of (global) law-and-order, outside the bounds of civil protections or political claims. The US hid the political motivations of these interventions—such as the destabilization of peasant radicals in Central and South America—behind this law-and-order cloak.

Even as the War on Drugs worked against drug markets, it also worked through these markets to secure its own interests (most recently, as journalist Bill Conroy writes, in the case of
the DOJ’s Fast & Furious gun-running campaign, which reportedly sought to empower the Sinaloa cartel as US clients over the Zetas). This pattern of working against and through drug economies was evident from the early days of the Cold War. In the 1950s McCarthy era, Anslinger played on fears of Communist Chinese opium production to fuel his domestic drug war machine even as the CIA worked with exiled Chinese Nationalists in Burma to produce and peddle opium to fund their counter-revolutionary efforts (McCoy 1991).

After Nixon signed the historic Controlled Substances Act (CSA) and announced the War on Drugs, various civil society actors moved to decriminalize marijuana (if not all drugs). Nixon’s own Shafer Commission, formed to study drug policy, recommended the decriminalization of marijuana use and possession under one ounce. While Nixon ignored those findings, state policymakers decriminalized marijuana in eleven states including California. The motivations for this policy development were partly grounded in state budget concerns. Escalating marijuana arrests were becoming untenable in light of entrenched stagflation. California’s marijuana costs, for instance, increased from $8 million in 1960 to $100 million in 1972 with concurrent arrest rates moving from less than 4,000 in 1962 to 100,000 arrests by 1974, comprising a quarter of all felony charges in the state (Aldrich & Mikuriya 1988). The move toward decriminalization reached a high water mark in 1977 when President Carter, in comments to Congress, called for national decriminalization. Even at that moment, however, there was little agreement about what “decriminalization” entailed. It could range from the elimination of first offense criminal charges, to exceptions for possession of variously-defined “small” amounts, or reduced prison terms. At the state level, it only applied to small quantities (i.e. for personal use, not distribution) and almost uniformly covered only possession and use. All upstream economic activities—growing,

11 After decriminalization, arrests fell by approximately 78% over a decade (Aldrich & Mikuriya 1986) before later creeping up.
brokering, transporting, possessing more than the state limit—remained criminal offenses. The
one factor common to the 11 states that decriminalized marijuana was “depenalization”—the
elimination of prison terms for a specified group (e.g. first-time offenders) (Pacula et al. 2005).
Regardless of formal policy, in everyday practice, law enforcement officers could often
circumvent decriminalization, such as with New York’s caveat prohibiting publicly visible
marijuana. By 2000, states that decriminalized in the 1970s were virtually indistinguishable in
terms of penalties from states that didn’t (Pacula et al. 2005), which had as much to do with
weak policy as with the resurgence of federal prohibition power in the 1980s and its effect on
pushing and pulling states toward prohibitionist policies.

Efforts to decriminalize marijuana bred a certain type of political engagement and cultural
currency for marijuana. Groups like NORML (National Organization to Reform Marijuana
Laws), a Washington-based advocacy group, led efforts to decriminalize marijuana in the 1970s
(Heddleston 2012). As decriminalization advanced, the possession and use of marijuana became
an object of cultural-commodity fascination and taboo-inspired pleasure, best represented in the
sleek pages of *High Times* and the spectacle of marijuana it projected (Lee 2012). While
commodity-oriented periodicals sustained and gave voice to a submerged, illegalized community
(marijuana growers and consumers) and activity (pot consumption and production), it also served
to normalize the commodity as yet another forbidden pleasure of the American public. Like sex,
it was a peccadillo that incited endless discussion and thrills. Marijuana was an omnipresent
-taboo under an enduring prohibition, which seemed toothless to some and vindictive to others.
While marijuana had acquired political and symbolic importance in countercultural resistance, by
the 1970s many activists, targeted by law enforcement, avoided its use, even as its political
meanings became dulled in the eschatologies of New Age religions and back-to-the-land
First in the countercultural movement and then in youth culture more broadly, marijuana’s use became more socially permissible and widespread during the 1960s and 1970s. With this growing licitness, marijuana’s consumer base became whiter—as did the profile of those arrested. Decriminalization of downstream economic activities—possession and use—protected white people, while continuing to criminalize upstream economic actors, many of whom were economically and racially marginalized. Because of this, commentators and activists (e.g. Sloman 1979; Aldrich & Mikuriya 1986) criticized decriminalization and normalization, arguing that it was racially inflected. By decriminalizing the end user of the marijuana commodity chain, decriminalization enabled a much harsher criminalization of personnel upstream—producers, traffickers, brokers, distributors—who were by and large society’s most excluded. Those involved in marijuana commerce were framed as “serious” criminals (not as workers, people of color, producers, unemployed, etc.) while consumers were guilty of only minor offenses. Further, in California, possession and use was treated as a “wobbler” (a charge that could either remain a misdemeanor or be escalated to a felony charge) and depended on the discretion and biases of prosecutors and the cooperation of offenders with law enforcement. In these discretionary legal practices, the racial and political aspects of criminalization—and decriminalization—thrived.

In addition to its racial dynamics, many saw in decriminalization a move to defuse demands for full legalization. Sloman (1979) criticizes NORML for compromising and dividing the

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12 Importantly, the white hippie became a type of derelict whiteness and a target of law-and-order prohibitionism. White youth were not only corruptible by marijuana [as in the 1930s] but were now objects of prohibition. Against this, a good whiteness was constructed.

13 As shown by numerous indicators: whites are just as likely to smoke marijuana as African-Americans, and are approximately three times more likely to be arrested for possession. Despite marijuana decriminalization in 11 states, approximately 40% of all drug arrests from 1995-2010 were for marijuana possession (not intent to sell, trafficking, conspiracy, or the many other charges that can apply to marijuana). In California in particular, the state still made 850,000 arrests over 20 years just for possession; African Americans and Latinos were many times more likely to be arrested (Levine, Gettman, & Siegel 2010; see also Males & Buchan 2014 showing that decriminalization may decrease total arrests but does little to nothing to decrease racial disparities in policing).
movement for full legalization—not partial decriminalization—in its effort to bring along major donors and supporters and to assimilate (normalize, a la NORML’s name) marijuana into mainstream America. This view was formulated by advocates like California’s LEMAR (LEgalize MARijuana, which later spread to New York City via Allen Ginsberg [Lee 2012]), its successor Amorphia (which put California’s first legalization proposition on the ballot in 1972), the DC-based Outlaws Collective, and New York’s Cannabis Liberation Squad.

In California, a 1972 legalization ballot helped to unify an emerging legalization movement in the face of national pressures toward diluted decriminalization demands. Dr. Todd Mikuriya, a former National Institutes of Mental Health employee (which was a locus of efforts in the 1950s and 1960s to medicalize addiction and decriminalize marijuana) and drug war critic, led a 1978 campaign to demote marijuana to the lowest enforcement priority in Berkeley. San Francisco marijuana activists united behind progressive San Francisco mayor George Moscone, who had sponsored a statewide decriminalization bill. Moscone’s close ally, Supervisor Harvey Milk, was supported by Dennis Peron, a legalization activist who operated San Francisco’s Big Top Pot Supermarket (1972-1977), a marijuana clearinghouse in the gay Castro district. A nexus of gay, countercultural, and marijuana activism culminated in Peron winning a San Francisco ballot measure to stop enforcement of all marijuana laws in 1978 (which he learned of from a jail cell) (Heddleston 2012). If President Carter’s declaration was the high point of decriminalization, Peron’s ballot was a high point of legalization—advocates had fully rejected prohibition in one of America’s major cities. Shortly after, however, Milk and Moscone were assassinated. The conservative successor, Diane Feinstein, refused to implement Peron’s legalization measure, and, with the subsequent election of President Ronald Reagan, whose political career rested on the backlash against marijuana and the movements from which it sprung, a chill settled over San
Francisco. The legalization movement disintegrated.

Ronald Reagan’s War on Drugs is a foundational event in the dynamics explored in this dissertation. Reagan—who like Nixon was a California politician who got his start in the anti-Communist purges of the 1950s and gained steam with the Goldwater campaign of 1964—placed the War on Drugs firmly on the national agenda in the 1980s. He helped produce a phenomenal build-up of the world’s largest prison system, a new racial formation and mode of punitive governance over a deindustrializing labor force, and a refurbished moral concern around youth, families, and reproduction. All this was new, yet it also was quite familiar.

Another foundational event in this dissertation is the collection of forces building toward the second decriminalization wave that emerged after Reagan’s drug war inauguration. Medical marijuana, much like the non-medical decriminalization efforts of the 1970s, contained the hallmark contradictions of other “decrim” efforts—legal nebulousness, downstream decriminalization facilitating upstream criminalization, the lifting of some sanctions rather than the full legalization of the plant, the discretionary enforcement and non-enforcement of laws. In one way medical marijuana was simply a move to decriminalize in new terms. Yet marijuana’s medicinal dimensions go much deeper.

*Medicine and Marijuana*

The California Board of Pharmacy formed in 1891. It was composed of professionals from an emerging medical and pharmaceutical field as well as from law enforcement, who were all charged to protect the “public health, safety, and welfare” of Californians. It had ventured into drug prohibition early by passing restrictions on heroin, opium, and cocaine in 1907, several

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14 This is also true for a third wave of non-medical decriminalization laws in places like Maryland (2014), Missouri (2014), California (2010), Massachusetts (2008), Philadelphia (2014), Rhode Island (2013), and Vermont (2013).
years prior to the passage of the federal Harrison Act, which outlawed these substances nationally. Marijuana, used in some medicinal tinctures, was largely unregulated in the early 1900s. It was hardly mentioned in California records (Gieringer 1999) prior to 1913, posing little to no problem for “public health, safety, and welfare.” Regardless, in 1913 the Board decided without scandal that marijuana would no longer be allowed as a medicinal ingredient.

Though prohibition may seem correlated with conservatism, this was the Progressive era—the most formative period of federal government expansion since Reconstruction (Bensel 1991; Link 1963). Marijuana prohibition was actually typical of the Progressive (and Fordist) era. It was characterized by a pro-regulation social managerialism, the union of private interests (e.g. doctors, drug makers) with social reformers, the disciplining of workers through Fordist moralities, a growing regulation of consumption, the consolidation and professionalization of medical power and authority (Starr 1984), and the formation of civil “public health” powers to regulate daily life (Blocker 1979; Tyrell 1979; Mitchell 1996; Schneider 2009). Like alcohol prohibition, marijuana prohibition emerged largely from the worker-heavy Northern states (Massachusetts 1911; Maine, Wyoming, Indiana 1913; New York City 1914 [Gieringer 1999]).

Over the following two decades, marijuana prohibition expanded across the nation. By 1937, the year federal prohibition passed, marijuana’s valence as medicinal had been almost entirely eclipsed by its criminalization. Part of this was the doing of the pharmaceutical and medical profession, which sought to eliminate lay production and control plant-based medicines (Starr 1984) in order to consolidate medical authority. The Marihuana Tax Act sounded the death knell of marijuana’s medical definitions. Its use as medicine—for use, prescription, or research—became legislatively forbidden. The American Medical Association protested as they watched their earlier efforts to control and regulate marijuana turned into a federal mission to
eliminate all uses of marijuana. Yet, both prohibition and medicalization emerged from the same Progressive-managerialist line: experts should guide government regulation and regulation should protect the moral health of the public from its endangerment by unscrupulous, illegitimate actors.

By 1961, the medical and scientific community was debating whether drugs should be treated, as Anslinger urged, as a moral threat requiring law enforcement (sanctions against marijuana had increased twice in the 1950s), or as a medical issue. The push toward medicalization was widely apparent in the growing medicalization of alcoholism and the emergence of psycho-pathological treatment for drug addiction in the 1950s (Edman 2009); the criticism of criminal labeling that emerged from sociologists (Becker 1953); the 1963 recommendation of President Johnson’s Advisory Commission on Narcotic and Drug Abuse for the medical treatment and rehabilitation of marijuana and drug users. Legislation on community health centers and narcotic rehabilitation passed in 1965 and 1966; and the growing influence and funding of the National Institutes of Mental Health in the 1960s continued the trend (Anderson, Swan & Lane 2010). A decisive moment between prohibition and medicalization came in 1961 when Anslinger attempted to censor the findings of Indiana University’s Dr. Alfred Lindesmith, a key proponent of medicalization of marijuana and other drugs. President Kennedy intervened, pushing Anslinger to resign just prior to his fourth decade at the helm of federal marijuana prohibition. The path to medicalization seemed assured.

Anslinger’s last act, however, was to oversee the formulation of the Single Convention on Narcotic Drugs, a move that thwarted efforts to medicalize marijuana. The US signed it in 1967 at the urging of Anslinger, who came out of retirement to combat the growing and powerful motion to medicalize. The Single Convention committed the US to prohibitionist—not
medical—policies regardless of whether the increasingly brittle Marihuana Tax Act was ruled unconstitutional. Anslinger’s actions were prescient; the Marihuana Tax Act would be nullified in 1969 by court decision in a suit brought by Timothy Leary. The Single Convention enshrined prohibition in international law but it did allow medical and scientific exceptions to drug laws if these exceptions were tightly controlled and monitored by a nation’s government and designated cannabis agencies. Nixon, who implemented the Single Convention through the Controlled Substances Act of 1970 (CSA), saw to it that cannabis was designated as a Schedule I drug, defined as having no medical or scientific value, thus imposing a significant barrier to marijuana’s medicalization. Making the case for marijuana’s medical and scientific value was difficult, of course, if research and medical use were prohibited.

In 1973, Nixon authorized the formation of the National Institute on Drug Abuse (NIDA), which replaced the NIMH as the center of drug use research. This shift away from mental health framing reflected an altered medicalization and scientificization of marijuana. It redirected research from social work, education, rehabilitation, and treatment toward research into addiction, genetics, and the brain (Anderson, Swan & Lane 2010), thus framing marijuana in medico-biological rather than medico-social terms. One of the more powerful hypotheses to emerge from NIDA-funded research was the gateway hypothesis, which was little more than a scientific and medical renovation of earlier theories of marijuana as a gateway to moral, societal, and racial degradation. The modern variant of the gateway hypothesis was first postulated by a NIDA-funded scientist named Denise Kandel in Science Magazine (1975)\textsuperscript{15} and became central to decades of drug research and prevention education—with little evidence accumulating to support it (Earleywine 2007; Golub & Johnson 1994; MacCoun & Reuter 2001; National Commission on

\textsuperscript{15} Kandel ironically found, even at that early stage, that cigarettes were more likely to function as a gateway to harder drugs, a recognition that would eventually lead to a Nobel prize for her neurologist husband, Eric Kandel.
Marihuana and Drug Abuse 1972; New York Academy of Medicine 1944). The hypothesis was popularized by Robert DuPont (Kandel 2002), the first director of NIDA (1973-1978), the second White House Drug Czar (1973-1977) and an appointee of Nixon, who himself spent quite some time fretting over the potential of marijuana to corrupt America’s white youth. Anxiety over marijuana’s harm cyclically came to focus on youth, who symbolically represented and encapsulated the future of the American nation. This was as true in the anxiety over youthful miscegnation in the 1930s as it is today in debates over schizophrenia, academic achievement, “drugged driving,” and juvenile brain development in an era of declining US global hegemony. In the 1970s, the gateway hypothesis scientifically articulated US anxieties over youth activism, the counterculture, and the racial intermixing and sexual freedom these movements valued, thus enabling prohibitionist responses over the liberal-medical impulse to treat. Though DuPont himself had once advocated marijuana liberalization (Maugh 1976), he later mobilized the gateway hypothesis herd public sentiment against marijuana. In 1984, during Congressional testimony, he reversed his earlier position on marijuana law liberalization and advised Congress and the public to “get tough on gateway drugs” (DuPont 1984). His volte face was one marker of a rearguard action by NIDA and the Reagan administration to undo the damage done by a cortege of NIDA-funded researchers in the 1970s. These researchers had found that not only was marijuana not harmful, a conclusion that Nixon’s Shafer Commission came to in 1972, but was perhaps even beneficial (Carter 1980; Dreher 1994, Rubin &

17 DuPont and NIDA also advanced the amotivational syndrome hypothesis, which argued marijuana was a threat to worker productivity. This arguably had more to do with the economic doldrums of the 1970s than it did with any measurable effect on productivity as evidenced by studies of marijuana use and productivity in Jamaica (Comitas 1976).
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Comitas 1975; Munson 1975; Sallen, Zinberg, & Bland 1975). Later, a NIDA director would testify to Congress that their aim was specifically to research the *harmful* effects of drugs—not their benefits—a criterion to which fund-seeking researchers have grown hip.¹⁹

The many positive results found by NIDA-funded marijuana researchers in the 1970s became fodder for a new medical politics of marijuana. In 1978, glaucoma-stricken Robert Randall sued the federal government for his right to consume marijuana under a plea of “medical necessity.” Glaucoma was one of the conditions found by initial research to be treatable with marijuana. By court order, the federal government was forced to create a system to supply Randall marijuana, which they did for the remainder of his life, along with 14 other patients. By the end of 1980s, this federal supply became the target of HIV/AIDS activists, who had discovered marijuana was an effective palliative for dying AIDS patients. The federal government’s public health response to HIV/AIDS, which largely affected gay men and intravenous drug users, was entirely inadequate. The first drug released was AZT, a drug that had been previously deemed unsafe for human consumption. It ravaged the body and rivaled the health effects of AIDS-related illnesses. Marijuana provided both relief from the side effects of AZT, particularly wasting syndrome, and for those not on medication or in their final days, it provided palliative relief that enabled them to avoid morphine and the mental incapacitation it brought.

The federal government (led by Vice President Bush) had been working with pharmaceutical corporations to create synthetic THC (the active ingredient in marijuana) so that provision of plant-based marijuana would not be necessary for other patients. This resulted in the drug Marinol in the mid-1980s, a synthetic and much less effective substitute for marijuana, which

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initially treated chemotherapy patients. As the federal government came under pressure from AIDS activists to supply marijuana, the government expanded Marinol’s indications in 1992 to treat another critical ailment—wasting syndrome, most commonly experienced in HIV/AIDS patients. The timing of this expansion was critical: people living with (and, at that time, largely dying of) HIV/AIDS were flooding the federal government with applications to be approved for medical marijuana. Marinol allowed the government to close the program to new enrollees.

In 1991, as it was becoming clear that the federal government was not going to supply marijuana to HIV-positive people, gay San Francisco activist Dennis Peron opened the San Francisco Buyer’s Cooperative. This was the most significant and successful challenge to marijuana prohibition since Peron had opened his “pot supermarket” and passed a San Francisco legalization initiative in the 1970s. Peron’s work (and the work of many marijuana activists) was the most visible expressions of a broader effort by ACT-UP chapters to illicitly dispense marijuana to patients nationwide. Marijuana and HIV/AIDS activists found a major boon from a 1988 ruling by the DEA’s chief administrative law judge, who determined that marijuana was medically valuable and should be rescheduled. The medical aspect of marijuana once again burst from its historical quarantine.

Five years later, in 1996, Proposition 215 was passed by California voters, thus creating a legal allowance for medical marijuana. An alliance of medical activists and deep-pocketed national funders presented a formidable force that took the federal government by surprise (Bock 2000; Geluardi 2010). Prop 215 was written with a sweeping allowance for medical marijuana’s use in treating “any…illness for which marijuana provides relief.” This allowance, which has been criticized by policymakers and analysts nationwide for being too broad, was deemed necessary by activists in light of the government’s prohibition on medical research. One could
not know what marijuana was useful for because the federal government had quashed research. All of marijuana’s potential future applications had to be included in the law’s text.  

“The Feds” responded quickly to this new drive to medicalization, in coordination with California law enforcement (McCartney, unpublished). A multi-pronged approach developed: police officers were instructed to arrest first and let prosecution figure it out; doctors were targeted for violating federal drug laws and, when this strategy was halted under Conant v. Walters, sought to ensure that doctors who recommended medical marijuana could not also distribute it (see United States v. Shafer & Fry); dispensaries like Peron’s and, later, the city-approved Oakland Cannabis Buyers Club of Jeff Jones were targeted for raids (partially validated in cases like United States v. Oakland Cannabis Buyers Club). Even the ability of individual patients to use and grow medical marijuana in their own homes was targeted (partially validated in Raich v Gonzalez). This first offensive was challenged by medical marijuana activists at every turn. As the above cases suggest, they did not fear bringing legal challenges to the War on Drugs now that there was a medical-legal exception upon which to stand.

A medical exception for marijuana protected the doctor-patient relationship from federal incursion and dovetailed with more general trends of medicalization (Conrad 1992), the emergence of new health paradigms around “chronic” disease (Martin & Peterson 2009), and a rediscovery of alternative and herbal medicine (Schneirov & Geczik 2003). As an alternative medicine that treated chronic disease, marijuana fit well into a pharmaceutical landscape where drugs were coming to be an adjunct of everyday life, or what Dumit (2012) calls “drugs for life.” With the explosion of medical marijuana research (see Armentano 2011) in the 21st century and its potentially paradigm-altering conceptions of the body, its endocannabanoidal system, and the

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20 Despite this, the floating distinction between “serious” and “frivolous” medical claims continues to be a source of delegitimation of medical marijuana by its opponents and some proponents.
relation between plants and humans (Mechoulam & Parker 2013), medical marijuana has taken on a momentum of its own. After having been forced into retreat in the 1930s and 1960s, medical marijuana finally appears to have created an autonomous area beyond prohibition.

It was not an easy process by which medical marijuana gained a measure of legal-social stability. In fits and starts, medical producers, distributors, and consumers built a tenuous yet determined presence in the California landscape. Unsure how to regulate marijuana, lawmakers ignored medical marijuana, consigning it to an unregulated grey market. They finally passed clarifying legislation—Senate Bill 420 (SB420)—eight years after Prop 215 was passed by voters. This was a watershed moment in regularizing medical marijuana. SB420’s major innovation was to require counties to establish programs to issue medical marijuana ID cards through county health agencies. The ID system protected individual patients, caregivers, and doctors from law enforcement, pre-empted arbitrary arrest and trials, and barred enforcement of federal law by state officers. Though few people would actually acquire these voluntary IDs, it forced counties throughout the state to recognize Prop 215 and proactively provide for patients (as established in San Diego County vs. San Diego NORML). All counties now had to recognize the medical exception to prohibition. The uneven geography of medical marijuana became more smooth and consistent across jurisdictions.

SB420 shifted medical marijuana away from a law enforcement paradigm to a medical frame. Law enforcement not only had to recognize county-issued ID cards but also recognize a doctor’s marijuana recommendation as a protection from indictment, arraignment, and prosecution. This stipulation formalized what had already been ruled in court cases (People v. Mower, People v. Trippett, People v. Spark) but was not being adhered to in practice by law enforcement, prosecution, and judges. Law enforcement’s jurisdiction and capabilities were constrained by
this new medical jurisdiction.

SB420 also outlined the contours of an alternative form of medical-economic association. First, it expressly did not permit profitmaking; medical marijuana was strictly not for profit. However, it did make allowance for the “reasonable compensation” of caregivers to provide assistance to patients for their “services” and direct costs. It also protected cardholders who offer skills or expertise to caregivers or patients. A strict interpretation of these allowances permitted a simple arrangement of patients and narrowly-defined caregivers, an arrangement slowly allowed by law enforcement (and affirmed in People v Hochanadel). Yet, another stipulation in SB420 seemingly authorized a more complex medical-economic formation. Patients were allowed to “collectively or cooperatively” organize to cultivate and distribute medical marijuana (later supported in People v Colvin and People v. Jackson). While cooperatives are clearly defined in California law, “collective” is not. Patients and pro-marijuana lawyers defined it broadly—any collection of people (from 2 to ten thousand) who have agreed, formally or informally, to cultivate marijuana together and to reimburse each other as needed for the costs incurred for services, labor, and inputs.²¹ Patient collectives were non-commercial, closed-loop, socially-based formations for mutual provisioning and self-cultivation of medical marijuana.

Between 2004 and 2008, there was a boom in collectives as well as another economic form not authorized in SB420—the “dispensary.” Generally, dispensaries were akin to retail businesses, often with storefronts (though also including delivery services) yet they would often define themselves as collectives or cooperatives. Dispensaries defined “profit” as a non-profit would: profits are only that which exceeds the costs of the entities’ reproduction (e.g. costs beyond labor, supplies, “reasonable compensation,” etc). Most collectives were informally

²¹ This definition of profit in California—the costs above and beyond costs of operation—conflicted with the federal definition of “profit” as any proceed gained from marijuana’s sale (codified in 1984’s Comprehensive Crime Control Act).
organized out of the public eye, but dispensaries were more public; they assumed a form much like any other retail business. Calls for their regulation rose across the state. In response, the Attorney General issued guidelines in 2008 to steer dispensaries—and more informal collectives—into more traditional economic routes. The guidelines suggested that collectives file taxes and acquire business licenses and land use and zoning permits. While not mandatory, the guidelines advised law enforcement to closely scrutinize non-compliant collectives. Relatedly, the Board of Equalization declared that, regardless of the legality of or the state’s ability to protect dispensaries from federal or local law enforcement and prosecution, dispensaries would be required to collect sales taxes and acquire a Seller’s Permit (despite the fact that dispensaries could not technically make “sales” so much as they could be reimbursed for costs or accept donations for their services). Regardless of the vagaries of profit, business structure, and social association, in the second half of the 2000s, policies encouraged the regulated dispensary model and quietly checked the legislatively-permitted but informal and horizontal collective model.

The push to shepherd marijuana distribution toward more a formal business-like structure reached an apex in 2009 after the election of Obama and the issuance of the Department of Justice’s Ogden Memo, which suggested the federal government would not generally prosecute those in “clear and unambiguous” compliance with state medical laws. This was seen nationally as a green light for the medical marijuana industry and for the dispensary model in California. Within a year, the normal circuit of trade shows, cannabis conventions, and marijuana competitions was joined by investor conferences. There followed a boom in ancillary industries, such as horticultural supply outfits, indoor supplies, marijuana-oriented payroll and security services, cannabis insurance schemes, and cannabis-oriented banking systems. There was an explosion of new entrants into marijuana production in the aftermath of the economic crisis. The
“green rush” had begun and medical marijuana leaned toward big business.

While scientific knowledge and conceptions propelled marijuana in a medical direction, medical marijuana’s formal-economic aspects provided a new challenge to prohibition. Somewhat sheltered from federal prohibition, medical marijuana created reservoirs and eddies for marijuana-based money to pool, stabilize, and spread. Prohibition had capped capital accumulation—to accumulate was to risk detection, confiscation, forfeiture, and arrest. While medical marijuana didn’t allow capital to accumulate in any grand way (no institutional investors, for instance), it did create the scaffolding for a quasi-formal economy to emerge. A kind of non-profit capital emerged where only a prohibited market had existed before.

This zone of formalizing economic circulation was a space for the accrual of political power. Medical marijuana enabled a space within the body politic to transform a society based on anti-drug warfare. Up until roughly 2010, marijuana was a site of political and medico-epistemological contention. It was a focal point of numerous activist energies for medical autonomy, racial justice, individual freedom and civil liberty, alternative medicine, prison abolition, peace alternatives to petrochemicals, and so on. By 2010, this heterodox political milieu shifted. A rising entrepreneurial class and its boosters argued that marijuana was not propelled by politics and medicine anymore—it was propelled by market forces. “The marijuana economy” and its abstract economic force were the historical agent of change that would deliver the coup de grâce to prohibition. Activism was a dwindling relic of the past as many saw the economic value of a legitimized marijuana economic sector. It is to this dynamic—economization—that I now turn.

Economization and Marijuana
Because marijuana prohibition was publicly cast as a matter of moral and racial concern from its inception, one may overlook that it was, in design and policy detail, a type of economic regulation. Prohibition is an intervention in the market. Anslinger’s racial bluster aside, the Marihuana Tax Act placed prohibition not under law enforcement, per se, but under the Department of Treasury. Marijuana prohibition is actually a misnomer in the sense that marijuana was not prohibited so much as it was prohibitively taxed. Marijuana was still legal if taxes were paid and permits obtained. The Treasury’s Federal Bureau of Narcotics was authorized to collect a tax many times the worth of marijuana, making it an offense to avoid the exorbitant taxes (a 100% tax if one had a permit, and 10,000% tax if one didn’t). This was modeled on an anti-machine gun law passed in the same period. Congress sought not to ban guns outright but to make their use so expensive it would cause a de facto prohibition.\(^{22}\) Tax avoidance would result in jail, fines, or both. This civil economic power, though punitive, differed from criminal law enforcement, which was constrained by civil liberty protections. Civil taxation powers were much more insidious and free-roaming in their capacity to audit and ensure compliance. Anslinger built his dominion on this open-ended civil authority, spinning it into ever more criminalizing directions. He succeeded in winning federal sentencing legislation around drugs (particularly marijuana) in 1952 and 1956. Like alcohol prohibition (Schneider & Schneider 2009), the imposition of risk through civil and criminal powers created the very market values prohibition sought to combat (Polson 2013).

Marijuana’s new value regime, organized within 1937’s Marihuana Tax Act, replaced its former use value as a medicine, as discussed above, and also as an agricultural product (that is,\(^{22}\) Prohibition through taxation was being tested in the effort to ban machine guns. Two weeks prior to the introduction of the Marihuana Tax Act, the Supreme Court ruled this prohibitive taxation legal. The resulting “vice tax” was an important legacy of alcohol prohibition and the Progressive era in which it was born: prohibitive moralism could now be effected through taxation.
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Hemp is a non-psychoactive variant of the cannabis plant. Although hemp is not psychoactive, the 1937 Tax Act included hemp in its definition of “marihuana” and this definition was carried over into the 1970 Controlled Substances Act definition and the DEA was eventually given purview over this cannabis variant (though this authority was eventually contravened in Hemp Industries Alliance vs. DEA [2004]). Hemp activism was propelled by Jack Herer’s pivotal book, The Emperor Wears No Clothes (2010 [1985]) in an effort to resurrect hemp and marijuana history, which helped spark Steve D’Angelo’s efforts to fund a national “Hemp Tour,” Chris Conrad’s efforts to start a hemp business alliance later called the Hemp Industries Alliance, and the growth of a national hemp activist network that was a consistent presence at music festivals, concert circuits of the Grateful Dead, Cypress Hill, Dr. Dre, and Snoop Dogg. In the organizational form of the Cannabis Action Network, it would form a significant pillar of support for the emerging Hip Hop Summit (Lee: 215-222). Hemp activism went beyond simple demands for legalization of commerce but was postulated as a vision of a renewable, sustainable relation to nature in which hemp would replace oil, timber, and other extractive and exploitative industries.

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prohibition, these same farmers subsequently found themselves targeted by prohibition.

Prohibition became a self-feeding loop as it created the “problem” it sought to solve and justified US interventionism throughout the world. The War on Drugs was, among other things, a war on peasants and their revolutionary capacities to capture entire governing apparatuses (see Gootenberg 1999; McCoy 1991; Richani 2013). Peasant revolutionaries, under the drug war, became criminals. Their claims to political right were disqualified and disorganized by a new global crime-fighting, crime-producing force.

Sometimes these farmers—and more often those who brokered for and controlled them—were used by the US to counter Communist and radical forces (as in Burma, Honduras, Afghanistan, Italy, and Panama) in a Cold War technique taken from history books on the British-Chinese conflict leading to the Opium Wars. Just as prohibition enabled overt global intervention, the drug markets it fostered became a new realm of covert US intervention. The US partnered with repressive governments, reactionary landholding classes, and commercial powers to produce drugs, contain revolution, and secure capitalist relations with the US (such as in Sicily, Cambodia, and Mexico).

The global War on Drugs had at least two major effects domestically. First, it enabled the criminalization of distribution networks in the US’s most impoverished and marginalized (mostly urban) centers, as many social scientists have documented (e.g. Bourgois 1995; Parenti 1999; Sharff 1998; Wacquant 2009). Second, it sparked the formation of a domestic marijuana production sector through the same profit dynamics that thrust peasants worldwide into drug production. While profits made production alluring, other market conditions conspired to stimulate domestic marijuana production. The US sprayed crop-killing herbicides over Mexican marijuana fields, thus reducing international supply and increasing US demand. Amidst moves
toward decriminalization and the slackening of domestic drug enforcement, the prevalence (i.e. consumer base) of marijuana consumption increased in the 1970s. Finally, marijuana found a ready producer population among countercultural back-to-the-landers who were not only seeking off-grid, self-generated sources to sustain rural living but also imbued marijuana with symbolic significance. Back-to-the-landers were far from the only marijuana producers in the 1970s, but they were a prominent part of a growing domestic middle peasantry, which I define as small producers integrated (at least partially) into market systems with direct access to the means of production (including land) who depended upon their own labor to make a living. Marijuana producers might be considered a criminalized variant on what has been termed the “New Peasantry” (e.g. Van der Ploeg 2009), which includes organic and artisanal farmers, cooperative farms, and farms otherwise dedicated to more labor-intensive and diversified modes of agriculture than those typical of industrial mono-cropping after the Green Revolution. Since the beginning of indoor marijuana production in the 1980s, this new peasantry extended beyond rural regions into suburban and urban places as well. The key difference between the domestic marijuana middle peasantry and the global middle peasantry is that global producers are not afforded the civil protections of US society; they are targeted and governed by an illiberal, imperial form of US power (Corva 2008). Because the domestic peasantry is (formally) protected by domestic rights and civil protections, there is space for political articulation. It is this civil protection, as much as any factor, that created the surprising potential for marijuana legalization in the United States, in the belly of the drug war beast.

Although the War on Drugs (as codified in Nixon’s Controlled Substances Act of 1970)

24 For various reasons ranging from climate to processing requirements to yield per acre to domestic police infrastructure, coca and opium production has not been significant in the US.
25 Ironically, this illegalized middle peasantry emerged amidst the last gasp of US small farmers [middle peasants] in the farm crisis of the 1980s (see Dudley 2000; Fitchen 1991)
marked an expansion of prohibition’s economic governing powers, it notably moved from civil-economic authorities to criminal authority. Coordination of drug prohibition was moved from the Department of Treasury and civil taxation authority to the Department of Justice and its criminalizing capacity. Since marijuana is not an act but a substance, it was the economic acts associated with marijuana that were made criminal—distribution, use, possession, sale, manufacture or cultivation, trafficking, transport, laundering, delivery, and “conspiracy,” which was little more than economic cooperation. Economization and criminalization were intertwined.

In the 1980s, punishments for these crimes escalated, raising the stakes and rewards of drug market activity. Higher marijuana values lured risk-taking entrepreneurs, leading to more production and more busts, leading back to more justification for prohibition forces. The War on Drugs created the economy it sought to prohibit in an institutional tautology of escalation (see Schneider 2009 on this dynamic under alcohol prohibition and Heyman 1999 on the contradictions of escalation). The War on Drugs drove a wedge between the political and economic activity of drug market actors: political activity jeopardized economic activity and vice versa. Communities of color, deindustrialized communities, and rural producer communities were drawn into production as their ability to support themselves in the formal postindustrial economy dwindled (Sharff 1998). Prohibition’s depoliticization, however, impeded the ability to mount a political response to the social and economic processes affecting them (see Mullings 2003).

The “marijuana economy” was not only a realm of economic activity. It took shape through bureaucratic discourses and practices. Knowledge of marijuana markets and prohibition was just as important as marijuana seeds and water in producing the “marijuana economy.” The expansion of the War on Drugs required that law enforcement produce estimates and economic
characterizations of the entire marijuana economy. To justify drug enforcement maintenance and expansion, agencies had to exhibit marijuana’s pervasiveness and the efficacy of marijuana’s eradication.\(^{26}\) It had to be pervasive but not too; it had to efficaciously eradicated but not too. Drug prohibition, in short, could not fail, but it also could not succeed if it was to continue to be waged and funded. Prohibition budgets and institutions became their own kind of parasitical bureaucratic economies, economic circuits that depended upon the marijuana economy and, thus, had an incentive to keep that economy running.

Prohibition reached its apogee in the 1980s and 1990s, fueling the establishment of the largest system of imprisonment the world has known. Medical marijuana would become a non-profit exception to the market terms of the War on Drugs, slowly creating a space for marijuana to break its illegalized isolation and alter public discussions of its valuation. By 2010, when California faced Proposition 19 to legalize all marijuana, the drug war and the economic system it fostered became threatened. The state, hard hit by the mortgage crisis, was hungry for a new source of revenue, underwater homeowners and the newly unemployed sought financial security, and marijuana-friendly politicians held the positions of Governor and Attorney General. The timing was right and legalization advanced.

While the federal government’s opposition was to be expected, legalization was also opposed by those in the drug economy who also had a stake in the prohibition system. Due to many factors, marijuana prices were falling for producers and legalization was seen as a gambit to centralize marijuana production and shut down the widespread producer economy. Many producers questioned if legalization might be worse than the prohibition system. Marijuana growing, they reasoned, had become ubiquitous. The risk of being busted had declined, and,

\(^{26}\) The shift came in 1982 when, as Martin Lee (2012) documented, the value of the total marijuana seized was 38% higher than previous official estimates of the entire US crop.
when busts did occur, many managed to avoid jail due to sympathetic juries. Busts were an annoyance and a cost of doing business in an otherwise lucrative sector.

For both proponents and opponents, 2010’s Prop 19 marked a significant shift in the dynamics of marijuana’s middle peasantry. Since SB420 (2004) producers had begun to medicalize the production process, such as through the acquisition of patient recommendations for crops. This set in motion an increasing public discussion around production, particularly amidst the “green rush” of 2009-2010. Producers, who had largely been shut out of medical marijuana policy debates, came firmly into the public eye with Prop 19. Prop 19 shocked producers into action, as they decided whether they would be “at the table” or “on the menu,” as one informant phrased it. The entrance of producers into policy struggles marked a transition from a politics of consumer-oriented medicalization to a politics of full legalization of the entire commodity chain. This dissertation will explore the new political-economic paradigm that formed as a result.

As the most populous state in the Union, the eighth largest economy in the world, the largest exporter of marijuana in the US, and the state in which marijuana has been the lead agricultural cash crop (Gettman 2006), a shift in California’s marijuana market would ripple throughout the nation and world, as evidenced by the significant impact of medical marijuana in 1996. For those in California’s rural areas, the shifts in the drug war system pointed to a significant reworking of regional political-economic dynamics and everyday life. These areas, comprised of mostly white workers, were the electoral backbone of the anti-urban War on Drugs, as long as they themselves weren’t the targets of that war. For a state enmeshed in an ever-evolving racialism (HoSang 2010), marijuana legalization posed a challenge to the linkage of white workers with the law-and-order policies at the core of state conservative power. Legalization had and has the potential
to remake California political economics in significant ways. As I’ll explore in the next chapter, this was not the first time rural Northern California had been remade by marijuana.
III. Reproducing Utopia: Covert Politics, Embedded Economics, and the Social Life of 
Marijuana in the Emerald Triangle

Back to the Land: Utopian Afterlives

“I was one of those hippies on Haight Street back in revolution times,” Gerri says. “I moved from Chicago with my children. I met some hippies. They turned my life around. [I] started listening to Bob Dylan. Realized I was a slave.” An African-American exile from the Jim Crow South, Gerri settled in what is known as “the Lost Coast.” This windswept, awesome stretch of rugged oceanfront reaches from northern Mendocino to southern Humboldt, a landscape so treacherous and remote that the notoriously winding Route 1, constructed by federal prisoners from San Quentin prison, remained incomplete for years and was finally abandoned. Indeed, from efforts to mediate violence against Native Americans in the settler days to attempts to prohibit marijuana, state projects seemed to fail here. Gerri arrived at this remote edge of the continent—“the edge of America”—with “an idea of self-reliance, self-sufficiency, with no intentions of coming up here to start a marijuana industry.” She continues, “we came up with cows and chickens and goats and marijuana was always our little hidden side project, our medicine.” The year was 1968.

Gerri arrived at America’s edge with two kids in tow, on welfare, and coveting her secret medicine. Growing on Humboldt County’s Lost Coast was a way of dropping out. Like many others in her generation, she turned her back on a world spiraling out of control and turning to the forces of reaction. Disaffected and disillusioned, Gerri moved “back to the land” to escape forces of racism, imperialism, and war. Back-to-the-land communities nationwide prospered far from the People’s Parks, political conventions, and the heroin to which many of the period’s
discontented were getting “turned on.” Yet by the time President Reagan came to power, many intentional communities had folded and homesteads had collapsed, unable to sustain their visions of utopian life. As bills came due, back-to-the-landers searched for a means to reproduce utopia. One answer existed in Gerri’s “hidden side project”—marijuana.

The back-to-the-land utopia was not the only utopian vision that unraveled. By the late 1960s, Humboldt’s timber industry was in its first stages of decline. Since unions and radicals were finally run out of Humboldt after the shooting of protestors in 1935, Humboldt’s timber labor force had sustained their own notions of the good life and ideal living through mid-century civic associations (Widick 2009). Laborers carved out a utopian vision of work, pride, and connection to land that they shared with employers, a vision sutured together with moralism, nationalism, and an idealized notion of “free labor.” By the 1970s, the yeomanry that supported these ideals had long since disintegrated, and even the bare possibility of employment in the timber industry was slowly collapsing. Those believing in a “yeomanry utopia” searched, like the back-to-the-landers, for a means to reproduce their communities and recuperate whatever utopian ideals they could.

On the Lost Coast of the 1970s, these two utopic visions collided, one seeking a romantic communion with the land in the face of millennialist doom, the other wishing for a return to a time of moral rectitude, honor in labor, and propertied independence. This chapter looks at how these unsettled utopian visions found “afterlives” in the marijuana economy—and how a third utopian vision, marijuana prohibition, emerged. I invoke “afterlife” in two registers. First, there is the messianic sense, as a kind of Second Coming, a life after death, and an uncanny apparitional presence, which suggests some of the apocalyptic air that suffused the back-to-the-land movement, the declining world of timber and a rugged yeomanry, and the resurgence of the
punitive moralism of the War on Drugs. Second, I use it in a much more earthly sense as a later stage of life. This doubled definition holds together the notion of disjuncture and continuity of utopian visions—countercultural, yeoman, prohibitionist—as they became lived through and transformed by everyday practices and environments. It also suggests what Muehlebach (2012) describes as a “post-Fordist affect” in which utopian visions of the mid-20th century are dis- and re-assembled in nostalgic, nightmarish, and surprising ways.

As countercultural and yeoman utopias foundered in the late 1970s, the “hidden side project” grew in importance. When the marijuana-eradicating helicopters arrived in 1983, marijuana was on its way to becoming the area’s core industry. Marijuana became a means of sustaining and reproducing yeoman and back-to-the-land utopias, albeit in unintended ways. This “actually-existing utopia” had to reconcile itself to its grounding in space and time, a reconciliation upon which utopias often collapse. Under the crushing power of Reagan’s 1980s War on Drugs, many people left as their utopias became dystopias. Utopia (“no place” in Greek) is an eschatology that is always a failure, a fall from grace, in its own Edenic terms. If utopias are “no place,” then how do these ideas without spatiality enter everyday geographies?

This chapter explores the history of marijuana through narratives of arrival and residence in the Lost Coast’s Southern Humboldt area. It is broken into three historical periods: the rise of marijuana production in the 1970s; the crescendo of the War on Drugs from 1983-1996; and the slow emergence and eventual boom of medical marijuana through 2010. Over this period, the contours of an actually-existing utopia—in fallen, earthly terms—would come into formation as hippies, locals, and others created a lucrative producer economy that would transform the face of the region and become one of the last small farm enclaves in the United States. Though criminalized communities are often regarded as apolitical, this chapter shows how a kind of
criminalized infra-politics emerged, pervasive but invisible to the naked eye. These infra-politics smuggled the concerns of criminalized people into public life. Even the most apolitical marijuana growers were political by the mere oppositional stance they took in relation to the state. In showing how criminalization politicizes, I highlight the latent solidarities that existed across the putatively separate good/bad dichotomies of those with “political” or “economic” motivations. Any separation of politics from economics, particularly one that divides the holy and the material, or the pure (political) and the sullied (economic), is not one that applies to the prohibited marijuana economy.

As the marijuana economy moves toward formalization, recuperating the politics of the illegalized pot economy becomes important. Many people thrived during prohibition and view formalization as a ruination of a way of life outside the encumbrance of mainstream society. After all, back-to-the-landers like Gerri fled *from* the formal economy and the overwhelming power of the state. Yet, today, some back-to-the-landers—along with all kinds of legal economy boosters—clamber for inclusion in this economy and state. Some stake a claim to the historical mantle of marijuana, while others claim to be modern, compliant, and respectable economic actors. Everyone claims to be some variant upon ethical, sustainable, and localist. The unspoken foil to these claims is an unethical, unsustainable, non-compliant, and irresponsible illegalized economy—and criminal actor. For those who desire legalization, it appears as a kind of public ritual of moral redemption. This narrative relies upon an obfuscation and villification of the social relations formulated under the drug war.27 By excavating those submerged social relations, an easy “good” legal economy vs. “bad” criminal economy duality collapses. All actors were enmeshed in prohibition politics and had to abide by the terms of consumerism, individualism,

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27 As I was reminded many times at the beginning of fieldwork, I arrived at a historical moment when secretive lives and histories were becoming revealed, a moment that Jane and Peter Schneider (1999) remind is a critical moment of combating distorted histories and the power claims built upon them.
private property, libertarianism, and market rule it fomented. This chapter forestalls moves to produce pat, simplified narratives of a fallen history beyond which policy (legalization and regulation) seeks to advance. No one was holy in marijuana’s history, and the future of formalized marijuana is far from spotless and pure. In a world that some see as heading toward ubiquitous legalization of marijuana, it is in the untold narratives of life beyond the law, beyond history, that a post-prohibitionist critique emerges. Beginning with Gerri, perched as she is on the edge of no-place, we have begun the journey into the every-place where progress, utopia, Adamic falls, and the texture of social relations condensate in the profane world of the Lost Coast.

_Utopias Collide: Back-to-the-Landers, the Yeomanry, and the Birth of a Heterotopia_

In “the countercultural” movement, Jock Young (1973) identified three strains: the political; mystical; and back-to-the-land, “quietist,” or “New Communalist” (Turner 2008). These strains became pronounced after several events beginning in the late 60s: the assassinations of Robert Kennedy and Martin Luther King, the violence at the Democratic National Convention in Chicago, the launching of Nixon’s War on Drugs in 1971, the repression at college campuses nationwide, and the exposure of COINTELPRO’s targeting of activists. As some in the New Left radicalized, others turned inward, and others moved to the country in a search for utopia.

The back-to-the-land (BTTL) migration carried forward the countercultural ideal of rejecting mainstream conventions and expectations. Running from a heroin-ridden Haight Street in San Francisco and lured by cheap property prices, the BTTL migration to the reaches of Northern California symbolically marked a retreat from society to nature. Like one informant who named
his garden “The Shire” after Tolkien’s nostalgic homeland of perpetual return, many thought they would shelter themselves from the inevitable deterioration and collapse of society.  

Some back-to-the-landers were characterized (often aptly) as “trust-fund” hippies who lived irresponsibly off inherited largesse and without work ethic. While this was true for some (and these trust-funders were critical to purchasing properties and funding communes), others were far from privileged and brought a much more radical and anarchistic element that fueled animosity and offence in locals (Anderson 1990).  

While it is important to understand that dominant, vocal elements of the BTTL movement were white, middle-class, and wealthy drop-outs of elite and middling colleges, many who returned to the land came from other class, racial and social backgrounds.

At the center of countercultural politics was a concern with alienation and rationalization, concerns potently explored by Georg Lukacs’ (1971) and Max Weber (1905), who would significantly influence the Marxist humanism and social criticism of the 1960s. Whether in the works of Ralph Ellison or Samuel Beckett, many saw the onset of bureaucratic, totalizing society as a challenge to an essential humanity, to remaining human. Examples of this concept can be found in the middle class trap explored by C. Wright Mills (1952) or the monopolized society of Baran & Sweezy (1966). There were echoes within the counterculture of the avant-gardist theories of Adorno & Horkheimer (1944) but outside the galleries of New York, countercultural politics wasn’t exactly the perpetual, from-the-margins, always-incomplete cultural criticism of the Frankfurt School. Rather, the aim was a total rejection of society’s bifurcating terms that

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28 Humboldt is one of the safest places in the event of a nuclear fallout in the United States (McCubbrey 2007). This cataclysmic sense of the world still carries forward today in “end of oil” prognostications that were cited as influential by several informants.  

29 It is important to recognize the class and political diversity of the BTTL movement both to resist and problematize simplistic historical narratives and their present-day mobilization as well as to understand the many critiques and political visions that were generated in that period.
alienated self from other and the invention of a politics that reunified subject and object in a new, transformed, and human(ist) world. The counterculture found its organic intellectuals in the existentialist and humanist Marxism of Marcuse’s theory of the Great Refusal (1964) and Sartre’s theory of the reunification of subject and object (1960). From the cries of students to throw their bodies on the machines of war-making (Turner 2008) to the entreaties to “tune in, turn on, drop out,” or to go “back” to the land, the ethos of the countercultural movement was to fight the alienation of humans from themselves and from nature.

In this fashion, BTTL migrants aimed to undo their alienation by communion of one’s labor with the land, from which flowed forward a new kind of communal humanity in balance with nature. For many, this balanced humanity would survive the destruction of capitalist society, a sentiment which is still found in catastrophist end-of-oil theories that permeate the region. A premise of the BTTL migration was not just a physical migration but a spiritual and energetic return to “the land,” placing migrants solidly in the tradition of “romantic” (as opposed to “rational”) agrarians (Danbom 1991) as they sought “consubstantiality” with the land (Gray 1998). Unlike politicized counterculturals, the intent of migrants was to escape a fallen urban society in order to become self-sufficient, regain the moral value of lived community, and attain the vigor of manual labor. Land, for many of these suburban- and urban-raised people, was part of a pastoral mythos that evoked Thoreau, Little House on the Prairie, Lord of the Rings, Walt Disney, or Swiss Family Robinson more than it did Grapes of Wrath. Though this movement had complex socio-economic dynamics (Anderson 1990), much of its motive force came from a rejection of the ideology of the middle class and what was seen by many to be a staid and stifling culture. As one reconnected one’s physical labor with the land, the connection to earth and community would be reborn as the body was cleansed of the societal pollution of straight
society. Echoes of the struggle against alienation through landed communion was evident in the titles of some of the BTTL literature: Helen and Scott Nearing’s *Living the Good Life: How to Live Sanely and Simply in a Troubled World* (1970), Borsodi’s republished *Flight from the City* (2010 [1933; republished in 1972]); Wendell Berry’s *The Unsettling of America* (1978); E.F. Schumacher’s *Small is Beautiful: Economics as if People Mattered* (1973).

All told, land appeared salvific and redemptive (Olwig 2005). Nature was removed from social relationships and external to humans. Yet, through land one could access what it meant to be human. Human alienation from land and one’s own labor was a development of the modern era, which could turn both these entities into reified and fictitious commodities (see Lukacs 1971; Polanyi 1945). Instead, the BTTL migration sought to create at least a drop-out zone from society, and at most sow the seeds of a new society. This vision fueled communes throughout the US and was yet another iteration of the configuration of the city in the country (Williams 1975). As Turner (2008) illustrates, BTTL migrants were not afraid of technology nor seeking a past-oriented return to the land but hoped to live a transformed, enlightened existence, one oriented at times to a post-apocalyptic futurity, that would mitigate the ignorance of both the countryside and the city. It was with this rationale that many turned to (and co-opted) Native American symbology and names—they were the Natives of the future.

This redemptive, un-alienated unity of land and labor constituted a utopia. It was a utopia that, in David Harvey’s terms (2000; see also Buck-Morss 2000), existed in space but not time—a “utopia of spatial form.” It was a space—discursively and territorially—intended to exist outside of society. Imbued with a kind of apocalyptic, millenarian outlook, its aim was not to overturn society or push it into the future, but to hold a place within which a timeless utopia could be formulated, a kind of Edenic topography outside of a fallen world. Since utopic zones are subject
to the pressures of external society, however, spatial utopias founder upon the question of how to adapt and reproduce themselves through time. The basic contradiction within this spatial utopia was between its idealized “inside” and a troubling, persistent, profane “outside.” Though in theoretical terms, land and labor may be fictitious commodities in need of reunification with the human, in 1970s California, land and labor were enmeshed in systems of commoditization and capitalist relations that could only be resisted so much. Back-to-the-land utopia, while at times critical of normative household structures and land tenure practices, never had a thorough-going critique of private property itself. Indeed, utopian communities depended upon the institution of property to carve out physical spaces to exist. Involvement with private property was the dirty cost of formulating a space of humanist liberty, autonomy, and separation from society. Yet the entanglements of the private property could not be ignored, as countercultural communities soon discovered.

When “back to the landers” arrived at California’s North Coast, they did not know what they had entered. As Anders (1990) and Anderson (1990) document, the transition for BTTL migrants was rough. Arson was a frequent occurrence as “locals” let “newcomers” know they were unwelcome. Police were a distant presence. When they did come, it was usually to harass hippies, particularly around zoning violations, illegal subdivisions, unpermitted structures, and whatever else was handy. For BTTL migrants, who came to live in utopic isolation, this incursion on their way of life was trying, ultimately leading to years of anti-code enforcement activism that won a unique county ordinance for Alternative Occupancy Designations (AODs), which permitted the yurts, handcrafted houses, compost toilets, and communal living situations many held dear.
Whether it was making property payments, getting groceries, or dealing with neighbors’ upstream effluents, BTTL migrants had to engage with the broader society as a matter of course. Ironically, while BTTL migrants idealized rural life and human-nature relations, they found it difficult to actually live in rural areas. Across the nation, this adjustment was characterized by low-level warfare between locals and hippies and the ultimate collapse of many utopian projects, except for the few that could find means of sustenance through an emerging organic and local food movement, solar panel production, artisanal production, or other naturalistic cottage industries. External relations consistently placed the BTTL utopia in danger of being compromised, sullied, or sold out as participants struggled to reproduce these utopic spaces. BTTL migrants, in short, had no choice but to be in time, despite their spatial retreat (see Unger 1987). Marijuana offered a fix to this predicament and an opportunity to realign a utopian spatiality with its everyday temporality.

Marijuana was a crop that one could grow on one’s land with one’s labor, an herb that signified a distance from straight society, and a consciousness-transforming medium that laid bare the inhuman, alienating force of The System. It was symbolically and corporeally a substance that encapsulated counterculture and its back-to-the-land expression. Through marijuana, counterculturals rejected the societal stricutures propagated under the hierarchical, timeless, and moral vision of Cold War America. This rejection was rooted in a valorization of America’s margins, where marijuana smoke intermingled with jazz music, racial mixing, borderlands, and white radicals and Beats, who introduced marijuana to white youth (Musto 1987). Marijuana, along with mushrooms and LSD, seemed to urge people to “tune in, turn on, and drop out.”
With the move to rural areas, marijuana fed more than political imaginaries—it became a means of economic sustenance. Gerri’s “little side project” of marijuana allowed her to separate herself further from the formal market. It also allowed her to subtract one household cost from her shopping list. The plant that could be grown easily at home from the seeds of stem-and-seed bricks of brown Mexican weed so common throughout California at the time. For many, “homegrown” weed supplemented welfare checks, a kind of support that was heavily stigmatized by the white working class timber culture.

In hitches and starts the plant’s social prevalence expanded. Marijuana became a seemingly innocuous means of sustaining back-to-the-land projects. In Harvey’s terms, it allowed the spatial utopia to continue through time and served as a medium through which the utopian interior interfaced with an exterior world. As an illegal, informal commodity, it was arguably less compromised by state and market forces than formal commodities and it relied on direct social networks for its production and distribution. It was, as much as it could be, a dis-alienated, embedded commodity. It was grown in the earth, was self-regenerating, and not resource intensive. It had use value for producers, it was an item that deepened social connections through its production and use, and it had an important symbolic and consciousness value.

Stevie was a drop-out from the University of California at Berkeley, like many of his drop-out neighbors. He was part of what one resident called the Lost Coast’s “rural intelligentsia.” He had arrived in the early 1970s with five other people from Colorado, after being fired from his substitute teaching job for growing an “Afro” and a beard. They bought 20 acres of land with two structures, a yurt, orchards and a spring, and made a go of collective living. They arrived amidst the multi-decade clear-cutting of forests following World War II (when timber mills increased from a few dozen to several hundred in the course of a decade). With the lands
devastated and streams clogged with silt from barren hillsides, Stevie was able to take advantage of incredibly cheap land prices, if he could find a friendly realtor. That realtor (Bob McKee, whose ancestor was integral in establishing the local private property order through treaties with Native Americans) was a local boy who some old-time locals later deemed to be a traitor for selling to bedraggled urban migrants like Stevie.

The land had been logged into ragged oblivion and realtors deemed it useless. But “suddenly these hippies [arrived]. This counterculture…college degrees, dropouts, and they want to realize the American dream and build their own house, control their water, avoid pollution, raise a family away from urban squalor and urban pollution. And that was the first wave,” Stevie explains. He built his house by hand, living in a tent with little money, like many of his neighbors (Anderson 1990). This was a refuge from a society and provided a calming place not only for disillusioned hippies but for many of his Vietnam vet neighbors, who had sought stillness away from the trauma of a senseless war.

The first marijuana plants were the common *sativa* strain, which was smuggled in from equatorial growing fields from Thailand to Mexico. In a much mythologized origin story, a pair of brothers went to Afghanistan, which has a deep historical legacy around marijuana production, to gather seeds, which they returned with, wrapped in rugs (along with some opium, to boot, according to some people’s memory). The new seeds, *cannabis indica*, gave a different kind of high and were matched to Humboldt’s northerly latitude and its particular angle of the sun (in addition to the dry growing conditions that Humboldt provided in the summer). Gerri, who lived several valleys over from Stevie at the time, remembers how the early growing was done with male and female plants until dabbling horticulturalists discovered sex segregation techniques, called *sinsemilla* (“without seeds,” in Spanish), where all the males were removed
from the garden to push the female plants to full maturity. One grower would comment on the amazing leap in price *sinsemilla* brought: “Some urban dick comes up the highway screaming, ‘Pull out the males! Pull out the males!’ And suddenly that’s 1500 bucks a pound.” Gerri remembered the first efforts to market this new substance, which couldn’t have appeared more different from the brown imported brick weed normally sold. “We drove it by the pounds to the city,” she says, “and the cops didn’t even know what it was. We had to introduce it to people so they would stop buying Mexican. We actually had to go to San Francisco and show people good herb, and create the need for it. I remember going to a bar and hustling little buds to people, slowly, getting numbers, introduce it like Campbell’s Soup.” Urban consumers were important in facilitating the growth of BTTL production. By the late 1970s, the buyer’s market became a seller’s market in which consumers had to have the right connections to purchase the Lost Coast’s new product.

For Stevie, the first years were low stakes and rewarding. Cash was easy and the police were “so outta shape they weren’t gone hike up” to the remote gardens Stevie had planted. Only a few deputies patrolled the hills and response times measured in the hours. Problems were often resolved among neighbors. The sense of non-participation in mainstream culture was something that dovetailed with his general desire to become self-dependent and live close to the land.

The figure of the yeoman small producer had deep roots within the area. Self-governance had been a characteristic of the labor structure of the rugged individualist timber industry. Like other seasonal extraction economies (Wilk 2014), timber on the North Coast was a yearly cycle of binges and grueling work, where workers considered themselves independent laborers with the option to sell their labor time. This freedom of labor was rooted in a romantic attachment to

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30 Gerri loved this: “Kill the males? Hell yeah!”
yeoman sentiments and “the land” that had taken form in the initial settler-colonialist days of Humboldt’s conquest. This romance outlasted the rapid and early eclipse of the small producer and consolidation of timber into fewer and fewer hands. With the crushing of unions in the first decades of the 20th century, workers were wed to a parochial localism that was encouraged by corporations; they viewed outside unions (and others) as interlopers and threats to local autonomy (Widick 2009). Corporation-friendly civic associations furthered the sense that social support should rely upon insular social networks and the protection of “locals” and “local” corporations alike.31 Chuck, a self-described back-to-the-lander despite his late arrival to the area in the early 1980s, reflects that self-dependence and localism led to the underdevelopment of government: “Part of the problem is that—it’s very hard for an Easterner to conceive of but—the county has never had a functional [government here]. It was self-governing. No one wanted to deal with it. It didn’t matter if they shoot each other Friday night. It’s an hour and a half trip [to the county seat] and the police will bury the body anyway, so you don’t have to do the paperwork.”

In the late 1970s, the price of marijuana began to climb: Mexican crops were being sprayed with pesticidal paraquat, leading to a fear among US consumers of smoking poisoned imported marijuana. The new indica strains were driving up prices, and new smuggling routes from Columbia, the Caribbean, and Southeast Asia were bringing in premiums on marijuana diversity in what was becoming a widespread consumer market unknown in previous decades. During this period and into the 1980s (Anders 1990) marijuana money found its way into the community, dovetailing with the area’s history of community autonomy and self-governance. For Stevie, this meant yearly donations to the regional community center built by his neighbors, the volunteer

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31 This parochialism would prove pivotal in the acquiescence of timber workers to layoffs, clear-cutting, and opposition to governmental environmental protections in the 1980s and 1990s.
fire department for his watershed, and the consistent support of community schools. “That was the golden era of marijuana before medical marijuana was even considered,” he explains. It wasn’t only the marijuana money, like the $1000 he gave to found the community health center. It also meant time volunteering and supporting these institutions as active expressions of BTTL ideals and community life. To do less was a problem. It signaled a belief that money could replace human involvement and connection in community-rooted institutions. For Gerri, community commitment pre-dated marijuana. She and her neighbors settled along a nearly empty line of coast on an unpaved road that was supposed to be part of the original Coastal Highway 1. She and her neighbors built their own school with their hands. From the community-supported radio stations to the road maintenance committees, living on the Lost Coast was not a casual affair. The rugged terrain required intensive communal support, particularly for the pariah hippies, who were constantly coming up against local antipathy. In a sense, marijuana money formed the center of local government, such as it was. Marijuana proceeds were invested like a community-based tax into community institutions and environmental maintenance. Those community institutions became a kind of local protection, through which residents cared for each other and insulated themselves from wrathful locals and government officials. In the absence of formal government presence and the formation of a local system of taxation, protection, infrastructural support, and governing codes of conduct, back-to-the-landers created a social system based on marijuana that sustained utopian community.

A major tenet of community life was care for the land, which began with acquiring land and regenerating its damaged ecosystems after over a century of logging. This meant planting trees, such as the 1000-plus that Stevie planted, stabilizing steep hillsides from erosion, and plot by plot ecological restoration. As more BTTL migrants arrived, residents addressed collective
and broad-scale efforts at stream restoration, salmon repopulation, and sustainable forestry. Later, BTTL migrants formed the core of efforts to preserve old-growth redwood groves. Several environmental organizations aimed to protect the redwoods and salmon and anti-dam activism became significant by the early 1990s. These collective expressions manifested in one of the first and largest solar panel companies in the nation.

On the face of it, BTTL migrants shared with “locals” a care for land and community. Yet the gap between ways of life was large, leading to what many described as “culture clash.” Karyl, a white 40-something woman, was born between the two mid-century floods that marked the decline of the timber industry. Growing up, family names were “everything.” Hers was respected as hardworking (her dad, a construction worker, her mother a secretary, all church-going Republican Mormons) while her neighbor’s surname was one for which “doors did not open.” “Your last name,” she comments, “that’s who you are. [They] stuck not just in how people perceived you, but how you perceived yourself.” Prior to the 1970s, she categorizes three groups: “There’s the church going, there’s the bar-hard drinking type, and there’s the poor white trash.” Despite these differences, families of this era shared a common parlance: “People that weren’t here [before the 1970s] don’t know what it was like—you have a shorthand way of saying, if you’re an old-timer, ‘I know what it was like to think about the trees a certain way, going to church, and cussing.’…It’s just a shorthand for ‘I know all the stuff.’” What locals also knew was an affection for land. Daily life was grueling—many lived off the grid, used kerosene lamps, did not have indoor toilets, and rarely had ready access to hot water.

This was not an idealized romanticism of living in harmony with nature. It approached nature as a rough and demanding companion that gave rewards only through tireless effort. There was a working conservationism among locals, a belief that nature should be used and
consumed by humans but should also be valued through good stewardship. Nature was something through which livelihoods could be gained and the pinnacle of yeoman dreams—private property and household security—could be attained. Nature was boundless and timeless, as was the ability to make a living from it. The timber industry persisted on the yeoman-localist notion of nature—jobs and nature would never end, and the two were inextricably bound. The fantasy of the perpetuity of small producerism was not only rooted in 19th century ideals but also resonated with a mid-20th century timelessness. It was a projection of the middle-class American Dream, forged and perfected in Cold War America (Cowen & Gilbert 2008), that would continue forever without ecological, social, or economic limits.

Timber culture shared with the BTTL movement a utopian quality. While the BTTL utopia took a spatial (not temporal) form, though, the timber culture was a utopia of time (or “process,” as Harvey describes it [2000]) but not of space. In other words, there was a sense that the yeoman utopia would endure through time, regardless of whether the utopia’s terms were realized in any one moment and regardless of whether it was ever manifested in space. It was not that time didn’t exist but, rather, that time would always return to the same essential point. This cyclical temporality replaced the future-oriented time of labor radicalism after it was destroyed in the 1930s, and became manifest in the values of patriotism, civic life, and moral fortitude institutionalized in civic clubs and associations (Widick 2009). Karyl, a child in this timeless period, remembers bars and churches as places that concretized local social structure. Workers, employers, and local society were synched to the same clock that ticked throughout the US’s industrial Golden Age (Hobsbawm 1996) of the 1950s and 1960s.

In the 1970s, the utopian visions of back-to-the-landers and the local yeomanry clashed, ostensibly threatening each other’s existence. BTTL migrants, harbingers of moral-urban
corruption, were in danger of being run out by arson, vandalism, unchecked violence, and
general local antipathy. Their properties were in danger of being shut down by code violations
and government harassment. Conversely, the timber culture’s moral order was challenged by the
cultural presence of BTTL migrants. Karyl, who was raised locally, remembers her community
was “all united against the hippies. It was dramatic.” Karyl pantomimes her disgusted reactions
as she recounts, “The patchouli oil smell at this market, their smells, everything—their smell was
foreign! They got in the river nude! The horror! [...] It was beyond the pale!” Marijuana was one
element of a horror that extended to a new sexual ethics (encapsulated in the birth control pill),
rock n’ roll, peace politics, and New Age belief systems and practices that challenged key tenets
of local life. Karyl, now a mid-scale grower, remembers crying when she learned her high school
boyfriend was smoking marijuana: “I imagined his life was just destroyed.”

As scapegoats, BTTL migrants stood in for the insecurity and decline that was already
gripping the timber industry in the 1970s. When this insecurity accelerated in the takeovers,
mergers, and deindustrialization of the 1980s, worker insecurity (aided by timber company PR
teams) was leveled against environmentalists. Though both locals and environmentalists cared
for the land in which they lived, they differed around the potential for timber industry to further
that care. Workers, enmeshed in a union-less corporate paternalism, were driven toward the
timber industry, to which livelihoods were attached, through a rhetoric demonizing outsiders
invading and corrupting Humboldtian, yeoman values. The battles between “rednecks” and
“hippies” were a dress rehearsal for later battles between loggers and environmentalists. This
oppositional dynamic enabled a rapacious extraction industry to retain its legitimacy while it
squeezed value from Humboldt’s remaining old-growth forests.
“Culture clash” stood in for a deeper threat posed to the utopia of yeoman-timber culture, a culture that had been linked to an industry that was eroding this culture’s ability to reproduce itself through time, by denuding the land and destroying the material basis of the timber industry. The scales of Fordist fantasy were falling from the eyes of workers, but they blamed environmentalists for what they saw. Jobs were disappearing because of environmental regulations and protections. Nature—a working nature bound to local life through arduous labor—was being robbed from locals by environmental demands. Meanwhile, timber corporations continued their full-steam clear-cutting practices.

While these conflicts were brewing, both yeoman and BTTL utopians found a common cause in marijuana. Marijuana production united land, labor, and people in a thoroughly embedded economy based on social connections and tightly-knit community. This grounded land-labor metabolism was a salve for both yeoman and BTTL utopian visions, struggling as they were for the terms of their own reproduction. For Stevie, who was a white BTTL teacher who started a community school and later came to teach at the area’s high school, this transition was evident in the intermingling of youth. Karyl, who encountered the children of BTTL migrants at high school, agreed that schools and generational intermingling were the engine behind the “melt[ing]” of differences. Her “redneck friends” became successful in pot growing off the growing tips of hippie kids. She shortly realized “they were just kids.” By the early 1980s, after having funded her education in the Bay Area by dealing weed, Karyl estimated that the full integration between hippies and locals had occurred. While the locals never got into “all the peace and love [stuff],” her own life illustrated a kind of merger. As the daughter of a church-going Republican Mormon, she married the son of former members of Students for a Democratic Society and original back-to-the-landers. Showing me a wedding picture, she pointed out the
stylistic differences between her father, the heavy equipment operator and her husband’s father, the college drop-out. “You can see the divisions,” she says. At their wedding, each set of parents poured a cup of water for their children-to-be, from which Karyl and her husband drank, symbolizing not only the coming together of two families but the union of two sides of a county long divided. By 2011, her husband was working highway construction, like Karyl’s father, and she tended the marijuana garden, like her husband’s parents. A new local society was born.

As marijuana gardening grew into a regional economy, it acquired meaning beyond the counterculture. It became a “contact object” (Anders 1990) that was imbued with many different meanings, around which multiple networks, discourses, and practices revolved. Foucault (1984) describes this kind of social formation as a heterotopia in which multiple cohesive social formations exist adjacent to each other. Marijuana, as a “contact object” was the point at which these diverse social orderings met. This is typified in what many locals referred to as different “scenes” revolving around marijuana (ranging from all-women grower collectives to recovering alcoholic marijuana farms to high-octane mega-grows). Founded in secrecy and trust, this honeycomb structure amounted to a general milieu, or what I call an “actually-existing utopia” in which utopian ideals are embedded in everyday space and time—what Roberto Unger (1987) describes as a processual utopia.

Marijuana initially served as a mediator between an interior utopia and an external world. Yet, in the War on Drugs of the early 1980s marijuana came to dominate the dynamics of actually-existing utopias. As marijuana’s economic value grew, it colonized social life. Many in the Lost Coast began to have qualms about the type of society that resulted. Jay McCubbrey (2007) argued that the War on Drugs closed circuits of communication, which were the key to community life. Life was lived in codes, behind locked gates, and in a state of fear and distrust.
for many. Community involvement, presumably, would have become dulled as people retreated into isolation. Amazingly, this wasn’t the case on the Lost Coast as marijuana profits, acquired in secrecy, were channeled into community institutions.

Though prohibition shut down public life, it intensified sociality and deeply embedded the economy into trust-bound social relations. A new, secretive form of community came into being. Communication, for example, required learning spoken and unspoken codes (e.g. words for weights, deals, meeting times, product type, etc). Taboos surrounded certain topics (e.g. never ask anyone what they do for a living), and there were geographical restrictions (don’t drive certain roads or wander across private lands). McCubbrey’s analysis focuses heavily on BTTL migrants and the stultifying effects of the drug war on communication. I am more interested in what forms of communication did arise and to what end. Before this, however, it is important to situate the War on Drugs and its effects on the social life of marijuana.

The Political Roots of the War on Drugs: From COINTELPRO to CAMP

Hannah’s peace and anti-nuclear activist history was obliquely bound to marijuana. A white woman now in her 60s, she had arrived in southern Humboldt in 1983 and had since been working around marijuana for years “to keep off welfare.” She came to southern Humboldt after a time as an anti-nuclear organizer and Latin American solidarity activist in southern California. Though she was from what Young (1973) would consider the political branch of the countercultural movement, she found her way to the back-to-the-landers after her anti-nuke organization, which had emerged out of the peace movement, crumbled under the weight of COINTELPRO, the Counter Intelligence Program of the FBI, which targeted political activists most intensely from 1956 to 1971, but whose activity continued in other forms through at least
the 1980s. By 1988, COINTELPRO’s role in decimating Hannah’s anti-nuke organization was revealed in a court-ordered document release in the ACLU-litigated case.32 Talk of COINTELPRO made Hannah appear paranoid to some in the community. Unsanctioned knowledges that contradict official state histories are often characterized this way, unsubstantiated—or even substantiated but discredited—as they are. These unofficial knowledges are characteristic of peripheralized, illegalized, and radical spaces such as the one Hannah settled in on the Lost Coast (see Copeland 2014; Hurley & Walker 2004; Uscinski 2011 on conspiracy theories as resistance and alternative knowledge-making).

The activity of anti-nuclear peace activists around the arms industry in southern California was, predictably, an object of governmental attention. From the 15,000-person march on San Onofre nuclear station in 1980 back to her presence at Laguna Beach’s New Age Christmas Happening in 1970, Hannah had understood that police were never distant. Timothy Leary, the leader of the Brotherhood of Eternal Love, which threw the Happening, was already in jail and the Happening itself would be shut down by a SWAT team led by Leary’s arresting officer. This officer, Neil Purcell, had chased the Brotherhood from Nixon’s hometown of San Clemente in 1966 and targeted the organization as a major producer of LSD and trafficker of marijuana. The crackdown on the counterculture had begun in the early 1970s, when Nixon was President and the rising star, Ronald Reagan, was Governor of California. Southern California had a history of anti-radical policing, and it would be one of the focal points of anti-counterculture reaction. Hannah grew adept at recognizing the characteristic white Fords of “Narcs.”

32 Though protection of the nuclear and arms industry was part of the goal of broad-scale government surveillance, it was Central American solidarity groups that formed the focus of this 1980s surveillance effort. The Iran-Contra hearings and subsequent revelations by Gary Webb (1999) would link this Cold War maneuvering to counter Leftist Central American sympathies to CIA-sponsored drug-smuggling routes of cocaine and marijuana.
In 1971 Nixon ignored the recommendations of his drug commission to decriminalize marijuana, instead announcing a War on Drugs and the formation of the Drug Enforcement Administration (DEA). Unlike the explicitly political purges of the 1950s, Nixon’s new form of political criminalization was aimed at commodities. Marijuana prohibition and the broader War on Drugs achieved political targeting by commodity proxy: prohibiting a substance, not a type of politics like Communism. Nixon was not only worried about Jews and hippies ruining society, as his tapes recorded, nor were his tactics simply an effort to stymie leftist forces in the Democratic Party. Rather, his aim was societal: in his view, marijuana was a gateway into a process of radicalization and consciousness-altering that challenged straight society and its precepts to its core. Marijuana had to remain illegal.33

Nine months after Hannah left LA for Humboldt in 1983, the state launched its Campaign Against Marijuana Planting (CAMP) to eradicate marijuana. Though CAMP was a state program, it was funded mostly through federal grants. Hannah, along with many others, understood CAMP to be more than a marijuana eradication effort—it was meant to criminalize an emerging center of radical environmental activism that threatened resource extractionists. Landed interests of the West were one of now-President Reagan’s key constituents, as a result of the Sagebrush Rebellion (discussed below). “They wanted to suppress the hippie thing up here. They’d identified it as a source of large financial support for anti-clear cut, responsible harvesting, sustainable forestry movement. Pot was valuable and it was going to fund the environmental movement.” Hannah was also not alone in believing that CAMP, the first and longest-running eradication campaign in the country, was of special interest to Reagan, whose governorship had been plagued by problems from the peace movement. CAMP was targeted at

the scattered remains of the peace movement: “They undermined a whole culture and when we all ran away they chased us up here and keep trying to swat us down like ants.” And, in linking it to the drug war she comments: “the War on Drugs is an arm of the War on Culture.” Indeed, Reagan’s anti-marijuana “Operation Hot Pursuit” in Northern California implied an ongoing offensive that had begun during the showdowns at San Francisco State, UC-Berkeley, and UC-Santa Cruz. Reagan’s federal government, Hannah argued, followed countercultural radicals from the 1970s to the hills in the 1980s by militarizing police operations and bringing southern Californian police power, through the statehouse and the CAMP program, to bear upon northern California. In CAMP’s first year, ten of the 18 participating police departments came from LA and surrounding areas.

The 1980s were a critical period in the linking of federal power to local police through the War on Drugs. CAMP was only one example. It was followed by numerous grant programs to localities, and the establishment of federally-led High Intensity Drug Trafficking Area (HIDTA) offices in 1988. Reagan created a new “Drug Czar” position under the President’s Office of National Drug Control Policy (ONDCP) to coordinate federal, state, and local efforts. With these new institutions and programs came new capacities: the allowance of Coast Guard officers to work on Navy ships to interdict drugs, the 1984 expansion of federal power in sentencing penalties (particularly around marijuana), federal forfeiture processes, and mandatory minimums in 1984 and 1986. Finally, the National Defense Authorization Act of 1989 explicitly authorized military involvement in domestic anti-drug operations, particularly by funneling federal power and money through the National Guard Bureau. Just as Hannah was finding out from the ACLU case that her anti-nuke organization was targeted by COINTELPRO, the military was honing its supply-side tactics in Bolivia coca eradication campaigns and gearing up for the first domestic
marijuana supply eradication operations in Northern California. Under pressure from coca-producing countries to exhibit a domestic supply-side strategy, the first President Bush oversaw the launching of eradication campaigns in Oregon, Hawaii, southern California, Kentucky, and Humboldt in 1990 (Steimer 1993; Mendel & Munger 1997). The military’s 7th Infantry Division led efforts in Humboldt, fresh off their mission in Panama to depose sometime-CIA informant and then-President Manuel Noriega. Noriega’s involvement in drug activity had been known for years but he was protected from prosecution until his usefulness in opposing the Sandanistas had expired. Prior to Panama, the 7th Infantry had been in Honduras, around which allegations of unapproved military aid swirled during the Iran-Contra hearings. It wouldn’t surprise Hannah that the 7th Infantry later found its way to Los Angeles to quell the uprising following the beating of Rodney King.

Though Nixon and Reagan, the two anti-radical southern Californians, both invoked the War on Drugs, they did so in significantly different environments. While Nixon struggled to defensively stabilize “straight” society, Reagan was elected by this straight society to re-establish economic and social order. His fiscal policy shocked the worker- and farmer-friendly trade terms that had sustained US economic power after Nixon’s floating of the gold standard. While high interest rates devastated the remnants of the family farm in the rest of the US (Dudley 2000), in the West a Sagebrush Rebellion demanded federal divestiture and deregulation of lands for private extractive use (Cawley 1993). The stock market ballooned in the larger deregulated environment, mergers and acquisitions became unremarkable, and place-based industry was subordinated to a ravenous finance capital. The timber industry, too, clamored to meet the new finance-driven mandate to maximize production and increase profit rates (Harris 1997). In the
redwood forests of California’s North Coast, this translated into a voracious appetite for timber through new and infamous “clear cutting” techniques.

CAMP came none too early for a timber industry gearing up for its final exploitative push to transform timber to shareholder returns (Harris 1997) in the Lost Coast and the North Coast more generally. The working unity between white workers and environmentalists in the marijuana economy posed a threat to the extraction economy. CAMP succeeded in shutting down marijuana production in other parts of California, which lacked the Lost Coast’s protections of a rugged topography, local culture, and density of producers. This helped to augment the value of marijuana even more, as Lost Coast growers cornered more of the market. For unemployed workers in a deindustrializing region, marijuana prohibition emerged as a kind of shadow welfare state, distributing the proceeds of a state-protected market to an unemployed, disaffected, and potentially radical population. This criminalized redistributive action put local populations in a compromised position—they could either be overtly political and keep clean of marijuana or be involved with marijuana and stay away from politics. By substituting the targeting of a substance for the targeting of a group—but having the same substantive effect of social control (Musto 1987)—marijuana became the stand-in for political persecution for all kinds of people disaffected and dispossessed amidst deindustrialization and the “roll-back” of the welfare state (Peck & Tickell 2002).

Military operations in 1990’s Operation Green Sweep galvanized Humboldtians into action. This was the apex of the Lost Coast’s War on Drugs. It was also the year that the Redwood Summer was poised to flood the North Coast with environmental activists in the style of Student Non-Violent Coordinating Committee’s Freedom Summers. Marijuana cash fueled a fair amount of the day-to-day operations of Redwood Summer. Environmentalists, along with
some of the 15,000 Reggae on the River attendees, protested the police operations that summer. The famous redwood activist Judi Bari had just been maimed in a car bombing. Her suspicious and uninvestigated death was significant because she was an advocate for unifying deindustrializing timber workers and environmentalists around common interests in labor, land, and community (an advocacy for which she was criticized by other environmentalists). This unity already had an incipient form in the marijuana economy and Bari was attempting to make this unity overt. In place of these unifying tendencies, the specter of “criminal” growers and “outsider” environmentalists combined to divide the region against itself. “Culture clash” substituted for common goals around corporate-driven ecological destruction and industrial decimation and divided the fragile—because illegalized—working unity that had developed among countercultural environmentalists and timber workers around marijuana.

The military operations of 1990 irked local law enforcement, leading the sheriff, no peacenik himself, to oppose military intervention as counterproductive and ill-advised. He urged the federal government to fund locally-controlled law enforcement efforts to eradicate marijuana instead. CAMP funding between 1990 and 1995 declined as lawsuits against Operation Green Sweep wound their way through the courts. The Civil Liberties Monitoring Project organized the main lawsuit and was able to use the opportunity to expose the domestic abrogation of 4th Amendment search, detainment, and seizure rights. The ruling on the suit ultimately set a legal precedent supporting police powers to abrogate these rights. Nonetheless, the challenge for military and federal operations on domestic soil was a risky affair, leading military strategists to question its wisdom (Stelzer 1996). Regardless of overt troop involvement, eradication efforts in Humboldt continued to militarize in much more quotidian ways (Kraska 2001) through funding
streams, multi-agency coordination, institutional build-up, and artillery and helicopter lending, leading to the habitual abrogation of civil rights in the name of fighting drugs.

Whether it was in the deindustrialized urban deserts, where the last-hired, first-fired rule had created entire populations of unemployed workers of color (Davis 1992), or extractive industries that were cannibalizing natural resources and workers in a treacherous endgame, the War on Drugs placed the outcasts of Reagan’s neoliberal economy under the criminalizing gaze of an increasingly well-knit web of federal, state, and local police. In rural northern California, the War on Drugs had a stultifying and anti-political effect. A demobilized white working class blamed themselves and each other for poverty and unemployment, and sought income outside legal bounds (Sherman 2009). This potential political force was demobilized before it could gather. Meanwhile, environmentalists’ political activity was endangered by its relation to marijuana, which provided an important source of financial support. Political unity between environmentalists, workers, and the unemployed was pre-empted by criminalizing the marijuana milieu they existed within.

*Reproducing the Profane: Children, Values, and the Emerging Ethics of Marijuana*

For Stevie, the white schoolteacher, and many other BTTL migrants, the lucre of marijuana overpowered an original utopian vision. At first, marijuana was simply a way of self-provisioning goods and limiting one’s dependence on the marketplace. Then it was supplemental income to acquire new looms, water pumps, solar panels, and building materials for homesteads. Slowly, the temptations of consumerism grew, as one son of a BTTL migrant remembered: “I think that my parents and most of that generation held onto…their simple value—of wanting to live close to land. Most people lived in ramshackle cabins in the woods. It wasn't until well later
that people who came to this area came to make money from pot and build themselves big exorbitant castles. And cars and everything goes along with the lifestyle. The American dream, the consumerist mentality…is one of just those sort of sad but inevitable things that happens.”

Another migrant at that time remembers the collapse of community and collectivity along with the rise of consumerism: “Maybe only one person had a chainsaw and it would be loaned around. Two persons would have a working vehicle and they would drive us around. It was far more convenient. First, then, people got a little bit of money and bought a chainsaw. This began the process of the closing themselves off. It really wasn’t obvious. It was very gradual.”

The trend toward insularity and consumerism grew as marijuana’s prices increased. The federal strategy to target the supply of marijuana (and other drugs) was ostensibly an effort to reduce drug consumption by making prices more expensive. This, however, makes production an incredibly valued activity. The Lost Coast was soon flooded with cash. Unless one had the ability to launder it through other businesses or through land transactions—which took expertise and social connections—this cash was largely only good for immediate consumption (vacations, consumer goods, and whatever other cash transactions one could finagle), which contradicted the minimalism and asceticism of BTTL values.

As Humboldt’s core industry of timber shed workers and ancillary sectors suffered, rewards from marijuana far outweighed other declining and low-wage possibilities. The allure of easy money attracted one son of a BTTL migrant who only had one job laying cement at $2.65 an hour before he quit to trim marijuana. Another local left her decent job as a switchboard operator (at $10 an hour) to become a full-time grower. To one permacultural farmer, the easy (but high risk) money was a corrupting force not only to the more rustic sensibilities of the BTTL migrants but also to the value of work and relation to the land: “All the other rural
communities [in the country]—they’re working to make it happen. They are doing it because they love the land, that strong community. The expectations around [marijuana] are just surreal.”

As a grown child of BTTL migrants, he saw this in terms of temptation and generational revolt: “A lot of the kids grew up in rundown houses with unreliable cars. No electricity. Cold water. It made those kids really yearn for the luxuries. For the amenities. You know, flip the switch and a light goes on, hot water. All suburban amenities. That was what people wanted.” Though the drug war and price inflation made this value transformation possible, locals blamed individuals and their supposed lack of moral scruples for the shift.

The linking of a corrupting marijuana with generational change signifies a problem with the social reproduction of (counter)cultural values and relations (see Narotzky and Besnier 2014) that were in crisis in the face of consumerism and commoditization. The Edenic refuge of “the land” was now falling to an economically revalued marijuana. The plant that had enabled BTTL migrants to remain outside of dominant economic and state power was now encompassed by state power (prohibition) and capitalist relations (the colonizing power of price). Utopia seemed to lapse into dystopia as the Trojan horse of marijuana entered the homestead.

For Stevie, the corruption of the back to the land utopia was self-evident. When his child reached pre-school age and Stevie eased into his first years as a teacher in southern Humboldt, he decided he couldn’t continue to participate in the marijuana economy if he was to coach his students to stay away from drugs and acquire an education. “A lot of the boys weren’t interested in studying because their attitude was, ‘Well, I’m going to be a millionaire when I’m 20 anyways,’” he remembers. He knew marijuana wasn’t in itself amoral, but the trappings of money and crime were. Social conversation was reduced to trading growing techniques. Gates appeared where none had existed, semi-automatic fire ricocheted in the watersheds, Rotweilers
roamed the perimeters of properties, roving hikes through the countryside became a thing of the past as 4-wheelers intercepted Stevie whenever he got too close to a garden.34

Unlike Stevie, many growers chose not to leave the marijuana industry. Gerri, for instance, never stopped growing marijuana. For her, marijuana was a sacred herb, a belief she developed during her forays into Rastafarianism and living part-time in Jamaica. She had watched as marijuana buyers in Jamaica started paying with cocaine in the early 1980s, as the Caribbean became the smuggling highway for Colombian cocaine en route to Florida and other US spots. When the first US-funded helicopters arrived to eradicate Jamaican marijuana, which they had already been doing in the Lost Coast, they came to Gerri’s Jamaican garden and leveled it. “We [the US] broke them. We took a nation to its knees…. Now white people own the whole coast line [of Jamaica],” she says. Perched on the coastal cliffs overlooking the Pacific Ocean, Gerri’s Lost Coast house felt as far from centers of legitimized state power as possible. Gerri understood the contradictions, hypocrisies, and moral challenges of life in an illegal economy. She also knew that life in the formal economy and legal society was not without its moral depredations and injustices (something she drove home to me in discussion of the murder of Troy Davis). “Without marijuana,” she opines, “this community would be dead.” Though things got ugly at points—including robberies, federal raids, an occasional murder—she was seldom fazed.

Refusing to be cowed by a privatizing geography of fear, she was reputed to march into young growers “scenes,” tear down lights, shut off generators and rip up water lines if they were pilfering water, pollutating the air, drawing undue attention, or dumping diesel into streams. Official government may have been a distant reality, eventually represented through buzzing

34 People’s regret over many of these developments permeated much of my fieldwork, particularly because fieldwork was conducted at a time when once secretive realms of life, solidified in their justificatory rationales, were suddenly seeing the light of day and were becoming an open topic of collective discussion—something that had been verboten for decades beyond one’s living room and closest confidantes.
helicopters and raiding cavalcades in the late summer, but for the rest of the year she and her
neighbors were the governing force, determined to stay put.

Gerri understood the risks of raising her children around marijuana, but in her moral
calculus, raising them in formal-legal society also carried its own burdens and hazards. One of
her three children died of a heroin overdose: “You have to be tough to survive. Spirits can get
crushed. It’s a harsh world.” She did not place blame on the supposed immorality of raising her
children in an illegal environment; she blamed the structure of the War on Drugs, which had
enabled heroin to circulate in unregulated and dangerous ways. She blamed her son’s death on
the inhumanity of a capitalist society that breeds disillusionment and despair. She sought to
instill her own anti-materialist, anti-capitalist values in her family and community. Having
birthed her children in a shack with a midwife, she provided a few toys for playtime but never
offered a plush life to her children. This had changed by the time we met—something she noted
as she disapprovingly surveyed her grandchildren’s scattered toys in her living room, which was
simultaneously doubling as an emergency marijuana-drying room after the early rains of 2011.
Gerri believed the real antidote to society’s predations was passionate skills. Planting a seed and
reaping money was magical, if one accepted the risk, but it was always a tenuous situation. As
she would note, “Pot seeds don’t grow feed.” She was adamant that her children have vocations
beyond marijuana, a belief that was reaffirmed in 2011 when the collapse of the marijuana
producer market looked imminent. Instead of leaving the marijuana production sector, she sought
to teach her children how to pivot in an insecure world where displacement occurs all the time.
Gerri returned to the value of labor as a core tenet of local life.

The qualities Gerri emphasized—labor, attachment to land, skepticism about distant
government, a moral compass in a compromised world—were also important to Karyl. Karyl
also chose to remain in marijuana production despite her qualms about raising children around it. After having grown marijuana for years, she had a breakdown after watching *Scarface*, which explores the moral quandary of “a good guy who gets into drugs and ends up being a monster.” Having grown up a Mormon who didn’t drink or smoke—“no coffee even”—her qualms resurfaced as she gave birth and watched her children develop. For a decade, she took the position that the marketplace absolved her of responsibility—people choose to buy or not to buy. But she knew her product would end up in the hands of children. “How could you grow it and sell to children?” she implores. The only reasoning she could muster was self-accusatory: she was “greedy,” she said. She and her husband decided to move away and to reorient their career paths, returning once a week to water a few plants for some extra cash. Following a medical emergency and some late debt payments, they circled back to the marijuana economy full time, just as medical marijuana became decriminalized. While Gerri emphasized the value of labor, Karyl wished to impart to her children a notion of prudence and thrift to combat the ever-looming threat of greed. From buying clothes at thrift stores to avoiding fancy dinners and eschewing vacations, she navigated the moral questions around children and marijuana through crafting metered consumption, something that was as much moral as it was a strategy of avoiding detection and questions about the source of her funds.

For both locals and back-to-the-landers, worry over literal reproduction was a way of focusing anxieties about broader community change under the War on Drugs. In the cases of Gerri and Karyl, the exterior world was inhospitable to a sustainable life, requiring them to engage with an underground marijuana realm, which had its own challenges and moral vagaries. As utopian visions were compromised in the day-to-day world of marijuana production under the War on Drugs, producers made moral calculations about what they would reproduce, what
legacy they would leave, what was essential to pass on. Children were one way that people deliberated their relationship to this emerging social field.

(Re)Producing Marijuana: Trust, Price, Economics, and the Criminally Mundane

Jim was a marijuana broker who grew up in Marin County in the 1960s, a kind of regional “pot capital” at the time. While his parents, who were big band jazz musicians, didn’t deal marijuana, many of his friends parents did. “You’d go to their house,” he remembers, “the mom would have a big barrel filled with buds, she’d be putting it in bags…weighing it out.” Unlike Gerri, Karyl, or Stevie, marijuana’s commercial form never held any conflict for him. For Jim participation in marijuana commerce became a kind of cosmopolitan passion. He interacted with the Vietnam vets and sailors who smuggled marijuana by plane and boat from Mexico, Thailand, and Vietnam. He enjoyed the exotic smells and varieties of plants that reached him from Columbia, Afghanistan, or Lebanon. He became an expert at recognizing product origin—the bitter smell of African varieties, the strains of sativas from Michoacan, Sinhaloa, Oaxaca, and Zacateca. He watched with excitement as bricks of ragweed for $100 a pound began to share market space with $400 Columbian brown, along with new plant strains developed from crossing Hawaiian and Afghani imports, which were then grown in California. Though he didn’t want to know the personnel of supply chains for security reasons, he reveled in imagining the long chain of human hands that produced this magical, illicit commodity. The major transformation he witnessed, however, was the reverse of marijuana flow in northern California. It went from being an import (which he facilitated as a college student) to an export in the late 1970s. Marijuana production was popping up in California’s Sacramento Delta and throughout the Sierra Nevada range throughout the 1970s. By the early 1980s, the Emerald Triangle, the North Coast area that
spans Southern Humboldt, Northern Mendocino, and Trinity Counties, had become the locus of marijuana production as other regions buckled under the mounting War on Drugs. The US consumer market began demanding the kind bud grown in California, with Humboldt’s ideal ecological and social conditions earning the Emerald Triangle cachet among smokers worldwide.

Jim’s fascination was not only as a cosmopolitan hobbyist. Brokering marijuana deals embedded him within Humboldt society. From his usual perch at a North Humboldt restaurant, where many of the wholesale producers would hang out, he would make contacts with buyers from around the country, walk around the room, and gather the quantity and quality needed. In a language that cloaked the commercial activity in heavily coded terms, he would orchestrate the movement of marijuana from his neighbors and acquaintances to the outside world. Producers like Karyl confirmed that “connections” were critical to involvement with marijuana. Growers often subsisted on a few large deals a year, so trust was paramount in cementing connections. It was not only having connections but having an intensity of connections, such that if a person needed to assemble “a pack” of marijuana, you’d be at the top of the call list. Often payments or marijuana would be fronted, even if just for short periods, so as to never have money and drugs in the same spot. “If you lost trust in this community, you’re really suffering,” Karyl advises. “You have to be square about the deals. You can’t have a reputation for being flaky.” Shorting brokers or passing off inferior product would cause trust to be broken and connections to wither.

In sociological terms, this was an intensely embedded economy, as there were no legal protections or contracts to formalize and externalize trust. For both Karyl and Jim, the romance of outlawry was rooted in the channeling of marijuana commerce into covert social forms, where economic activity depended on social interactions rooted in community. Jim viewed this web of trusted connections as a form of protection. One time he approached a local man who owed him
money (now high in local politics). This person was known for carrying a gun and making threats, but Jim approached him alone in a bar, because he knew he couldn’t be touched. Harming Jim would mean immediate excommunication from the dealing network. In his years of brokering he was never ripped off and never busted.

As prices climbed in the late 1970s, more money sought more product in larger quantities. After a particularly large deal that brought Jim two degrees out of his connections and into contact with a heavily armed and powerful Native American grower, he decided that the mounting price points and investment stakes were creating too much danger. But it was more than that: “When [marijuana prices] got over $2500, $3000, when it was going to 4k, 5k, I didn’t want to charge people that much for something that wasn’t worth that much. They all knew that’s what the number was, but I didn’t like it.” Price became a kind of ethical barrier for Jim that connoted an untenable shift in social relationships. “I knew the value of the experience people were getting from it, and it’s not worth it,” he says. Both producers and players within the commercial marijuana market experienced a process of dis-embedding, and questions about social reproduction arose. For Jim, the market itself had been an embedded phenomenon that buckled under marijuana’s valorization (cf. Polanyi 1944).

Yet, “dis-embedding” is accompanied by a “re-embedding” process. Social life is always embedded even if the ties are mediated in new, institutional, and impersonal ways. The same qualities of danger, high stakes, and large rewards that drove Jim away drew Kenneth into the marijuana industry. A white man in his early 40s, Kenneth was the son of an East Coast crime family who grew up surrounded by illicit commerce, idolizing the neighborhood drug dealer who “had everything.” Before arriving in California, he had been a marijuana grower in Massachusetts and echoed similar sentiments as Jim about the global marijuana market that he
watched unfold before him. He was fascinated with the connection of certain marijuana strains and growing techniques to the ecological conditions of particular regions of the world, prior to the genetic intermingling and controlled indoor growing that characterizes global production today. Kenneth was busted at the age of 17 and served time in youth corrections in the 1980s, after which he got his GED, moved to California, and became a Coast Guard diver seeking illegal drugs off the coast. The day he quit his diving job, he smoked a joint and decided he was “ok with marijuana”—he always had been and now allowed himself to recognize this, despite the messaging of youth corrections, the military, and the Coast Guard. While this may be surprising on the face of it, the intimate connection between law enforcement and criminal careers is not unusual (e.g. Campbell 2009). Kenneth’s “connections” had always been in the criminalized world and this was something for which he did not apologize. Like Gerri and Hannah, Kenneth grew up at the margins of US society. Life inside legal society was not a value he held—life outside was always a valid and possible choice.

Kenneth found crime mundane and incidental. It was just a mode of making money, by using the connections and skills he had from his upbringing. The danger was simply part of the equation and, while he shares with Jim a nostalgia for the global marijuana of the 1970s, he did not turn away from the new economy but deepened his involvement in it. He first grew in Oakland and then, having gotten Afghan cuttings from a friend and some seeds from a woman in Mendocino, he moved to Humboldt. He followed a girlfriend, but also brought his brother from Oakland, which he saw as a “violent death trap.” Like the anti-nuclear activist Hannah, he was a kind of refugee of the conservative backlash of the 1980s War on Drugs and the violent, disinvested cities it produced. His involvement in marijuana deepened his interest in horticulture, prompting him to go to school to become a Master Gardener, supported by marijuana funds.
Thanks to this expertise coupled with his construction skills, he soon found himself in high demand from growers throughout the Emerald Triangle. The connections he made through this work relied on trust, and reputation, which he avidly protected in his dealings. “I was from the East Coast, which means I grew up [understanding that] you don’t rat, you don’t snitch on people, you don’t bury people. So people had faith [in me].” Trust and connections were tested when he was arrested in the early 2000s for his garden. He stuck by his code and showed his friends that he wouldn’t snitch even when threatened with six years of jail by an eager prosecutor. His actions cemented these connections even further. When he transitioned to medical marijuana, an above-board economy, however, many of his friends became distant, expressing fears that he’d snitch on or expose them. Nevertheless, as he works in this formalizing medical economy, he maintains his code of trust and his connection with illegal producers, applying his understanding of reputation and trust to his interactions with patients.

Similar pleasures, codes, and tight bonds sustained Cole’s 40 years of involvement in marijuana. He moved to the Emerald Triangle in the late 1970s, having begun as a dealer to college students (and a few of his high school teachers) in the Central Valley. He became a broker and, eventually, an international trafficker. His professional progression mirrored the rise of risks and rewards under the growing War on Drugs during this period. Like Kenneth the grower and Jim the broker, Cole the trafficker delighted in the internationalism of marijuana in the 1970s. He found echoes of it in the 1980s, when he made runs to Jamaica, to ships moored in international waters outside Marin County, and to Mexico to retrieve Thai and Columbian. In Mexico he would meet cultivators and wholesalers to arrange orders and shipments across the border, where his team would package marijuana and drive it to Northern California in all kinds
of creative ways. Unlike Jim, who brokered for growers in Humboldt, Cole was more intimately involved in the commodity transport chain. Seeing that his Mexican suppliers were getting left behind by the Afghan kush strains growing in Northern California, Cole brought kush to Mexico, resulting in what some would know as “pretendica” or “Humboldt Helper,” signifying the inferior quality (Mexican latitudes are not ideal for indica production) but also the similar genetic profile to Humboldt’s product. Cole loved the thrill of cross-border traffic and the global networks he came into contact with, but he hated driving product to its destination in the US. By generating enough wealth in his early years, he was able to offload the risk onto his (well paid) employees to whom he’d give the front-line driving jobs. He required them to go through a substantial security check to ensure the product would arrive safely (criteria included avoiding rental cars, smell-proof bags, covering duffle bags with blankets, not exceeding 200 pounds, checking that no lights were out, not speeding, etc.). As a trafficking maxim says: only break one law at time.

Cole ceased trafficking and began growing in 2001; after September 11 the US-Mexico border became more hazardous. He acquired steady buyers spread out over the country, and his farm produced several hundred pounds every year. Though “connections” remained important to Cole when he tried to move his product into the marketplace, as he transitioned from trafficker to grower, he found that place-based production required “alliances.” Cole set about building these in individual relations (electricians and carpenters he could trust), at a community level (ensuring that he did not just employ white people from out of the area but that he brought in workers from the nearby Native reservation and from the Latino migrant worker community), and public ways (by sponsoring local festivals, farmers markets, contributing to political campaigns, or marching

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35 Moving trucks full of used, cheap furniture and pot was Cole’s favorite method until he ended up with an entire warehouse of useless chairs and bureaus.
with local Native Americans on their 100-mile sojourn commemorating their displacement and relocation in the valley where he lived).

New terms of social reproduction emerged in the marijuana economy as the War on Drugs gained steam. They took form through horticultural and market passions, the dense and trust-filled connections and alliances one built, or the codes and ethics by which one lived. The marijuana economy was not simply a fallen utopia. It was a new social realm that re-produced a meaning-filled social life, despite the predations and corrosive effects of prohibition. While the original utopian visions of timber culture, the counterculture, and the back-to-the-land movement couldn’t be sustained in this forced and heightened commoditization, a community of practice was formed around marijuana. Some members looked at their own community as fallen and compromised, much like the rest of agricultural America during the farm crisis of the 1980s (Dudley 2000; Fitchen 1991). Reagan’s devastating rollout of the War on Drugs had the unintended consequence of instituting an odd sort of protectionism from industrial consolidation. This protected yet targeted community had its hazards, but for many it became a utopia of process—a utopia that was reproduced in both time and place. If this utopia appeared dystopic, it was just a variant of utopian logic: utopia was always dystopic when it was forced to manifest beyond its “no-place” into a worldly space and time.

The Activist Economy: Marijuana, Medicine, and the Disenchantment of Economy (1990-2000)

While one might suspect that criminalized communities would be forced into political quiescence, lest public involvement open them to increased risk, this was only partly the case in the Emerald Triangle and Lost Coast. Activism of various sorts intensified as a response to the War on Drugs. The future was not simply abandoned for the continuous present of the
marketplace. Rather, the terms of community and regional life—the terms of an actually-existing utopia—continued to be fiercely struggled over in both veiled and overt ways (Anderson 1990). McCubbrey (2007) is right to point out the ways that local community and lines of communication were targeted by the War on Drugs, but this made the intensive forms of community and activism that did emerge all the more notable.

Social scientists of crime conceive of criminality in two ways (Schneider & Schneider 2008): either a selfishly-motivated economic endeavor tied to unequal capitalist-state relations (e.g. Blok 1974; Schneider & Schneider 1976; Adler 1985); or a kind of “primitive” or quasi-political venture (Hobsbawm 1959; also see Bourgois 1995; Sharff 1998; Mullings 2003). The everyday reality is likely an amalgam of these two theoretical postulates, and is much more complex in local and individual contexts (e.g. Campbell 2009; Heyman 1999). Though Cole, the trafficker-turned-grower, watched many friends go to jail or leave the country out of fear, the heightened stakes of the War on Drugs attracted him. One might cast Cole as a kind of venture capitalist sine qua non, who was explicitly bound to the state-capital apparatus but was certainly complicit with it. It was not only thrills and risks of the criminalized marketplace that sustained his involvement, but also the sense of being involved in a community struggling to define itself in the face of prohibition. Cole found this extra-economic meaning and motivation in the form of giving.

The profit Cole reaped from his operations often ended up back in formal-organizational political conduits, particularly around marijuana legalization, community protection, and infrastructural-social improvement. The financial and organizational support Cole offered to others could be seen as calculative ethics of business or as a safe way to unload unlaunched cash through gifts. This, however, minimizes his consistent tithing to organizations and causes (10%)
every year, a tradition he learned from his religious parents), his decades of advocacy, his critique of profit motivation and self-interested individualism in his giving activity, and his light criticism of those who gave nothing and did not participate in community life.

One of the ironies of supply-side drug interdiction efforts is that despite its express aim to increase the price of drugs through supply constriction, the inflated prices simultaneously provide the basis for an expanding and more sophisticated (re)production of the drug itself with the increased proceeds. Cole not only reinvested this money in productive activities but, with such a large return on such little input, he also invested these monies into the community. In one respect, investments like these were necessary social investments on the part of producers to sustain the social environment needed to continue production (e.g. privately maintained roads, schools, fire districts). These investments substituted for tax payments and state-led infrastructural developments, and helped to sustain the rural communities of the Emerald Triangle. They were also drug war-subsidized efforts to build an autonomous, progressive, and hopeful community. Marijuana was both the cause of community strife and its soothing balm.

In the Emerald Triangle, marijuana produced a mundane type of infrastructural politics around efforts to protect properties from code enforcement, hold unregulated farmer’s markets, establish health and community centers, parks, food cooperatives, and collective childcare (e.g. Anderson 1990; Anders 1990). In these arenas, marijuana money provided funding and created community institutions that would protect livelihoods (like community schools where children wouldn’t be reported for mentioning their parents’ professions). Notably, political, civic, and community politics pervaded the area despite (and to spite) drug war forces. At a time when many rural communities were collapsing and most back-to-the-land communities had disappeared, the Emerald Triangle thrived in the newly forming rural society of “rednecks” and
“newcomers.” It was in these lower-level community and political expressions and venues that the generalized repression of the marijuana economy was able to find its political voice, veiled as it was.

Marijuana politics also existed in more overt ways. Cole’s mobilizations of money constituted a kind of “political laundering” that trafficked between illegal and legal zones not for personal gain, per se, but for political effect. In what may have seemed like an overpowering, omnipresent War on Drugs, Cole was involved in a war of position (Gramsci 1971), where political gains were won in the crevices and cracks of law’s domain. For instance, Cole was a key organizer and founder of the Emerald Triangle’s Hempfest, which was an effort to raise the profile of hemp-related products. Hemp activism drew attention to the corruption and hypocrisy of prohibition, and it was an important venue for marijuana producers and buyers to meet (often in the festival parking lot). Economic and political functions were fused and co-produced. Cole was also a key supporter of the Hemp Industrial Alliance, which was founded by southern California’s Jack Herer and his wife Brenda, along with Jerry Shapiro, Dr. Bronner and his son, among others. “The hemp movement,” Cole told me, “is [also] about legalizing [all] marijuana...It’s teaching people their roots and their past. It’s not dis-information. It’s spreading information, making people aware.” Within ten years (over the 1980s and early 1990s) hemp activism had brought consciousness of hemp back to the US via hemp stores, fest, and products. It revived knowledge of of hemp that had waned following its original prohibition in 1937.

In the early 1990s, Cole was also involved in the deliberations among key marijuana activists over strategy when a split emerged. They questioned whether to pursue full legalization, as advocated (unrealistically, some thought) by Jack Herer, or medical marijuana, as advocated by Dennis Peron (considered by others to be compromising the integrity of a legalization
agenda). Cole’s ex-wife was involved in HAG (Hemp Awareness Group) as well as COG (Citizens Observation Group), which was a civil liberties watch group that monitored police activity down to the minute via radio alerts. Cole worked with southern Humboldt parents to get the school district to reject anti-drug DARE funding, but his activism and philanthropy extended well beyond hemp and marijuana politics. He supported the founding of an environmental group, a watershed restoration group, the civil liberties project in the area, and supported public services, like libraries and parks. In all these efforts, Cole laundered illicit money to foment political activism in a public sphere from which he’d been banned. Cole’s covert politics allowed him to protect the economic activity from which his political activism stemmed. The marijuana economy was not a de-politicizing force—it enabled activism.

Marijuana politics congealed under the rubric of privacy and civil liberties. Examples include the lawsuits of the Civil Liberties Monitoring Project (a project of the ACLU), the counter-policing community watch Citizens Observation Group (COG), and COG’s partnership with the local radio station KMUD to track police movements. From the activities of United Stand, an anti-code enforcement organization to the annual Reggae on the River and stand-offs over mosquito spraying, marijuana suffused other cultural and community forms of politics, either through funding or as the covert object of claims to privacy and community-controlled local institutions.

Through conduits such as salmon restoration, reforestation, and conservation groups, marijuana cash supported the environmental movement from a distance through cash donations.\textsuperscript{36} Environmentalism in a timber region was high stakes and, for this reason, marijuana

\textsuperscript{36} This interconnection, however, was seen by some interviewees as enabling a certain silence of pot growers around the environmental impacts of marijuana, which would later lead to one of the first open debates in Humboldt around marijuana production in 2008.
had its least explicit footprint. Marijuana producers were limited to mostly cash support but this cash had more than monetary value—it was a symbol of covert community resistance.

Jacob, a white man in his late 30s, developed an attachment to marijuana through his political involvement. He had visited the Emerald Triangle during struggles over old-growth redwoods and clear cutting in the 1980s, but it wasn’t until the Headwaters Forest Campaign in 1995, which later saw Julia Butterfly Hill’s many month long treetop sit-in, that he spent extended time in the area. With each stay, he made more friends and contacts and became intimately involved in the emerging eco-forestry effort to reform timber extraction practices and a community land trust to remove potential timber lands from extraction in perpetuity. By 1999 the protests were defused as part of the compromise Headwaters deal between timber industry actors and environmental activists. His dam activism with Earth First had subsided, as well.

The late 1990s marked a de-escalation of the pitched environmental battles that had characterized the 1980s and 1990s. By the early 2000s, environmentalists had begun to make headway into county-wide governing positions. Combined with the success of civil liberties groups in beating back some of the excesses of Humboldt’s law enforcement, this increasingly legitimized environmentalism gradually pushed the county government to govern in ways less partisan to timber and the ruling bloc it enabled. This shift opened space for marijuana to emerge into public debate, rather than simply serve as a tool for repression of a segment of the population. Marijuana, in medical form, also pushed the county toward a more regulatory-minded approach to governance.

A year after Jacob’s arrival, Proposition 215 passed and medical marijuana was, on the face of it, decriminalized. Jacob saw marijuana activism as being co-extensive with environmental activism: both were being attacked by the same police forces, suffered the same
kind of stigmatization from local and federal governments, and were indicative of an alternative relationship with plants, nature, land, and labor than the prevailing extractive relations. Jacob and a group of friends searched for a winning case in the area to draw attention to the conflict between medical patients and traditional drug war policing. They found it in a 50-something man with muscular dystrophy who had his plants chopped down despite having a medical recommendation.

“We were looking for a case like this, and we found it, and we said, ‘Cool.’ We talked to him. The guy was into it. We went and got a bunch of plants donated from people that were potted plants, and one of them was actually kinda substantial – it was a quarter-pound plant – and the others were all these little runt things….If you’re gonna pick on somebody, pick on a bunch of young activists who don’t give a shit.”

They sent out a press release, set up the garden, and went toe-to-toe with the conservative DA and sheriff, causing them to back down. The marijuana was donated to the patient and they pried open a new space of licit marijuana production in Humboldt. This was how Jacob became involved in marijuana growing as a hobby. He eventually learned to grow decent plants, all of them consistent with medical recommendations and, as the emphasis shifted from activism to a quasi-activist economic activity, he retreated from overt, publicly-visible political gardens—with one exception. He filed perhaps the first stolen property report over marijuana plants that were yanked from his property, “just because I could”. In the early 2000s, anti-marijuana police efforts ramped up in Humboldt. Jacob responded by moving his plants to where “they can’t see it” and would need “probable cause or a warrant to come onto the property to look.” Instead of being a covert form of politics, medical marijuana enabled a more overt type of political activity to bring the actual marijuana plant into public discourse.
Jacob’s arrival around the time of Proposition 215 marked a slow transition in the secretive culture of Humboldt. Jacob was sympathetic to the PTSD of police-terrorized locals, the paranoia of Vietnam vets, and the intense suspicion of The Man that many back-to-the-landers had. However, he was impatient with the guardedness and introversion that these influences had on community life: “I could just not deal with the paranoia.” He missed the easiness of neighborly relations from his previous home near the Bay Area. Two combination gates shielded him from his friends; a visit without a phone call beforehand was a potential affront. He saw this as part of the dysfunction of the community under the War on Drugs or, as one environmental activist and small marijuana grower called it, “social pollution.” He knew this paranoia was protective—even he would eventually decide he was too paranoid to have woofers (volunteer farmworkers) on his property to help him with his nursery—but he knew this paranoia fostered an apolitical environment that enabled a singular focus on economic gain instead of activism. Paranoia, he believed, was ultimately powered by the economic value at stake. “I made a kind of promise to myself that I was not going to get paranoid and that I was always going to be able to walk from it [the money and the marijuana].” He continues, “People could just show up” at his house. With such a small garden, “I don’t care if [anyone] sees my plants. I don’t give a shit.” Paranoia is hard to avoid, whatever one’s intentions: “This is just how we behave here. We don’t know why. We just do.”

Paranoia created an economically irrational local culture. His neighbors, he says, “are not business people. All they know is that they go out and put guano in their garden all year, and they work hard. And they tie their plants up, and they’re out in the sun. They sing to their plants, and they pee on them. And they like think good thoughts, and they just have a great time. And they water, and they do this. And then they harvest, and they trim it. It’s
all happy, and then the dealer comes down the driveway, and they have money. Isn’t that great? That’s how it all works, and now it doesn’t work that way anymore. There’s no dealer coming in the driveway. There’s no money. They’ve got a shitload of weed. They can’t pay their trimmers. There’s people offering them these obscenely low prices, and they have no records. They have no nothing, business skills, training.”

Trust and reputation, to Jacob, morphed into paranoia and parochialism that, in a changing economic environment, became economically dysfunctional, increasing the likelihood of economic failure for generations of local growers. All that is left is a “victim-y” local sentiment about being left behind by a failing market. This prevents people from seizing emerging market opportunities, Jacob says, noting the irony of his position. He is an anarchist but now sounds like a libertarian, arguing that the coddled, profit-cushioned producers should be left to the whims of the marketplace. He welcomes marijuana entrepreneurship and future marijuana taxation, which, instead of going to the police department in the form of seizures, will go to the local school with a leaking roof. Jacob’s reaction against paranoia and economic irrationality is indicative of the post-medical marijuana era, in which parts of the marijuana economy became subject to a new rationale of more open markets and a softened state power. While this new activism pushed growers toward a new type of politics, it also blamed them—rather than decades of being forced into social isolation—for their inability to navigate newly open markets.

Jacob regrets not having been involved in marijuana in a more explicitly economical manner. Stuck with a perpetually half-finished house, an unfinished art project, and always hustling to find good buyers for his marijuana, he can’t seem to get ahead. Activism had always been his priority, but by the early 2010s, on the cusp of potential legalization, he sees marijuana as any other commodity, and looks at the activism as all having been toward a crass type of
marketization. Jacob’s expression was one of discouragement and disenchantment: profit, it seemed, had become the end-game of his sacrifices for marijuana activism. Now he simply wished he had cashed in on marijuana—a market that he had made possible through his activism. Instead, he felt like an observer to another market becoming “free”—an ironic, but not altogether unpredictable, echo of the squandered quest for liberty posited by back-to-the-landers.


While danger, high stakes, and economic gain were a matter of course for some and a reason for retiring from the marijuana realm for others, they were something that Liam, a white migrant from southern California in his mid-30s, actively pursued. He had made contact with people in the Emerald Triangle as a college student but had been “burned” with inferior product, which he was hardly able to sell. That episode showed him the importance of trusted connections. Despite this, he remembers, “We saw that we could make money selling weed and it was easy.” Between college and settling in Humboldt, he moved to New York where he “slung” weed (shipped to him from San Diego) as a side job while he angled to cash in on the tech boom through a beta-testing business. Next, he moved to Hawaii where he tried to cash in on the property boom of the early 2000s, but saw that it was likely going to take 10 years for him to build up to a point of comfort and success. “I was like, ‘Jesus, I just don’t want to wait that long.’” On a trip to visit his future wife in Humboldt, he found the intrigue, danger, and camaraderie of illegal living deeply alluring. “Some of my friends my age had come up here…and they were doing really well, they were having a lot of fun….It was full-on guerrilla growing, you know what I mean? It was like helicopters everywhere, and like camo everything, and just to the full tilt.” He decided to move to the area in the early 2000s. Properties were
getting busted all throughout his neighborhood, including that of an acquaintance who had been manufacturing ecstasy. At this point, in the early- and mid-2000s, busts and raids were common. In this largely white region though (unlike among urban communities of color [ACLU 2013]), significant sentences were becoming a rarity. The police focused on racking up the number of seized plants, numbers that would be converted into seized values and justification for future funding (and would avoid the kinds of public reactions to police presence that had characterized the tumultuous late 1980s and 1990s in Humboldt).

Like the original back-to-the-landers, Liam found himself living in a tent for the first several months of his residency, doing odd jobs for friends and acquaintances. With a few lucky breaks, he was catapulted into a “partnership” to which he would bring sweat equity and his partner would bring working capital. He found involvement with marijuana both enervating and invigorating. He grew on public or private timber lands, figured out how to “camo” gardens from police, and narrowly escaped eradication teams patrolling by helicopter. He even operated a large indoor garden that was buried into a hill and protected with an entire camera surveillance system, listening to reports of police cavalcades riding the back roads near his grow. The result of Liam’s engagement with anxiety and danger came in the form of wealth, becoming his “own boss” as well as employing others to work marijuana gardens for him (he is not the capital equity partner). He surfs at will, and owns several pieces of property throughout the area. Criticized by some of his BTTL neighbors for his energy intensive indoor growing techniques, his employment of labor-saving trimming machines, and his new role as an absentee landlord and “big grower,” Liam is a product of a new kind of formal-market ethics in marijuana growing. While these ethics are seen as contrary to locally-held yeoman ideals, they shared the same valorization of private property. The key difference is that different aspects of property were
emphasized: the privacy and protection of property, dating back to original utopian ideals, were being replaced by property’s commoditized value. This was not a break with the utopian 1970s, but an evolution of its tenets.

There was something to Liam’s early involvement that Young (2003), Adler (1985) and Katz (1988) describe as a kind of thrill-seeking behavior associated with a reaction to the anomie theorized by Merton and Durkheim and echoed by others such as Garland (2002). For Young and Katz this is a kind of late modern sentiment rooted in the risk society (Beck 1992), where danger and insecurity are omnipresent and become refracted, particularly in masculinist criminal expressions of thrill-seeking desire. For Liam, who has now attained a kind of security, he was more akin to a venture capitalist than he was to a primitive rebel, aligning with one strand of anthropological thought about the structure and function of criminality (Schneider and Schneider 2008). Yet, it shouldn’t be forgotten that even the most profit-oriented and proto-capitalistic people were enmeshed in a political environment. Further, their criminal activities were deeply political in the Schmittian definition (1996)—they are that which is excluded in order to constitute the terms of sovereignty and its zones of civic inclusion. Marijuana growers were deviant capitalists and insubordinate citizens, whose actions were criminalized so as to enforce a boundary between the civic and the excluded.

By 2010, successive crises in the high-tech, dot-com, and mortgage industries combined with a liberalizing atmosphere around marijuana to thrust many economic migrants into the marijuana industry. Economic models were in crisis (Narotzsky & Besnier 2014; Riles 2014) and a new social licentiousness was emerging around an economic system that itself seemed to be criminal (Carrier, unpublished; Greenberg 1981). Untold numbers of people flooded into marijuana production nationwide, particularly in Northern California, where the systems of
knowledge, land tenure, social license, and genetics had accumulated. Amidst this green rush and the licitiness it brought, it was no coincidence that 2010 was California’s closest brush with full legalization. This stoked many Humboldtians into fear over the future of their stake in the marijuana economy. Cushioned for years by prohibition-inflated prices, many now realized that the price fluctuations of the mid- and late-2000s were not a fluke. Prices were dropping, the market was flooded with produce from anxious and inexperienced producers. Growers felt it was time to step it up and cash it in. As the market became unmoored, so did the ideologies and practices that surrounded it.

Will, a migrant from Nebraska, entered directly into this flux. A white man in his late 20s, Will came to Humboldt in 2009 after a DUI felony made finding work a challenge, pushing him to spend several years as a mid-level marijuana dealer. As a young, environmental, “idealistic hippie alternative type,” he was attracted to the Emerald Triangle for its countercultural history as much as for the quality of product it generated. His economic and cultural values were intertwined: “We’re supporting families and small businesses, we’re fighting The Man, there’s definitely that whole romantic thing about it.” Having gone through court-mandated AA, served time, and finished parole, he liked the idea of “being a rebel, living that liberal no-rules thing.” His ultimate aim was to own land, live sustainably, and make enough to pay property taxes. After a stint as a “loader” (transporter) and as a broker with connections in Montana, Nebraska, and Colorado, he quickly escalated his involvement (and stakes) in marijuana. In a world of “Peter Pans who live in Never-Never Land” who want to “go faster, get higher,” one series of risks, thrills, and rewards begat another. Alas, his contacts dried up as new production sites came on board in other Western states and consumer demand turned more toward indoor product, rather than the outdoor organic he sold. So Will shifted gears. He decided to buy land
with a friend, but he chose his partner unwisely. His partner slumped into alcoholic depression, jumped ship and left Will without property, scrambling for an income. Will ended up at an acquaintance’s property, where he put his farm-raised work ethic to use as manager of a grow scene. Mediating between numerous employees and a tyrannical owner, Will became worn down, finally quitting one day. He picked up his old work driving loads across the West, helping other friends set up indoor grow scenes, and eventually built his own indoor garden in northern Humboldt. He pulled several decent harvests and was then offered a chance to buy into a property in Colorado and become a supplier for a new licensed dispensary in that area. One day he got a call, however, that the municipality had banned dispensaries. The deal fell through, despite Will’s investment of $50,000. While he was taking the call, his friend walked in and asked if someone was holding a bonfire. Will walked out the back door and saw his marijuana-filled shed in flames, the consequence of a combusted high pressure light. There went another $60,000 investment. Will thought he had hit bottom and took to the road once more to generate some money for the short term. It was then he learned that one of his connections, to whom he had advanced a fair amount of marijuana, had been busted.

Reeling from these hard blows, Will scrambled for a piece of land, which he finally found. Will had a large harvest that year, 2011. Nearly broke, he was eager to transport it to his connections in the Rockies. He contracted a driver but, again, the driver was busted in a hotel room set-up. Soon, the FBI and DEA showed up at Will’s door, confiscated all his money, and warned him that charges may be forthcoming in the following year, which would likely be coupled with a request to turn in other people to save him from jail (Will had managed to move his marijuana to a friend’s house first, following a tip off about the bust of his transporter). When we interacted, he was “too hot” to retrieve it. Will soon realized that he was not at the center of
the investigation. Rather, the owner-grower whose employees he had managed was the likely focal point, as questions from the DEA revealed (and presumably confirmed when the DEA, Homeland Security, and the FBI conducted a major bust of his old boss’s multi-state operation).

Not being tied into social networks in the region, Will confronted the pressure to “snitch.” He now understood how one could make a decision to do so: “It’s hard to say what anybody would do in that situation” when freedom is weighed against snitching. How one frames culpability, innocence, and who deserves punishment becomes a very intimate and wrenching question.

“I can really understand how a person in this situation could do that. ‘Fuck I got kids,’ or ‘I got a job, and would this person who sold me weed, would they go to jail for me? Probably not, so fuck man, my family’s more important,’ you know. I’ve gained a huge amount of empathy—not for people that make that decision and roll on people—but having to be in those shoes and make that decision. It’s weighty. It’s lofty.”

Will decided he would sooner disappear to Central America than face jail or snitch. He understood, moreover, that his dreams of owning land were likely shot, as the IRS now had him marked. This intense period left Will reeling: “I usually have pretty good vision but I don’t think I see things clearly right now. I see lots of things in front of me but not how they relate to each other. [I’m] really frustrated.”

Will’s frustration is perhaps more indicative of a constricting marijuana market and ongoing federal prohibition than it is his own dramatic personal narrative. An increasingly performative and glaringly arbitrary enforcement apparatus starkly contrasted with the pervasive sense of an emerging market, creating a dystopic and irrational social field straight from Pynchon’s *Vineland* (1990), a novel largely based on the North Coast that explores the
befuddling unpredictability of the post-counterculture drug war days of Reagan’s 1980s. While this chapter began with an exploration of BTTL and timber utopias and afterlives, now prohibition was playing out its eerie afterlife. Will was caught in this twilight zone. By the 2010s, remnants of utopia scattered the social landscape, challenging the dream of being an independent small producer, striking it rich, or growing organic marijuana in harmony with nature. Scattered too were Will’s own ideological influences, which ranged from his belief in a doctrine of survival of the fittest (medical advances should be slowed in the interests of thinning populations), to localist and organic politics, to his romance with the Western outlaw, to his libertarian approach to state and economy.

The liberalization of medical marijuana in California may have made some forms of marijuana more licit, but for those in the underground market it signaled increased jeopardy. Federal prohibition efforts were a constant danger for those carrying marijuana out of state, particularly through common West-East trafficking states, like the conservative states of South Dakota. In this performative dance of prohibition and smuggling, high prices could be realized by running the gauntlet out of state; mediocre prices were the reward for those who played it safe with medical. The emerging sense by 2010 was that the covert economy was coming to a close, that legalization was imminent and that the old outlaw had to be reined in. New risks, new rewards, and new thrills arose as the energies that had grounded this covert producer economy dissipated.

In the face of marijuana’s upheaval, there was a push toward rationalization, predictability, and security. Part of this rationalization was forced upon producers who increasingly had to economize labor and input costs in the face of price drops and an increase in competition. Many producers narrated this shift as the other shoe falling on a market that always seemed too good to
be true. Those who had prepared with other skills and investments turned to those engagements. For those who had only been focused on growing marijuana, anxiety mounted as pressure increased to keep pace with a heating production sector. This was especially true for aging growers who had put little aside for retirement and now faced weakening bodies. These elders, who had built the marijuana economy, now faced a penurious old age. In a rehash of the “newcomer” and “local” battles of the 1970s, many in the marijuana economy now believed that those who had been producing marijuana should have first claim to shape the emerging marijuana market (framed in terms of their rightful control of a “boutique” market and a claim on marijuana’s local heritas). Those who had entered much later should not have this historical claim. What marijuana-producing locals lacked in the ability to scale up or compete in a freed market, they sought to make up in rent-seeking claims on history and expertise. Concern for older growers indexed a communal anxiety around the reproduction of the locally-established marijuana economy. The generational anxiety over social reproduction, first expressed around children, comes full circle to a concern for elders left behind in the dust of the economy they built—and that their children now claimed.

Deborah, a white migrant in her early 50s from Alabama, who had settled in Humboldt as an alternative healer, captured this anxiety well. Deborah was not a grower, but participated in county-wide medical marijuana politics. On the bumpy 45-minute drive to her romantic partner’s farm, she worried about his future, convinced that his normally quiet affect was bordering on something close to depression. Her partner, nearing 60, couldn’t manage his farm alone and had been compelled to bring in a land partner and a farmworker, all of which cut into his yearly earnings. Deborah reflected on this moment of change, in 2012, when what had looked like a timeless dream—a marijuana market that would sustain the community in perpetuity—was
coming to a close, being pushed forward in time by the prospect of formalization, legalization, and rationalization. What had begun as a means to sustain a back-to-the-land utopia, a mediator between an internal utopian zone and an external fallen society, had become its own kind of heterotopic space. Time was supposed to stand still in the continuous present of the criminalized microeconomic rhythms of life. Once again, this space was being disrupted by forces beyond its control. It was this anxious space that Deborah worried over, eventually coming to tears as we passed an abandoned logging town marked by a singular post office slated for closure that year.

“I’m involved because our children are dying,” she says. “They’re in danger and we’ve put them there.” Deborah was childless, she and her partner having met well into their 40s, yet her fear and concern for the region’s children channeled the general worries about continuity and rupture. This was compounded by Bill’s impending retirement and lack of security. Though marijuana had not been free of risks, a new field of risk now faced Deborah, Bill, the children, and the elders—one that threatened the foundation of local life and would remake marijuana, placing it into a time and space of that generalized American utopia: the free and legal market.

Utopia Dismissed: From Disciplined Markets to Market Discipline

When Gerri arrived from the Jim Crow South via Chicago, she was fleeing a racial, economic, and militarized order with which there was no compromise. Gerri’s move to the Lost Coast was fitting: she was ready to get lost and leave the fixity and repression of the social map. As Gerri and many like her set roots in the area, they held a vision of a spatial utopia that would stop time, await societal destruction, and reintegrate people with their body’s labor and nature. Presumably, the seeds of a new society would form, rooted in localism, community, and a new metabolism between nature and labor.
Yet, the rurality they entered was not timeless, and the place of nature was not untroubled. They were already in the midst of a decades-long period of ecological devastation wreaked in the post-war years. The economic moorings of local timber culture, long expressed as a yeoman sense of independence, ownership over one’s labor power, and a deep and rustic connection to land, were coming undone. Ecological limits, mechanization, and changes in corporate structure and property taxation systems began to reform the region’s timber industry. As the first tremors of this process hit “locals,” they looked to back-to-the-land migrants as the cause of this new insecurity. Expressed in terms of culture clash, the sporadic battles that characterized the 1970s were merely a dress rehearsal for the divisive battles of environmentalists and timber workers in the 1980s and 1990s. Marijuana was one of many means of marginalization that county government leveraged against this new migrant population.

Marijuana production started as a means to replace purchased goods with household labor, but took on a new value through the convergence of many factors. Its symbolic and political importance to the counterculture became one of a myriad of meanings as marijuana became a kind of heterotopic contact object, around which people organized all types of meanings and social relations. Whether in Karyl’s attraction to the masculine mystique of outlawry and money, Hannah’s desire to stay off welfare, Liam’s thrill-seeking desire, or Will’s survivalist ethos, marijuana became many things to many people in the horizontally organized social realm of production. Despite the politically subduing effects of the War on Drugs, new forms of political life emerged in a kind of political laundering across legal-public and illegal-private lines. This new politics appeared sometimes in the mobilization of illicit funding and at other times through overt civil-libertarian, hemp, or medical activism. Those around marijuana were both restricted and enabled by the de-politicizing, criminalizing pressure of the drug war. In a time when
communities across the United States were displaced, disembodied, and dispossessed, this hunted and submerged social realm of marijuana production became heavily embedded and rooted in social relations of trust.

This chapter has shown how a social system emerged from a crisis in utopian projects and social reproduction amidst the pressure of the drug war (and later the pressure of legalization). Each crisis resulted in new configurations of everyday life and notions of utopia. As prohibition unwound (to a degree) and marijuana prices dropped in the late 2000s, the premises of this system of social reproduction once again transformed. Its ability to reproduce itself into the future seemed doubtful. In that moment of disarray and transformation we can understand Bill’s anxiety over retirement, Jacob’s disillusionment over marijuana politics, and Will’s tumultuous experience of the marijuana world—from a hopeful migrant looking for a break to being swindled, under investigation, broke, and departing for Colorado.

In this chapter I have suggested that there is a sleight of hand at work in the War on Drugs. While criminalizing a substance is ostensibly a socially neutral act, which criminalizes all equally, the actuality is different. In northern California, it was deindustrialized white workers and environmentalists—the union of which threatened local power elites and a regional system of extraction—who were the targets of the War on Drugs. Prohibition criminalized the microeconomic sin of marijuana commerce while it concealed its macroeconomic (and macro-political) project to protect the capitalist political economy as it transitioned to its postindustrial form. With the legalistic focus on individual acts, the macroeconomic function of prohibition is erased—marijuana’s critical role in supporting deindustrialized workers, homesteaders, traumatized vets, single mothers, “marked” (Provine 2008) felons, and others, becomes an inadmissible, irrelevant context. Ultimately, the state-created and policy-subsidized illegal
market was the capitalist state’s answer to the inequality it bred. Criminal acts were an indictment of a failed formal-economic system that circulated wealth in ever-constricting circles—drug markets were postindustrial capital’s pressure-release valve.

In light of this, to understand the growth of the drug war system (Campbell 2009) it is less important to understand criminal motivations and identity and more important to grasp people’s social position and the political dynamics within which they were enmeshed. By focusing on social position, the question of good versus bad criminality is laid aside for the more critical question: what does criminalization do? By understanding the answer to this question, analysts can illuminate potential scenarios of political unity across the seemingly scattered effects of the drug war. Inner-city people of color may have much more to do with rural whites than one might expect.

From the early feelings of Jim and Stevie that marijuana was being ruined by economic forces, to Liam’s disenchantment with marijuana, the substance that was once a political cause now seems to be simply a commodity. It is this tension between economy and politics that I have explored in this chapter—a tension that echoes through concerns over dis-embedded and embedded social life, social reproduction, and a corrupted and pure utopia. Greed and economistic thinking ostensibly ruined utopia, community, and political life. Yet to be involved in the marijuana economy, no matter what one’s motivations, was to be political. This chapter has highlighted the ways in which marijuana was productive of political and economic systems that were inextricably, tensely, and dialectically related. Whether one was involved with marijuana in order to rake in cash or build an independent Ecotopia, marijuana production in the Emerald Triangle in the last decades of the 20th century was a political act of a different but important sort.
Ironically, the drug war made marijuana producers into staunch advocates of the private property system, protected as it is from the government. The privatism of property protected their criminalized acts. It made them into the consummate consumers, flooded as they were with expendable cash. It made them into ideal market actors, disciplined by and linked to the market institutions of price, demand, and supply and yet criminalized by the state that created the conditions of this underground economy. Prohibitionism reduced marijuana to its economic valence and deactivated its valences as a form of resistance, politics, and critique of dominant social systems. Prohibition embedded marijuana communities in deeply protected realms while simultaneously configuring them as fully marketized spaces. In short, prohibition’s less noted effect was to discipline disaffected and dispossessed populations into markets, even as their involvement in market society was criminalized. The disciplined market became market discipline. It should come as no surprise, then, that in 2010, when California residents militated toward full legalization, no one questioned the primacy and legitimacy of the market.
IV. Bringing Marijuana to Market: Producer Activists and the Rise and Fall of Marijuana Regulation

Bertie stood at the podium. “First off, I’m disappointed we won’t get to work with Eureka. We could have made a difference here. We’ve done everything you’ve asked and more,” she says ruefully. It had become painfully clear for Bertie through the meeting that the moratorium on medical marijuana in Eureka was not going to be derailed. It would be put in place for the next year and, unless anything changed with a newly aggressive federal government, the year after that. In two years the City Council would have to assess the state of the legal environment and establish a permanent ordinance to replace this temporary “urgency ordinance.” Bertie worked through her tears to finish her testimony: “We hope that you all focus your energy on doing what your constituents want. They want safe access to medical marijuana. We’re standing here before you. I’m not part of a guilty group that has to constantly defend myself. No matter what the federal government says, we should be considered innocent.” With that, public comment closed.

It was December of 2011 and in Eureka, like much of the state, efforts to regulate marijuana had stalled. Three months prior, Eureka, following Oakland and Chico, received a letter from the US Attorney to halt all efforts to regulate marijuana (in 2010 Eureka passed a policy allowing the creation of a medical marijuana system within city limits). If the city proceeded they would be liable for injunctions, fines, forfeiture and even imprisonment—not only of dispensary entrepreneurs but of government officials themselves. As I stood outside the City Council meeting, offering a hug to Bertie’s business partner, who had tears streaming down her face, the fog rolled in. My most active period of fieldwork in Humboldt coming to a close—I
would shortly be moving to Oakland for a second leg of research. Driving home across the Humboldt Bay, I took a back road along the coast where the fog rolled heavy, my headlights scarcely piercing the fuzzy road ahead of me. At night the fog was thickest, the road most treacherous. As the fog closed in on a subdued and quiet night, a period of possibility in Humboldt’s life was closing down.

This chapter is a political-economic account of a short period of regulatory sunshine that dawned between 2010 and 2013 in Humboldt County. Beginning with a brief overview of the political dynamics in the build-up to 2010, I will explore how two groups of rural Southern Humboldt (SoHum) producers vied for political voice. These groups represented a small fraction of the producers in the region, many of whom were oriented to out-of-state illegalized markets. Nonetheless these groups represented two poles around which debate over cultivation and regulation formulated. Though each group agreed on core principles, such as organic farming, localism, sustainability, and protection of farmers, they diverged sharply when it came to the values, practices, and demands that underlay these general principles. Like a similar struggle in Mendocino County to Humboldt’s south, the conflict was over the socio-economic structure of marijuana production in the county. Though tensions among producers were potent, they nevertheless found common cause in opposing the ability of medical marijuana dispensaries—located in the more urban Northern Humboldt (NoHum) region—to source their own medicine. The producers’ play for control of the commodity chain was an attempt to combat falling prices and a weakened market position as the anticipation of legalization increased and medical distributors came to wield more market power. The growing power of producers briefly united a competitive yet divided medical dispensary sector as they sought to reassert their market power and the popular legitimacy they had cultivated over the previous decade. The moment that
various “interests” began to articulate themselves out of what had been chaotic grey-market distribution and thoroughly underground production, a federal crackdown began that destroyed the regulatory process and the industry it was aiming to formalize and tax. The chapter concludes with a survey of the devastating effects of this crackdown in Humboldt and throughout the state, arguing that it squandered one of the best chances for producer-oriented policy formation in the US.

The federal government’s saber-rattling and eventual quashing of the marijuana regulatory debate was boiled down by some as tough-on-crime electioneering by President Obama in the lead-up to 2012. Others suggested “the Feds’” actions in California were meant to appease US Representative Darrell Issa, a conservative drug war politician from Southern California, who was doggedly pursuing Eric Holder’s Justice Department over the Fast and Furious gun-running scandal.\(^\text{37}\) Holder’s actions against marijuana, some theorized (Gardner 2012; Lee 2012), were meant to protect his position as Secretary of the DOJ and make Fast & Furious slowly disappear. Finally, others theorized this crackdown was simply rogue US Attorneys, a line supported by Obama’s own critical distancing from California’s US Attorneys. Regardless of the exact reasons for this executive shift to aggressively prosecute marijuana in California, the dynamics were this: Proposition 19 had just failed in 2010. If it had passed, it would have made the country’s largest state, containing one in 12 US citizens, a haven for legal marijuana. The federal government had been blindsided in 1996 by medical marijuana and were likely loathe to repeat this mistake. Their neglect in 1996 had led to a radical and open-ended medical marijuana law led by activists and people on the fringes of political society. The federal

\(^{37}\) Holder had let stockpiles of guns go across the border, ostensibly as part of an effort to trace cartel networks in Mexico. Others have charged the plan was part of an effort to arm the Sinaloa cartel against the Zetas. Either way, the scandal was the first instance in which President Obama invoked executive privilege over related documents and the first time a sitting Attorney General was held in contempt of Congress for stonewalling.
government wanted to be sure full legalization would not also go this route. While California’s medically-legal marijuana system was being torpedoed, much more hierarchical, controlled, and mainstream propositions were being proposed and ultimately passed in Colorado and Washington. The political activity that emerged in the lead-up to and aftermath of 2010’s Proposition 19 deconstructed in the flurry of federal action. Legal marijuana—and the regulatory infrastructure and political actors who would be able to control it—would have to articulate themselves at a later date—2016, it seems—when other models of commerce and state control had been established in places other than California, with its thick layer of activists, producers, patients, distributors, and unruly political subjects.

In contrast to Colorado and Washington State legalization models, which were led by for-profit entrepreneurs and tax-and-regulate government forces respectively, this episode in Humboldt was crucial insofar as it was the first articulation of the interests, contradictions, and rationales of producers’ entry into political and economic life. An economy that valued small producers instead of investors or tax coffers would have very different effects. Producer activists were one major target of the broader 2011 federal crackdown, which had the cumulative effect of stopping California’s marijuana industry from being led by independent activists of varied forms.

There was nothing inevitable or formulaic about the shape of marijuana’s political economy. Amidst rationales of medical need, property rights, rational regulation, and environmental sustainability, the political economics of marijuana had many possible articulations, particularly in a period when prohibition was in disarray. By thinking of this chapter through “political economy,” rather than simply through a recounting of actors and events, my aim is to locate the types of forces that were at play in Humboldt, how they interacted with broader dynamics, and what this can tell us about the general importance of marijuana’s
social transformation in rural Northern California and beyond. While political economy may look to “forces” and (cautious) generalization, I understand that political economy is best known and understood through the messy elaboration of everyday life. It is in the grist of the everyday that forces materialize and move society in one way or another (Roseberry 1989). The everyday is a realm not just of “forces” but of accident, history, and the unpredictability of struggle. Social change is not entirely random or accidental, nor is it determined and abstract. The study of political economy holds forward a notion that the world can be known, but only as part of a messy, contradictory social process.

In the contest over regulation, the county would have to reckon with the prohibition-producer society that had developed since the 1980s. As the preceding chapter showed, it had created a political economy that, by the late 2000s, was in crisis on multiple fronts. A large shift in county life was afoot. Through the lens of marijuana’s regulatory struggles we can understand how this historical reckoning occurred, the surprising bedfellows it made, the political opportunities and realignments it manifested, and the new forms of governance and economy it produced. We can also see how this shift in political economy produced a new marijuana—one through which prohibition was reconstituted and the greatest hope for a producer-led political-economic transformation of the marijuana industry was dashed. In short, by studying Humboldt’s forces in this moment of opening and closure, we can understand the possibilities, contradictions, and threats these forces posed for those already in the marijuana industry, those who prohibited it, and those who sought to bring marijuana to market.

*The Stage of 2010: Progressives, Developers, and Police*
One of the first rumblings of change in Humboldt occurred in 2002 with the election of District Attorney Paul Gallegos. One of Gallegos’ first acts in office was to file a lawsuit against Pacific Lumber, a timber company that had been at the center of the clear-cutting and old-growth redwood controversies during the 1990s. As such, he posed a direct challenge to the conservative political infrastructure that had grown up around timber (see Polson 2013). Unsurprisingly, he was met with a recall effort only 3 months into office, funded by Pacific Lumber executives. He received several death threats during his re-election campaign. Gallegos survived the recall effort and pursued another pillar of the county’s political infrastructure: the police. He prosecuted two police officers for shooting a citizen and a police chief of the town of Blue Lake, as well as reconstructing the priorities and personnel of the prosecutorial team in his office. One of the major reforms in this realm was support of county guidelines for medical marijuana use, possession, cultivation, and transport.

By 2008, Gallegos was joined by another anti-establishment voice, Mark Lovelace, on the Board of Supervisors. Lovelace hailed from the liberal district that included Arcata, home of the first-ever US Green Party City Council majority (in 1996-8 and again in 2004-6). Lovelace had roots in local environmentalism and was involved in the effort to dismantle Maxxam Corporation, which owned Pacific Lumber and had transformed much of Humboldt’s forests into shareholder returns. His role in Maxxam’s demise in 2007 catapulted him into office in 2008. In subsequent years, Lovelace would become an adamant supporter of “smart growth,” nature preservation, and low-income housing projects. He would oppose developers, big box stores, and transportation projects that threatened not only natural environs but also promised to incite population growth, property inflation, and large institutional investors. Like Gallegos, Lovelace was a key supporter of marijuana regulations and was elected amidst a property owner-led furor.
over marijuana “grow houses.” Gallegos’ own election, for that matter, partly centered on his promise to protect patients from law enforcement.

Lovelace found a key ally in the figure of Kirk Girard, Community Services Director, who directed the planning and building agencies, redevelopment and general economic development efforts, the administration of the activist-won Headwaters Fund for forest conservation, housing projects, and efforts to formulate a General Plan Update (GPU). Girard was focused on regularizing the shadowy and regulation-shielded property system in Humboldt, and he became an object of ire when he supported these reforms in addition to opposing the timber industry’s predations. In 2011, Girard would become the central figure directing the development of the county’s marijuana process, which he worked on with both Lovelace and Gallegos.

Finally, in 2010, DA Gallegos, Supervisor Lovelace, and Director Girard were joined by a quiet ally in the form of Sheriff Mike Downey, a soft-spoken officer who had been stationed in southern Humboldt’s pot-growing region. In the lead-up to 2010’s legalization ballot, Downey remained agnostic about marijuana, asserting he was there to enforce (not make) laws and to follow the guidance of the DA’s prosecutorial priorities. Downey came from the southern Humboldt Sheriff substation and had long seen how marijuana was integral to the economy. He saw that policing was not going to eliminate crime but, instead, was something that could regulate criminal activity, a stance that set him apart from prohibitionists, moral conservatives, and more intense law-and-order advocates. He won support among growers when he took to the radio and stated he wouldn’t target “Mom & Pop” growers and would prioritize environmentally damaging marijuana grows. Later he made affirmative statements about the need for reasonable regulation of marijuana and, given his states-rights outlook, was eager for the federal
government to retreat from its prohibitionist standpoint—not because marijuana was good, per se, but because enforcing its prohibition was impossible. By the time we spoke in 2011, he supported the idea that marijuana could be good for economic development and the support of small-holding farmers. By 2014, he would make pro-legalization comments more generally.

These four new representatives became instrumental in opening space for those involved with marijuana to forge a new political environment in 2010 and 2011. They were not the only officials important in this process, but they served as galvanizing agents who attracted others to them and provided a counterpoint to what had become entrenched forms of timber-property-finance power. They were consummate reformists in a county that had been under 150 years of timber rule. These officials were not necessarily marijuana advocates (though both Supervisor Gallegos and DA Lovelace would catapult themselves to state roles through marijuana advocacy). Instead, they believed in the power of government regulation to make economies behave predictably, with more equity, and toward a greater good.

The political infrastructure these officials confronted was deep-seated. DA Gallegos found resistance early on from timber corporations who sought to unseat him. By the mid-2000s, it was clear that timber was on the wane; the property owners, speculators, and brokers that served as the economic apparatus upon which timber rested were in disarray. Robert Arkley represents this process well: he sold his timber processing company and parlayed this capital into financial services and land development. Arkley was the face of an old economy made new. Timber may be declining but the rentier economy would continue—this time through development and property speculation. As one of the largest political donors in California in the 2000s, he announced his desire to take the county “back from the hippies,” beginning with the
recall of Gallegos. But Arkley reserved much of his political energy for deposing of liberal-minded Kirk Girard, who assumed his position in same the year DA Gallegos took office.

Girard’s office oversaw not only the county’s economic development and redevelopment efforts but also the planning and building functions of the county, thereby putting him on a direct collision course with Arkley’s aim to bring big box stores to Humboldt, redevelop the Eureka waterfront, undermine environmental review processes, bring railroads and wider highways to the county, and support the building of (large) houses throughout the county. His model of economic and spatial development was the opposite of Lovelace’s “smart-growth.” Though Arkley fought Lovelace and Girard on all these matters, the most important matter was that of the General Plan and its update. The General Plan determines the fundamental mode of economic development and land use in the county for 10 years at a time. By the late 2000s, it was long overdue. The Supervisor’s decision in 2007 to disable a process of land conversion that allowed timber lands to become developable residential properties enraged Arkley and numerous Humboldt landowners. At issue was the conversion of timber wealth into propertied wealth and the maintenance of the county’s political and economic structure. With a simple rule change—one advocated by Lovelace and Girard—massive amounts of propertied wealth would disappear (see Polson 2013). Derailing the GPU and its proposed land reforms was critical for Arkley.

Arkley backed pro-development candidates, including his own wife. He sponsored voter ballots to fund new development efforts, and fought the General Plan Update at every step, through several muck-raking websites, press releases, and lawsuits. He was joined in this effort by the Humboldt Coalition for Property Rights, which would, with Arkley’s support, eventually place people on the county’s Planning Commission and Board of Supervisors.
Since the gunning-down of striking labor protesters in 1935, Humboldt’s police force had been a critical component of Humboldt’s ruling bloc and a powerful element of county government. As *rentier* extraction-based economies tend to do, certain state capacities are emphasized over others (Kühn 2007; Robinson, Torvik & Verdier 2006). Planning, health and human services, public health, and community development services come to be de-emphasized because less social infrastructure is needed in extractive regions. Capital was focused on extraction, not upon building transportation networks or infrastructure. Yet, capital did require certain conditions for its reproduction, particularly the state power to protect private property and to mediate conflicts between capital and labor (and, later, environmentalists). Law enforcement was critical to the maintenance of continued extraction and the maximization of property rights.

The Sheriff’s Office in the 1990s was riddled with controversy, ranging from the imprisonment of one sheriff because of misappropriation of county funds, to the pepper spraying of environmental protestors. By 2002, the year that Gallegos took office, one sheriff lost a campaign largely due to hubbub over his refusal to follow a judge’s orders to return confiscated marijuana to a patient. The new sheriff, like Sheriff Downey who would take office in 2010, came from the southern Humboldt station, which had developed a tolerance for marijuana. With Gallegos’ assumption of power in 2002, the Sheriff’s Office now had to deliver cases to a pro-marijuana progressive DA. The ensuing period was one in which the Sheriff’s Office was somewhat tempered in its anti-environmental and anti-marijuana attitudes. Sheriff Downey’s election in 2010 marked the culmination of a period of slow-going relaxation in the department as its connections to the crumbling county elite weakened.

Despite the rise of Gallegos and the slow change of the Sheriff’s Department, the harder core of the timber-based law enforcement apparatus remained in control of municipal stations.
like Ferndale, Fortuna, Blue Lake, and, most significantly, Eureka. Eureka is the county seat, the county’s most populous city, and a key focus of Arkley’s development efforts. Eureka’s City Council was populated by law enforcement advocates and former law enforcement officials (4 of 5 in 2011). It was this City Council that held the key to Eureka’s development and, as such, became a broker of developer power, particularly as the county’s development and planning processes were being hijacked by the progressive policies of Girard. Though timber had failed, the reformulating developer-real estate-finance infrastructure found resonance with Eureka’s law enforcement-controlled governmental apparatus.

Yet, even this fortress of what many informants referred to as the “old guard” was going through its own crisis. As timber jobs disappeared in the 1980s and 1990s, Eureka became a kind of locus for the county’s problems. Highway 101 ran right through town: a conduit for the unemployed and the county’s growing methamphetamine (and, later, heroin) trade. Homeless encampments, deindustrialized poverty, and violence grew rampant as the city’s houses disintegrated through neglect and housing values disappeared as the population lingered several thousand people below its 1960 high. Eureka consistently had the highest crime rates in the county, exceeding national averages in property and violent crimes since at least 2000. It had more officers per person than neighboring Arcata. In the mid-2000s, several police shootings of Eureka residents, including of a woman with mental issues, were too much for local residents to bear, they increasingly saw the police as an occupying force. This led to the replacement of the police chief with Garr Nielsen, who enacted numerous reforms including implementing a problem-oriented policing (POP) unit to address issues of particular concern to the community (supported by some 80% of residents), officer training around citizens with mental health issues,

38 Fortuna was often the convening ground for local-federal multi-agency busts of marijuana grows throughout the south county, and the police chief was one of the most vocal opponents of enlightened marijuana policy in 2004; in 2011 he was still blaming marijuana for crime.
cooperation with the county’s domestic violence survivor program, and a ban on the city’s SWAT team. He even approved of a city-sanctioned homeless encampment.

This shift wasn’t only about policing practices; it also had geographic and economic valences. Developers were keen to ensure that the waterfront area was kept free of blight and would be a policed territory ensuring quality of life and “broken-windows” style enforcement to facilitate its development. The policing “north of Fourth [Street]” near the waterfront—the site of redevelopment efforts—dates back to the 1910s when German and Italian immigrants were barred from the area out of fear they would sabotage the city’s prized docks. There was a precedent: the Chinese had been forcibly removed from Fourth and E Streets three decades prior when a councilman was shot in a brawl. Now the city was 80% white, with Latinos, Asians, and Native Americans comprising the rest (making it more racially diverse than the county). Poverty rates were 50% higher and per capita income rates were 30% lower than the state (making it poorer than the county as a whole). By refocusing from quality-of-life policing toward community-informed problem-oriented policing, Nielsen was implicitly supporting a different mode of economic development—one that jibed with Lovelace’s notion of “smart growth” and Girard’s understanding of redistributive and widespread economic development. Community and police relations improved during his 4-year tenure, but from the start his chiefdom was undercut by resistance from an entrenched, heavy-handed law-and-order ethos from within the police department. Nielsen found resistance not only among his own police department but from the developers who were connected politically to the police through City Council and who were not enthusiastic about a police department less focused on protecting redevelopment investments.

In sum, when the legalization ballot of 2010 arrived, Humboldt’s traditional political economy was being upended by upstart, regulatory-minded, environmental, anti-timber forces.
Timber, which had sat at the apex of the county’s ruling bloc, was turning into “sustainable forestry”—a shadow of what it had been. The apparatus that supported timber’s political economy (landed interests including property owners, speculators, developers, financiers, the political officials that supported them, and the police that protected their interests) needed to find new ground or risk being dislocated. With timber wealth, development wealth and the pillar of social control—law enforcement—in jeopardy, the power bloc cultivated under timber struggled for maneuvering room.

Marijuana was a political wild card. Humboldt’s rentier political core needed an industry to make property desirable and valuable, while the regulation-oriented environmental-progressive wing needed to propose viable economic activity beyond university, government, and artisanal producer jobs. For both the rentier class and the smart growth progressives, marijuana could be a key source of property demand, economic development, jobs, and rent-value production. It could potentially serve an organizing role in a new political bloc. It is in this upended political environment of Humboldt that marijuana came into play when Proposition 19 went on the ballot and a lone disk jockey from southern Humboldt called together a meeting: “What’s After Pot?”

Pot Goes Public

I had met Anna a year prior, though she was quick to inform me that she had no recollection of me: “I’ve talked to so many damn reporters all year long, who the hell knows,” she says bluntly. She had been the chief organizer of the What’s After Pot? meeting in March of 2010, also billed as the “Post-Prohibition Marijuana Economy Forum” (Brady 2013). This meeting was called shortly after the ballot measure Proposition 19 to legalize recreational
marijuana was approved for the November vote. In March of that year, it seemed quite possible that the ballot would pass. The What’s After Pot? meeting took place at the Mateel Community Center, a community-erected and supported building whose history encapsulated the can-do, marijuana-funded, utopian spirit that had transformed Southern Humboldt, locally known as SoHum, from a decimated post-timber landscape of hermetic economic stragglers into a region abounding with rural life. The meeting was unprecedented, bringing together growers not under pretenses of civil liberties activism, hemp appreciation, or medical marijuana but to discuss what may happen if marijuana were to become fully legal—and what farmers in Southern Humboldt could or couldn’t do about it.

Word of the 2010 What’s After Pot? meeting went out on the AP wire and was picked up by media outlets across the country. Media attention had already been building on the North Coast, particularly after an NPR special raised the issue of grower resistance to legalization. The seeming contradiction of anti-legalization marijuana growers drew reporters, who brought a renewed focus on the underground marijuana culture of the North Coast at a time when fascination with neglected corners of American life seemed to be ramping up in the reality television blitz of the late 2000s.39

However, this meeting was not for the media. “I wanted to create the tension of the reality of the situation,” Hannah explains, “so I told people they could not take pictures. It created controversy. But these people are scared. They’re brave people, sticking their necks out, 5 or 10 years in jail. Lose your house.” Anna used her “hippie shock jock, rant and rave, lock and load, shoot your mouth” radio show to propose and drum up support for the meeting, later

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39 Drugs and drug cultures topped the list of ratings-grabbing topics, but shared a common characteristic with many other shows based on risk and danger for the vicarious thrills of a population inundated with glamorizing media amidst the doldrums and dashed dreams of economic recession. Risk and rule-breaking were a national pastime; not only of pot growers but of hedge fund raiders, realtors, gold miners, extreme fishermen, and moonshiners.
inviting everyone in the county she thought relevant. She said: “I wanted to normalize this conversation as fast as possible, put on the forum.” The What’s After Pot? meeting drew nearly 200 participants, she estimates, with people from the school system, county development officials and supervisors, “but no doctors—they’re terrified.” Anna wouldn’t take credit for the ideas but would claim “the bombacity to hear it and spit it out. We got 25 years ahead of where we were the last year, everybody’s outside… That was the moment of truth, when it came out. And after that nobody can drop the truth.”

Another grower whose family goes back several generations in SoHum remembers:

“One of the bravest acts I ever saw was at the ‘What’s After Pot?’ meeting. [They] had set up tables with labels on them that might say community member or homeowner or medical profession so you’d have where you’re coming from, and you could discuss that. She also had one group that said ‘grower’…and she also had a chair that said FBI. Who’s going to sit in either one? But a woman named Syreeta Lux, she sat down at the grower table and she started saying to people, ‘I know you’re growing,’ and people came and sat there, and by the end it was the biggest table. Now not all the growers sat at that table!

But it was a very brave act because [they] were stepping out…at this historical moment.”

Emily Brady (2013) documented this moment, noting that Syreeta wrote “medical” above the word grower, commenting “it was impossible to have a conversation about the future of marijuana if growers were still invisible” (Brady 2013: 8). Anna’s first words to the collection of people were: “The legalization of marijuana will be the single most devastating economic bust in the long boom-and-bust history of Northern California” (10). As Brady notes, it wasn’t simply that people would lose profits but that a community’s way of life, which admittedly had
problems, was endangered. “For the sake of our region,” Anna continued, “it’s time to begin planning for this upheaval together” (13).

Though there were several officials in the audience that day, it was Supervisor Mark Lovelace, the environmentalist from liberal Arcata in the county’s populated NoHum area, who would prove to be pivotal. Lovelace’s northern supervisory district was largely liberal and Democratic, whereas SoHum was split into two supervisory districts, each of them linked to conservative population centers (Fortuna and Ferndale), thus diluting their power and representation. Lovelace was eager for regulation. Unregulated marijuana left “no reason for people to be good players in the market” because prohibition provided incentives “to fly under the radar….to keep it on the black market, to be shady. It encourages criminality.” What was needed, he felt, was deeper than “detailed policy work.” “It was really an issue more of…cultural change,” he explains, “You can’t begin to really deal with the issue when people literally aren't able to say the word marijuana at full volume. That’s not a healthy way to have a public policy discussion.” The What’s After Pot? meeting was an “eye opener” for Lovelace, who also noted the lack of cameras and photography. Eliminating visual representation was necessary, it seemed, to enable a listening process between government and growers. More than establishing regulations and supporting cultural change, Lovelace was also encouraging marijuana because of its potential for “economic development.” After fighting clear-cutting timber and opposing developer-oriented economic growth, Lovelace was keen to foster marijuana as a burgeoning industry, which could help ground an entirely new county political economy and contribute to the full demise of the county’s hard conservative core.

The meeting aired fears that the price of a pound could drop below $500 (from its high of $5,000 and higher) as capital swarmed in to consolidate and industrialize. “The golden goose
will be dead, served up on some corporation’s table, perhaps,” one person commented. The questions ahead were unprecedented: if and how to regulate the crop; how to protect or at least buffer the blow that legalization would mean for prices; if and how to protect Humboldt’s terroir and brand; the tourist potential for marijuana; how to think about the relation of medical to recreational marijuana; and the possibility of third party certifiers.

Up until then, Humboldt had stayed relatively distant from the emerging marijuana industry of urban California and its consumer bases. Humboldt was a wholesale producer economy that was oriented toward medical and out-of-state underground distribution. Part of this was economic: the county had few medical dispensaries and a small consumer population, so the consumer-oriented medical movement had little appeal locally. Humboldt was more connected to civil libertarian and hemp activism than to medical marijuana activism. Proposition 19, however, brought the emerging medical marijuana industry to Humboldt’s doorstep. A stipulation in the initiative provided for only several licenses for 100,000 square-foot marijuana growing facilities in the state, several of which would potentially be run by Richard Lee of Oakland, a medical marijuana entrepreneur who was bankrolling the initiative. A strong voice for the marijuana “industry,” as some referred to it in Humboldt, was needed if farmers were to survive legalization, protect the “brand” of Humboldt, and counter the urban medical beast that was attempting to claim state-wide production for itself.

Thus, one can understand the worry behind the question “What’s After Pot?” Clearly, pot would not end. Rather, the producers and social system around them were endangered by the move toward legalization. Marijuana production was not a secure living during the drug war but at least it was a known quantity. For a county that had just witnessed the disintegration of its other core industry—timber—the threat of a second industrial decline was unnerving, as the
2011 community-produced “Mary Jane: The Musical” expressed in a song entitled “Ghost Town.” Yet, the attendees met this anxiety with gusto, alarmed as they were by the fact that they were being quickly outmaneuvered by Bay Area distributors. Three local women vowed to start the 707 Cannabis College, which offered a locally-oriented challenge to Richard Lee’s Oaksterdam University (the center of education for the medical marijuana industry). A medical marijuana expo was soon announced—and was very well-attended—at a local community center. Perhaps the most significant outcome of the “What’s After Pot?” meeting was Mark Lovelace’s proposal to form an advisory panel to the county Board of Supervisors: the Humboldt Medical Marijuana Advisory Panel (HuMMAP).

Small Producer Politics

When I rolled into Garberville in the summer of 2010, I realized the “other county seat” or “Humboldt’s spiritual capital” was little more than a glorified, one-stoplight pullout off Highway 101. Garberville was a town of under 1000 people, 90% of whom were white and had approximately the same per capita income as Eureka but a lower poverty rate. This was the reputed center of pot-growing life in southern Humboldt, but I learned it was not where the action took place. As the low buzz of highway traffic, the several motels, and the travelers’ cardboard signs suggested, it was a meeting ground. It didn’t take long for me to find the Vets Hall where HuMMAP was holding one of its first meetings.

Over the next several years, I would come to know some of the key actors behind HuMMAP, many who were present in the room that day, prior to Prop 19’s defeat in 2010. The mandate of the group was to advise the county on marijuana policy. Though they were supposed

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40 This is, of course, of reported income. Throughout this region unemployment, income, poverty, and other economic indicators should be understood as formal figures that do not account for the region’s core marijuana industry.
to serve as county-wide mouthpiece for all those involved in marijuana (distributors, patients, caregivers, etc.), it became clear even from that meeting that the panel would likely be serving as a communicative conduit between government officials and growers (southern Humboldtian outdoor growers in particular). Their platform centered on a demand for environmentally “sustainable,” outdoor-grown, small farmer-produced marijuana on private lands. As a boutique economy, perhaps pandering to tourists, this economy would be locally controlled, trade upon its historical claim to legitimacy and heritas. It would presumably provide for “locals” and prevent predatory extra-local entrepreneurs from encroachment.

There were two early tendencies in HuMMAP. One was toward regulatory engagement. The language utilized around this was indicative: it was time to come to “the table,” start “networking,” be “representative” of the local community, and involve “stakeholders” in a regulation-oriented effort to advise county government. The other was toward a more localist engagement: it was time to use this political opening to build “deep democracy” around “our values.”. It was time to build a producer economy in southern Humboldt and wrestle away as much authority and autonomy from the county’s power brokers as the moment afforded. Ultimately, the deliberations of HuMMAP centered around articulating “what we want.” Yet given the honeycomb structure of illegality existing for 30 years, articulating a desire, much less a “we,” was a tall order.

Illegality had hobbled Humboldt’s political participation. They were “behind the times” when compared with the “sense of togetherness” among “medical marijuana industry folks.” “The industry evolved beneath us,” one participant said. Some blamed themselves: “We’ve been acting like criminals” instead of working together. Many producers rejected political involvement and wanted no part of the formalizing industry—nearly two thirds of SoHum voted
against legalization, a much higher rate than NoHum and the rest of the county. But non-participation was not a matter of apathy per se. Production had always been a nebulous area of medical marijuana law. Excepting the legally vague allowance for “collective” cultivation, the criminality of production depended not on objective legal criteria but, rather, what law enforcement referred to as “the totality of circumstances,” including the jurisdiction, discretion, and legal understandings of law enforcement officers and agencies. In short, producers had acted “like criminals” because even the most law-abiding medical cultivator was subject to the arbitrariness and vagueness of the law. It was this political hobbling of marijuana producers that had enabled distributors and “the industry” to gain ground.

Proposition 19 and the potential for a “vertically-integrated monopoly” in the marijuana industry had activated animosity among underground growers toward medical marijuana. Part of this was medico-cultural: some disliked the sterility and uniformity of marijuana’s medicalization, along with the doctors, scientists and advocates who linked marijuana’s legitimization to its narrow ability to treat illness as opposed to its wider social (and pleasurable) uses. They opposed the medical dispensaries that argued against “criminal” producers in order to legitimize their own medical operations, and even the hypocrisy of “patients,” who many suspected were simply marijuana users and cultivators (often including themselves) who just wanted legal protection.

Another major reason for antipathy toward medical marijuana was economic. Though dispensaries were ostensibly not-for-profit collectives, many of them behaved like and were licensed as businesses with very little collectivity. The emerging business structure of dispensaries was slowly building enough market leverage (mainly by becoming privileged brokers to end consumers) to bring down the prices of marijuana from wholesalers. Prices for
wholesalers had dropped in the late 2000s while prices for consumers stayed stable as the division of labor within the medical marijuana industry transformed.\footnote{To compare it in dollars and cents to the distribution system before medical marijuana: someone like Jim may have taken one or two hundred dollars for each pound he brokered in his Arcata restaurant perch, leaving the rest of the $5,000 to the producer, who would then pay their employees, contractors, debtors, suppliers and the like. Dispensaries, however, would often buy pounds from producers for anywhere from $1200 to $2200 on average (in 2011) and, by parceling them into small packages, would earn roughly $6400 for each pound, a net of $4200. This money would be distributed to their employees, lawyers, security contractor, taxes, accountants, and the like. In each of these scenarios, people were winning and people were losing.} Now dispensaries were coming to be the bottleneck brokers between producers and consumers—a major shift of market power away from producers and toward medical distributors. As a result, producers were forced to send product out-of-state to gain good prices; in-state consumers now sought out dispensaries and in-state prices were significantly lower than exported marijuana. Transporting out of state substantially raised risks for producers. Nevertheless, both the medico-cultural and economic antipathy toward medical marijuana was contradictory: many producers used medical recommendations to protect their own marijuana grows, and the potential for legalization would never have emerged without the legitimizing period of medicalization.

“What we want,” then, was about reasserting producer power in the medical marijuana industry. “We all need to upgrade,” one woman commented. “We are the professionals. I’ve been working to respond to what the market demands but we have to understand: we’ve been living in the shadows for years and we’re all feeling the post-traumatic stress. When you see people dropping from helicopters and police with machine guns point them at you—that’s stress.” She was not discouraged, however. She had been one of the first organic farmers in the area in the early 1980s “and I was ridiculed. But look now. Every Joe Schmo wants their hand in the cookie jar.” While she sees Humboldt’s “brand” as endangered and she sees producers being subordinated to a booming but whimsical consumer culture that trends irrationally toward “this month’s flavor,” she knows the community has power—something that not only should be saved
but that can catapult them forward. “We are the poor people who have been heading up this industry since it was born and we need to be at the front now.”

Rather than using a rhetoric of medical legitimation, HuMMAP soon came to a tripartite justification for its efforts: jobs, environmental health, and local governance. Homesteads and producer collectives could build a widespread yeoman economy. This democratic economy, which had Jeffersonian echoes in a region known as Jefferson State, would be the basis for stable economic development of the region that may include visions ranging from the boutique “Napa Valley of pot” to an incorporated “Emerald City,” a locally-controlled municipality. The emphasis was less on creating “new jobs” (which would summon “carpetbagging newcomers”) and more on creating economic stability for those already involved in producing marijuana. By sustaining the community, the environment would be sustained. The community would regulate and monitor its environment better than a distant county government, which had often acted against the interests of local residents and the environment.

HuMMAP’s emerging orientation was encapsulated in one of its leaders efforts to organize a producer’s collective called the Tea House Collective (THC), which went by the motto “Organic. Sustainable. Humboldt.” This motto captured the nexus of producers plus environment plus localism that HuMMAP emphasized. THC producer collectives would combat the falling wholesale prices of marijuana by engaging with urban consumer markets. This would cut out brokers, break the geographical isolation of SoHum growers (an isolation that had been a strength for many years but was now a liability in a licit economy), and would tilt the definition of “medical” marijuana toward a more comprehensive notion of health and well-being. The emphasis on environmental sustainability, support of homesteading farmers, and organic product caught the attention of Steve D’Angelo who began to carry sun-grown marijuana in his
Harborside dispensary—advertised as the largest in the world. His focus shifted from simply providing “medicine” to encouraging a more circumspect “well-being.”

This connection was one of several THC made in its efforts not only to sell product but to re-educate a consumer market that demanded indoor-grown marijuana. Indoor marijuana had risen in the late 1980s as eradication efforts focused on outdoor production. Now, as eradication efforts became relatively sporadic in the late 2000s, production was moving outdoors again—especially in southern Humboldt. Outdoor growing was not only less energy-intensive but also more economical, requiring significantly less inputs than indoor. By re-educating marijuana consumption toward valuing organic, environmentally-grown, farmer-produced, outdoor marijuana, THC hoped to shift price rents. Outdoor was generally valued less in the market than denser, crystalline indoor marijuana. By revaluing the ethical qualities of outdoor marijuana, economic rents might be won and southern Humboldt producers might turn the tide back toward favoring the small producer economy nurtured under prohibition.

THC indicated HuMMAP’s general orientation toward the matter of marijuana regulation. As one farmer and HuMMAP participant puts it, “Prohibition, aka de facto government price supports, have been the most stable agricultural subsidies that I’m aware of for creating long-term prosperity. Finally, it’s drowning in its own success. It’s a long stable economy.” His aim was to ensure that this “stable, relatively affluent, privileged place” continues as such (an ironic outcome of the back-to-the-land homesteading ethos that brought many marijuana growers to Humboldt in the first place).

Because this economic stability had been won in spite of county, state, and federal government, many in SoHum felt tremendous antipathy for “outside” interference. Not only did this localism intersect with back-to-the-land and timber-yeoman culture and the distance from
northern Humboldt’s population and governing centers, but it was also borne of a deep skepticism about government’s ability to manage the resources of the region, evident in the destruction of old-growth forests and the related destruction of local watersheds and salmon populations. One informant describes it as such: “a way to understand it is 70% of the county is within 6 miles of Humboldt Bay in these declining industrial cities. All the supervisor districts, each one has its own city, radiating out, so the countryside is never represented by anyone. That’s been the county history.” Southern Humboldt was the “colonial fringe of the county.” It was the urban governmental center of NoHum vs. rural, outlaw, localist, independent SoHum. SoHum back-to-the-landers found allies in NoHum’s liberal Arcata but even this unity was fraught: Arcata liberals believed in government regulation while SoHum libertarian counterculturals believed in self-regulation. This was expressed readily in the difference in environmentalisms: NoHum was nature preservationist and believed people belonged to the city, whereas SoHum was working conservationist and believed people belonged in the countryside.

SoHum independence engendered a self-governance around marijuana that was rooted in values, best practices, peer-to-peer monitoring, and the vibrant history of the community. As one HuMMAP leader expresses: “we didn’t just bring free love but 20% of all solar panels sold in North America were sold in this town. Sustainable forestry! We created the method that would become the model for the entire timber industry. Stream restoration, the most venerable and effective citizen fish protection in the country, maybe the world, started in the river just west of here. It’s a dynamic, engaged community.” HuMMAP was an effort to gain information “from the bottom up” in order to fight the county’s efforts to regulate. THC was an effort of HuMMAP “to model that self-regulation and showing not just awareness and codify things but to show these idiots [at the county government] that they don’t need to regulate us.”
The localism, conservationism, ethics, and desire for self-regulation evident in HuMMAP was also firmly rooted in an attachment to private property. One of the main leaders of HuMMAP and THC was also active in the Humboldt Coalition for Property Rights (HumCPR), an organization that arose as a voice for rural property owners during the demise of timber. HumCPR struggled against regulation-minded liberals who threatened property values. As I explain elsewhere (Polson 2013), in protecting property rights, HumCPR was also protecting the ability to grow marijuana in privacy on relatively unregulated lands, a kind of covert property politics. Marijuana growers had common cause with rural property owners not only because of the general privatism that property rights enabled, but because many marijuana-producing property owners owned timber land that was valued on its potential conversion to residential use. County officials, like the liberal-progressive Supervisor Lovelace and Community Service Director Kirk Girard, sought to regulate these conversions, make them less possible or affordable, and thereby drain what HumCPR’s president estimated would be millions of dollars from the Humboldt property market. In this pro-property stance, HumCPR soon found its place in a political bloc that included developers, land and realty brokers, financiers, and the law enforcement that wielded significant governmental power.

For rural property owners, marijuana was the primary post-timber use upon which property values could be extracted. Unlike timber, marijuana was not a consolidated industry that wielded political power or could even be acknowledged as an explicit aim of property rights.

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42 Specifically, as a result of the 1973 Z’berg-Nejedly Forest Practice Act and the 1976 Z’berg-Keene-Collier Forest Taxation Reform Act, timber lands in California were separated and insulated from normal environmental reviews and land taxation schemes. They established a different regulatory and taxation scheme that allowed timber lands to have relatively minimal oversight (encapsulated in Timber Harvest Plans and an oversight board that was reputed to be a rubber stamp for many decades, a practice that was at the center of the environmental battles of the 1980s and 1990s) and to resist market pressures to convert to residential, commercial, or urban-industrial uses by granting tax breaks to timber lands. The taxation scheme established a very low tax rate for land zoned for timber harvests, with the reasoning that timber requires many years to regenerate itself and normal land taxation schemes would lead to the elimination of the industry altogether, as other higher and better uses would have to be found—particularly the suburban expansions that were encroaching on California’s countryside generally.
ideology. Marijuana was subordinated in the reformulating post-timber property rightist power bloc. Pot-growing environmentalists and back-to-the-landers who had fought against timber now found themselves bedfellows of the reformulating rentier structure that had once supported timber. This is only ironic, however, if one argues that back-to-the-landers or environmentalists ever had a thorough critique of private property, something that did not hold true in the homesteading, working-conservationist ethos of southern Humboldt. The irony is that the property-rightist front was allied with some of the more conservative policing forces in the county. This support, however, was inconsistent among property rightists, some of whom saw law enforcement as extensions of government regulation, others as guardians of a moral conservatism threatened by “hippie” liberalism, and still others as an integral force in supporting marijuana prices by making marijuana dangerous—and thus valuable. Property values ultimately depended upon the power of prohibition to elevate prices; the dynamic of prohibition was “good” for marijuana prices and law enforcement institutions. It was also good for property owners and for the struggling post-timber property-rightist front. If marijuana had to be regulated, HuMMAP and THC proposed, it would be best to let local communities regulate themselves. While HuMMAP can be understood as a principled and visionary defender of SoHum’s small producers, countercultural heritas, and the natural environment, it should also be recorded as an organization supporting private property ownership and the protective, closed community structure that results.

The Growers Association: Market Position, Positioned Markets

Some of the founding members of the Humboldt Growers Association (HGA) attended the launch of Tea House Collective and participated in the early days of HuMMAP. While some
of them, like HGA’s founder, had grown up in SoHum. Others migrated to the area to join the marijuana economy. The born-and-raised in HGA’s leadership hailed from east of Highway 101, where many of the larger pot-growing ranches and “newcomers” resided—not from the homesteading, back-to-the-land communities west of 101. Talk of carpetbaggers, threats to homesteaders, and the need to fight profiteers, didn’t sit right with them. HuMMAP’s narrowed focus from being a clearinghouse for those concerned with marijuana to being a harbor for back-to-the-landers and their ethical politics left a large wing of growers either uninterested in joining, or concerned about the lack of pragmatism and unrealistic politics by aging, scattered hippies.

Pulling together five close friends, HGA’s future president asked for a buy-in of $50,000 each to form a trade organization to push for the passage of market regulations for the marijuana industry. The original members of HGA were what HuMMAP pejoratively called “large growers,” with multiple properties, managers, and employees producing marijuana. This negative impression of the grouping, expressed through such labels as carpetbaggers or sell-outs, was not only geographical (east/west of 101 or from outside the area) but was also generational. They were generally younger and did not share the same countercultural values of land and labor or political histories that homesteading back-to-the-landers did. HGA launched itself in 2010 at a well-attended Hempfest in Humboldt. HGA employed a Sacramento lobbyist, known for his pro-capitalist, unsentimental, anti-activist attitude. When word of the high membership price, tightly-controlled membership, and outside hires spread, HGA experienced criticism from HuMMAP, who believed HGA would industrialize and ruin the “Mom & Pop” structure of marijuana production.

Undeterred, HGA made a political splash. They raised eyebrows throughout Humboldt’s political establishment not only by donating $17,000 to a supervisor’s campaign ($2,000 in this
county was a large donation) but in choosing to support Bonnie Neely, a former supporter of timber and wife of the former anti-marijuana and anti-environmentalist DA. In 2010, she ran for a seat in NoHum’s Eureka district, on a platform of supporting marijuana (she had just switched to the Democratic Party in the post-timber political shuffle). Though Neely had supported timber, she was not a supporter of developers. She would be defeated by pro-development Eureka Mayor Virginia Bass, one of Arkley’s pro-developer picks. Neely would then be hired by HGA as a lobbying consultant. With this SoHum-NoHum alliance, HGA was out to build an all-county pro-marijuana force unlike the increasingly isolated ambitions of HuMMAP to protect SoHum’s small producer heritage.

HGA’s second move was to fundraise for embattled District Attorney Paul Gallegos (who had defeated Neely’s husband in the 2002 election). Gallegos had been elected on his promises to regularize medical marijuana and relax prosecutorial priorities around medical growers and users. When he came out for Proposition 19 in 2010, HGA threw its weight behind him. With the DA’s close relationship to incoming Sheriff Downey, HGA’s support signaled a willingness to work with law enforcement—something HuMMAP, after years of battles with code enforcement, multiple jurisdictional levels of law enforcement, and NoHum’s political establishment, was unable to do.

After Proposition 19’s failure and their rocky launch, HGA hired a NoHum environmental advocate, Alison Nichols as a PR consultant. Well-respected not only for her work with Cindy Sheehan’s anti-war efforts and her work on DA Gallegos’ campaign, she was a key figure in the NoHum environmental advocacy scene. Not a grower herself, Nichols helped to reformulate HGA’s image along the progressive-environmentalist lines that tenuously linked left-libertarian SoHum with liberal Arcata. She would also help gain the support of Supervisor
Lovelace, the founder of HuMMAP and the most pro-marijuana supervisor. (HuMMAP, for its part, had a long-time environmentalist who had authored statewide ballots before becoming a primary leader in the organization.)

By the summer of 2011, HGA had politically outflanked HuMMAP, and aimed to “get stuff done.” After Prop 19’s defeat, many believed county-wide regulation for marijuana was of paramount importance. If marijuana was legalized prior to a protective regulatory system being established, growers would be on the short end of a long stick. HuMMAP’s ability to produce policy language was matched by HGA’s hiring of an alternative medicine practitioner who excelled at policy details. As shown by the hiring of Neely and Nichols, HGA was intent on navigating the county’s political infrastructure successfully. As Nichols would tell me, in the words of her old boss DA Gallegos, “if you’re not at the table, you’re on the menu,” demonstrating a kind of shrewdness when compared to HuMMAP’s hope to simply be “at the table.”

HGA’s maneuvering was political as well as economic. Several of its leaders had been involved in establishing cultivation and transport agreements (CTAs) with out-of-county dispensaries, authorizing growers to cultivate a certain amount of plants per patient. While many of these CTAs didn’t work out due to disagreements between growers and dispensaries, they indicated one of HGA’s economic visions: to broker inter-county deals that would support the Humboldt “brand.”43 HGA’s second major venture was to sponsor a dispensary application in Eureka. This would give them a foothold in the county’s populous consumer center and a symbolic toehold in NoHum, mere blocks from the county government building. The dispensary would be supplied, as much as city regulations allowed, by SoHum farmers, thus establishing an

43 This was explained to me as consisting of an organic farming ethos, a general farming tradition, and natural beauty. This would be protected by county copyright—a kind of nascent terroir designation that would lead the marijuana industry toward the wine model.
extension of HGA farmers from production to distribution (unlike THC/HuMMAP, which only sought to organize producer collectives). Third, HGA supported the work of 707 Cannabis College, a kind of locus for marijuana industrial education for the North Coast region. Fourth, HGA members also sold marijuana trimming machines. This labor-replacing technology would rationalize marijuana processing and the messy employer-employee relations that sucked money and energy from proprietors (as the name TrimScene Solutions suggested; “scenes” were parlance for seasonal pot trimming employment sites). Finally, HGA allied themselves (along with 707 Cannabis College and the proposed dispensary) with the United Food and Commercial Workers (UFCW) through management-brokered deals allowing all involved to be unionized. UFCW played an important role statewide in legitimating efforts for marijuana regulation and legalization, but they were also criticized for their management-brokered agreements and their support of major “potreprenuers” (like Prop 19 sponsor Richard Lee) and regulations that would significantly hurt smaller dispensaries. Whereas THC proposed producer collectives as a way to gain bargaining position vis-a-vis the commodity chain, HGA pursued a strategy to control the commodity chain from production to processing to labor/technology inputs to distribution.

Despite its political wherewithal, HGA still lacked the support of the bulk of producers in SoHum. By the time I interacted with HGA in the summer of 2011, their rough start was evening out to a more moderated rhetoric, much of which, on the face of it, coincided with HuMMAP’s ethical-moral position that had gained the respect of most of the growing community in SoHum. This struggle between producer groups came to a head in arguments over the shape of county regulations in 2011. Both groups generated their own policy documents. The differences between the two are instructive in understanding the differences between each group’s vision for the
marijuana industry and, more immediately, for the type and role of producers in this broader industry.

1. **What type of space restrictions should there be on outdoor gardens?** This issue, above all others, lay at the core of the tension between HGA and HuMMAP. HuMMAP believed that gardens should be restricted to 99 plants, with the intention of ensuring that small farmers were the basis of the economy. HuMMAP referred to this as their “small farmer policy” and it extended to stipulations that each farm would have no more than two employees and would produce no more than 50 pounds maximum of marijuana a year. If producers were not just producing for their households (all households would be exempted from regulation), they would be required to be part of a collective that may include other producers, dispensaries, and patients. HGA, on the other hand, first proposed a limit of 20,000 square feet, or nearly half an acre, with no stipulations about the number of plants (which could reach nearly 1000). The fact that federal sentencing minimums were higher above 99 plants made HGA’s proposal optimistic, in spite of the leaked 2011 US Attorney guidelines to law enforcement specifying that gardens under 1000 plants were not generally worth prosecuting. Yet HGA’s proposal had the benefit of preparing the SoHum economy for what seemed to be inevitable legalization. The large scale was necessary defensively, they argued, so when legalization occurred, they could “flip the switch” and be competitive with the deep pockets of outside entrepreneurs.

2. **Who should have regulatory and inspector oversight?** HuMMAP proposed a Marijuana Industry Council (Council) comprised of 12 members from the county’s various supervisor districts. All Council members would be related to the industry (including patient-users), and would serve 3 year terms, wouldn’t be compensated. All proceedings
would be open to the public. The council would have a clear mission statement, specified duties, budgets, and inspection and administrative powers. The Council would be in charge of conducting inspections, most likely through a third party or peer-to-peer format and would ensure that marijuana producers, not government officials, were pivotal in making decisions that affected them. HGA, conversely, first hoped Health and Human Services would control, inspect, and approve gardens. After it became clear this wasn’t a possibility (and neither was the Agriculture Department), they saw the sheriff as the best option for inspections. HuMMAP was adamantly opposed to law enforcement as inspectors. They didn’t trust an agency that had for years criminalized marijuana producers and a government that persecuted back-to-the-landers through code enforcement. Further, they didn’t want to support a state agency dedicated to repression. (The sheriff would presumably receive inspection fees directly—a continuation, if in indirect form, of the largesse they gained from forfeiture.) HuMMAP was enraged by wording in HGA’s proposal that spoke of marijuana in terms of its potential for criminality, something they saw as related to the pitching of policy toward the sheriff. HGA saw HuMMAP’s worry over governmental oversight as a historical hangover that was backward-looking and of little use to the future of marijuana. They saw the sheriff’s inclusion as a bridge to popular legitimacy of marijuana in the county. This would help fortify the industry from challenges by other law enforcement agencies, particularly the federal government. The final version favored sheriff inspections.

3. *How would standards and branding be handled?* Both HGA and HuMMAP envisioned some type of branding for Humboldt marijuana. HGA envisioned this happening through a government approval and seal, centralized processing, and the negotiation of trade deals.
between the county and buyers. HuMMAP, however, envisioned this branding, which would be copyright protected as “Humboldt” and/or “Emerald Triangle,” as being a stamp from the non-governmental MIC. This would ensure a higher bar for aspects like environmental care, organic-ness, ethical farming, fair labor practices, and the role of small producers and not-for-profit collectives. Whatever standard each farmer set (purity, origin, certifications, chemical use, sustainable practices, trimming standards, etc.) would be stamped the product’s packaging. HuMMAP believed locals could self-regulate more effectively. HGA, many of them newer to dealings with the county and having less antipathy toward government, believed government regulation would not only be more objective and legitimizing, but would bridge the gap between NoHum and SoHum and unify and fortify the marijuana commodity chain prior to its legalization.

4. **What types of inspections, permits, and requirements are needed?** Given HGA’s proposal for larger farms and inspections rooted in government agencies, they also proposed more types of permits, inspections, and codes, ranging from seller’s permits for farmers to licenses for workers to zoning code compliance. HuMMAP saw these requirements as onerous, given their history of fighting code enforcement and establishing free homesteads and autonomy on their lands. They also viewed them as stipulations that favored larger grows. Permits and inspections cost money; with each new coded criterion, the barrier to entry to the industry tilted upward, favoring those with more working capital. HuMMAP wanted keep costs of total fees down to $2200, while HGA’s fees would be in the tens of thousands. HuMMAP would require labor licenses for farms that employed more than 10 workers (so workers would be guaranteed bathrooms, breaks, and work safety protections), thus dovetailing with their efforts to more fully rationalize
labor-capital relations in ways encouraged by the union. Workers wouldn’t be required to be medical users and they would be hired as independent contractors. Standards, HuMMAP argued, should not be mandated by the county government but should be drawn up by the semi-autonomous Industry Council from which producers and collectives would construct their own transparent rules, which in turn would be advertised to buyers. This would give producers the largest amount of autonomy.

5. *What is the relation of producers to dispensaries and patients?* There was an agreement among HGA and HuMMAP over the idea that medical dispensaries should be required, to varying degrees, to purchase marijuana from outdoor producers in the county. This said, each proposal had a different disposition toward end-consumer patients. HGA sought to curtail patients’ ability to grow for themselves, citing the problem of grow houses in the north county. HuMMAP saw this as a way to shut down the rights of patients and force them into a marketplace. They proposed bolstering protections for patients to grow at home, providing the grows were not “illegal.” This said, HuMMAP was more skeptical than HGA of dispensaries and sought to require that 100% of their product be grown by member-cultivators and outdoor producers (from the Tea House Collective, perhaps). HGA sought to require that only 50% be grown off site (which was the stipulation for Eureka where HGA proposed its dispensary). To summarize, HGA framed medical marijuana in terms of consumer access to government-regulated marijuana markets and dispensary-producer relations. HuMMAP framed medical marijuana as a matter of individual rights but had little patience for dispensaries. HGA was constructing a medical commodity chain while HuMMAP was primarily seeking a
place for producers, with marijuana’s “medical” status being downplayed in the rush toward stabilizing communities, the environment, and economic health.

**Looking for Models: The Mendocino Experience**

There was no parallel in Northern California to HuMMAP (except potentially from a Yuba County grower’s organization centered around the countercultural Grass Valley area) and their particular demands for self-regulating, small producer-based production. HGA, however, found inspiration one county to the south, Mendocino County, where the first marijuana farmer regulations (and the advocacy group MendoGrown) had emerged in 2010.

The farmer program was created in the aftermath of Measure B, a ballot that repealed Mendocino’s liberal marijuana laws in place since 2000 (perhaps the most liberal in the state at the time). Measure B came from an odd coalition led by an environmentalist waste management official, a Maoist-turned-libertarian law enforcement advocate, and a Ukiah politician, John McCowen, who had spearheaded the prohibition of outdoor growing in Ukiah, the urban-residential county seat. The county’s 9.31 program controlled and permitted outdoor marijuana gardens above 25 plants (and under 99) through zoning and nuisance laws. McCowen, who had a reputation as an “old guard” anti-marijuana landlord, had come to the issue out of an interest to fight “grow houses” and smelly outdoor gardens in the county seat of Ukiah (much like Mark Lovelace of Arcata, who also proposed growhouse regulations) and proposed 9.31 as a way to raise income for a cash-strapped county. His approach looked to regulation as the solution. McCowen’s transition from marijuana-prohibitor to marijuana-regulator caught the county’s marijuana activists, who were largely civil libertarian and medically-focused, off guard.

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44 The placement of marijuana farms under nuisance laws was controversial not only for the stigma attached to the word “nuisance” but also because Mendocino was a right-to-farm county in which nuisance laws could not apply to agriculture. In 2011, however, a California court ruled marijuana was not agriculture.
Activists watched warily as McCowen wooed the sheriff (who had earned the votes of some pot growers) into cooperation: the sheriff could run inspections and collect inspection fees in what one critic termed a “police enrichment” program. Some worried, however, as he established a “standards committee” that began to require more and more standards for farmers to live up to. When McCowen sought to expand the ban on outdoor gardens from all parcels under 5 acres to all parcels under 20 acres many marijuana activists and growers rejected his approach. While they assessed and reconnoitered, 9.31 rolled ahead. Momentum was on McCowen’s side and activists never formulated as cohesive a vision as HuMMAP’s for the area’s pot farmers.

Soon, however, a new advocacy organization called MendoGrown arose, led by a relative newcomer to the industry, Matt Cohen, who had worked with longtime patient advocate Angel Raich in the lead-up to her Supreme Court case fighting for the individual right to self-provision medical cannabis. Like HGA’s leader, who was around the same age, Cohen had no qualms about working with government, consolidating and rationalizing marijuana production, and leaving behind the illegal-privatist market for a publicly-regulated, formal economy. Like HGA’s TrimScene Solutions, dispensary, and inter-county agreements, MendoGrown was also oriented toward expanding throughout the commodity chain, not simply organizing producers. Cohen started North Stone Organics to broker between farmers and dispensaries (which largely failed until a major contract was signed with the Berkeley Patients Group at a rate [$800/pound] that was seen as abysmal by many growers). Later, it would become clear that he was proposing to become the county’s designated processor for the 9.31 program, which would put him in the position of brokering most of the county’s marijuana. Cohen, however, lost significant esteem in the community when he threatened to turn in his non-compliant, non-registered neighbor to the
police. Cohen was seen as importing a newly competitive attitude to an agricultural scene that had been lax and capacious, thanks to the latitude prohibition rents enabled.

The 9.31 program proceeds mostly went to hiring back laid-off deputies and helped to build broad support for the program. The deputy in charge of the inspections and regulation program often described participating farmers as “Mom & Pop” growers or “farmer’s market types” out to make a “decent living.” 9.31 was a program that clung to the mantle of respectability and legitimacy—something those involved saw as necessary given the delegitimation that had occurred under prohibition. Critics, however, rejected the terms of respectability and legitimacy, especially when it came to being legitimized by what they saw as a compromised government and its up-until-then rapacious law enforcement. Further, many were critical of McCowen’s history: his “respectability” was couched in the idea that marijuana was generally a nuisance that could only be tamed through restrictive regulations and compliance with standards set up under the discretion of law enforcement. Also, they saw the privileging of Cohen—who became in many ways the “poster child” of the program—and compliant farmers as creating an “entrenched grower elite” connected to the upper echelons of county government.

Mendocino’s experience was crucial for HGA’s self-conception as well as for people’s perception of HGA, both positive and negative. HGA would either be the most efficient and pragmatic vehicle for legitimizing and regulating marijuana in Humboldt County or it would simply be the most efficient vehicle for consolidating a widely democratic small producer economy into the hands of a few new industrialists in the image of the timber barons that came before. Although marijuana imbued this process of rural development with a particular flavor, the process was similar to other modes of rural development. Expertise, professional credentials, the ability to navigate legal technicalities, and deep pockets have always been important to
assuming political dominance in places as far-flung as the forests of Brazil (Campbell 2015), Indonesia (Tsing 2005), the Rust Belt (Doukas 2003; Nash 1989), and California’s exurbs (Beebe & Wheeler 2012; Walker & Fortmann 2003). The legal limbo of marijuana tilted Mendocino’s development toward political patronage and connections. Because many were too distrustful of the state to enter regulatory debates, those who did step forward were looked to as “leaders” and “representatives” for marijuana producers. Criticism of these “representatives” was intense—they were profiteers, outsiders, newcomers, and were willing to make drastic compromises to be seen as legitimate and respectable. This criticism, however, didn’t fully stick, and this new class of marijuana actors and their political liaisons came to be celebrated in the county and in the media.

_Sustainability and the Motion to Regulate_

“We have become the concern of the county supervisors and they now aim to regulate, some would say over-regulate, our community,” Forrest says, opening the summit between HuMMAP and HGA in the second story of an Italian restaurant in Garberville. Tossing a provocation to those gathered, reflecting his own HuMMAP bias, he says, “We are faced, friends, with a choice. The Humboldt Grower’s Association and the Humboldt Medical Marijuana Advisory Panel have put forward two different visions. Big business versus the conscience of this community.” Many shifted in their seats, ready to argue. Both groups had advanced their latest iteration of policy proposals and were holding the meeting to discover if there was enough common ground to explore the possibility of cooperation and a unified pro-producer county proposal. Producers divided would not bode well for the collective position of farmers in the coming county-wide debate.
The meeting proceeded as follows: an HGA staff person, though not chairing the meeting, took to going through the details of HGA’s policy proposal, speaking about exemptions, recommendations, pathogens, special permits, canopy size, yields vs. plant counts, and the minutiae of regulations. HuMMAP members, many of them older and descending from the back-to-the-land homesteading tradition, responded to this in bewildered tones of people concerned with civil rights, “the small guy,” “Mom & Pop” gardens, and economic stability. While other HGA members responded to these laments and ethico-political considerations, they would steer back to the policy documents, which, the staffer repeated time and again, was “tricky,” a rendering inevitably followed by technical details, leaving HuMMAP members befuddled and the tensions in the room boiling.

Toward the end of the meeting, as hope for cooperation lay in shreds, Jared, who had been silent, spoke up. “The writing’s on the wall. I’m pretty sure none of us want CAMP back,” Jared says, referencing the Attorney General’s Campaign Against Marijuana Planting, which was birthed in this section of the Emerald Triangle 30 years ago. “Frankly, listening to this discussion tonight, I just find myself wishing that the environment was at the forefront of what we’re doing here. I hear what is being said here, tonight, that the small [marijuana] farmers support the economy—I get that, I come from that—but the environment supports the small farmer. So, where does that leave our environment, the land and watersheds, here in this community? Where are we going in the future?” With the air of an earnest farmer, he looked around the room meeting eyes with many nodding heads, people who had spent the better part of the past two hours talking over each other, blustering, dissimilating, arguing, worrying. This was a rare moment of agreement.
“The environment,” in Jared’s comments, directed the conversation away from debates between two sets of producers and reminded all involved of their mutual interest in nature. Just as Jared’s question brought nods of agreement, everyone wanted to claim the mantle of being environmental, sustainable, and the most prepared to care for the land. For HuMMAP that meant working conservation and small producerism, while HGA believed government regulation, inspection, and a scaled-up economy would best care for the land. Jared’s presence in the room mattered. During the time before the meeting, different HGA and HuMMAP members shook his hand, welcoming him. He hailed from a well-respected watershed in SoHum that still personified the values of many back-to-the-landers and respectable yeoman residents. He was a younger “local,” thus bridging the gap between an aging counterculture and the more youthful entrepreneurial cadre. He was also one of the leaders of Grow It in the Sun.

Grow It in the Sun (GIITS) began as a group of pot-growing neighbors who had come together to address the impact of diesel generators that were fueling the explosion of indoor marijuana gardens in the area. GIITS had just held their first meeting in 2008 when a 3000-gallon spill occurred in the local creek. Faced with the choice to ignore it and respect the “outlaw code of ethics” of not snitching or reporting the spill to county authorities, Jared and his neighbors publicized the spill to draw attention to the “industrialization of the watershed.” The ensuing intra-neighbor fight raised tough questions and caused hard feelings. When a GIITS leader, along with a future leader of HuMMAP went to testify to the county on the environmental impacts of marijuana, it was a historic moment in 2008, well before the openness of 2010’s legalization build-up. In an important way, Grow It in the Sun was the first group to publicize the concerns of SoHum producers to a non-local audience. While their organization would mostly stay focused on issues in their own watershed (though they would do education
work at hemp and marijuana conferences and trade shows, and got attention from national marijuana magazines and other media outlets), their support in 2011 for county policy was critical. Both HuMMAP and HGA agreed that they could carry forward the mantle of sustainability most effectively.

For leaders within GIITS, though, neither HuMMAP nor HGA could claim this mantle. As one GIITS leader explained, any discussion of sustainability in capitalist economies is already compromised. He explains, “there is no such thing as sustainability. If you create an export commodity and you think you have a closed-loop system, [then you]’re not seeing the whole system, [you]’re not seeing it as a system. You take your export commodity, you take it out of the community, you’re always leaving yourself in an unsustainable situation.” All market-oriented production was unsustainable and arguments to the contrary were blatant “greenwashing.” Kevin, a GIITS leader, argued that HGA is nothing more than the new Whole Foods of Humboldt’s marijuana—ethical in relation to consumers but competitive and destructive of diverse economies. Soon they would just be the “capitalist assholes” that crafted policy to enrich themselves; this was painful to Kevin—some of them were his old neighbors.

Alas, even HuMMAP kept referencing the idea of a boutique tourist economy that would be predicated on consumption and waste. In other words, his critique, rooted in permacultural philosophy, lay outside the notions of sustainability and environmentalism that were advanced by both HGA and HuMMAP as integral to their policy and economic visions.

It was not important, however, that HGA or HuMMAP accept Grow It in the Sun’s deep ecology critique but, rather, that they were able to claim a controlling position in the emergence of a form of governance through the environment or, as Agrawal (2005) phrases it, “environmentality.” In post-timber SoHum, in the struggle for marijuana, whoever could claim
to be the steward of the environment would control the entrance of marijuana into governing and public circles. The environment was an extra-human object around which the human community revolved. It possessed historical value to lumberjacks, ranchers, homesteaders and back-to-the-landers, environmentalists, and civil libertarians. As such, it represented the one core value around which the future should proceed.

Even at the county level, the register of environmentality was critical: the NoHum environmentalist Supervisor Lovelace was the key guide of marijuana regulations and the sheriff’s and DA’s priorities for police and prosecutorial activity was against major polluters and land destroyers. HGA’s environmental protection-through-regulation approach jibed most readily with NoHum preservationist tendencies (as opposed to SoHum working conservation practices). The ability of each group to mobilize their own versions of sustainability, each couched in different economic visions, was dependent on their ability to navigate policy languages as well as government apparatuses. As mentioned, HGA had positioned itself well within the county government, whereas HuMMAP remained a suspicious and autonomy-demanding outsider to county deliberations. HGA, with its paid staffers, excelled at working with county bureaucrats to craft language and navigate nuances of regulatory schema. HuMMAP proposed more novel and bold proposals, which worried bureaucrats and grated against the regulatory-minded orientation of the liberal sponsors of the policies.

At the county level, environment became linked to the notion of planning, community impact, and spatial organization. Policy had to pass through several layers of governmental approval, including the years-long work of one county planner in charge of drafting and re-drafting language, the approval of the Community Services Director, the review of County Counsel, direction from the Board of Supervisors, the deliberation of the Planning Commission,
and, when much of this became unwieldy and on the verge of collapse, the coordinating efforts of the County Administrative Officer (CAO). Up to the point of the CAO’s involvement, the entire effort of regulating the marijuana industry fell under the sway of the planning functions of the county, transforming the complexities of marijuana (public health, criminality, livelihoods, environmental impacts, etc.) into a rubric of land use and zoning—into which environmentalist impulses were folded. The spatialization of policy—collapsing social complexity into a matter of spatial planning—meant that the marijuana economy had to become visible, predictable, and spatially ordered. Environmental meanings would be formulated in this new register.

Producers had not voiced their interests at the county level before—unlike medical dispensaries, which had been operating in the grey market since the late 1990s and had been the object of planning agencies since 2008. HuMMAP and HGA had no such expertise and suffered for it. Producers across the groups agreed that dispensaries should be required to source their product from outdoor-grown, local farmers. Indoor growing was energetically wasteful; outdoor growing was better for the environment. This incursion on the sourcing of dispensary’s product—and the subordination of dispensaries to producers that this implied—wouldn’t go unmet. Before tracing the dynamics of this policy struggle between producers and distributors, it is important to situate distributors in their historical political-economic context.

Dispensing with Marijuana

For Charlene, the entire talk of jobs, small producers, economic development and the like was wrongheaded. “They’re talking all the time about paying [their] bills, quality of living, making enough money. I tell them, ‘Stop talking about that.’ There is only medical marijuana. Nothing else.” As the operator of the county’s longest-running medical marijuana dispensary
(HPRC, described below), Charlene had learned this lesson early on: California had created a non-economic medical exception for marijuana production, distribution, and use. To talk of motivations beyond this legitimizing rubric was a risky affair.

Dispensaries developed out of a long history beginning before the medical marijuana ballot of 1996, Prop 215. San Francisco’s Dennis Peron and many other AIDS activists had been operating marijuana buyers’ clubs for years in San Francisco, modeling themselves on clubs that had formed in the 1970s push toward the legalization of marijuana more generally. Peron’s model was shut down by the state shortly after 215 passed, a fate that also met Jeff Jones’ city-sanctioned Oakland Cannabis Buyers’ Club in 2001. By 2004, state legislation, SB420, allowed for “collective” and “cooperative” distribution and cultivation, so long as it was non-profit. Thus a sanctioned, if nebulous, allowance for collective production and distribution emerged, leading to an explosion in medical marijuana dispensaries by the end of the 2000s. The state issued guidelines, levied taxes, granted business permits, established accounting procedures, and ruled on legal parameters. Slowly, a vague realm of acceptable distribution was established in California—a veneer of acceptability that producers wouldn’t feel in any organized way until the formation of HuMMAP, HGA, MendoGrown, and other growers’ organizations in the aftermath of Prop 19.

In Humboldt, dispensaries concentrated in the urban areas of Humboldt Bay, particularly in the liberal university town of Arcata, which had a similar racial composition as Eureka (80% white, 10% Latino), a lower reported per capita income, and higher poverty rate. Dispensaries operated largely in a regulatory grey zone, with officials aware of their presence but reticent to wander into this litigious and unsettled area of policy formation. From the opening of Humboldt Patient Resource Center in Arcata in the late 1990s until around 2007, dispensaries sailed under
the regulatory radar (usually with nothing more than a business license), as they had in much of the state. In 2007, with property owners mired in mounting debt and the mortgage boom busting, homeowners began to turn their ire toward “grow houses.” Indoor growers were ruining rental houses and ostensibly driving down the values of neighboring properties. Of course, they had been ruining houses for much of the decade—and paying landlords handsomely for this privilege—but when property values began to decline, these growers, who had buoyed local property markets for years, became a public enemy.

Aided by an investigative journalist who exposed indoor grows and facilitated national media focus on the town, a group called Nip It in the Bud formed to combat indoor growers. When A&E’s special “Pot City, U.S.A.” aired, branding Arcata as the center of indoor growing, the city government was drawn into the growing resentment of local marijuana production. A police-led crackdown was politically unlikely in this pot-growing town. Planning and land use policy became the mechanism through which this reaction would develop. Arcata was known for its intensive planning processes, its protection of small-town aesthetics and architectural heritage, its opposition to big development, and its politically-active property owners. By 2010, as the Green Party representation in city government declined, Arcata voted to ban panhandling, and a new Special Services (SS!) squadron was formed within the police department to focus on vice issues like indoor grows. Shortly after that, Humboldt State’s president would form a police blockade to prevent the annual 4-20 event (an international day of marijuana protest and celebration) near campus. The city was in full-fledged revanchism, led by a liberal impulse not only to protect property but to support private property’s system of aesthetic order, one in which marijuana growers, migrants, and unruly students did not fit.
While residential indoor growing was the express focus of Nip It in the Bud, it wasn’t long before regulatory efforts moved from hard-to-find, illegal growers who weren’t going to follow regulations anyhow (as many pointed out to me) to easy-to-find dispensaries. Eric Heimstadt, the operator of Humboldt Medical Supply (HMS) eagerly invited regulations as a means to legitimize and regularize his dispensary, a move seen by others as a play for city favoritism and protection over and against the town’s other dispensaries, which would look derelict. Arcata soon passed an ordinance to allow the permitting of local dispensaries and HMS was first, thus becoming the standard against which all others were measured. The model they established became a major liability for Charlene’s Humboldt Patient Resource Center, which was next in line. She had to adjust all her systems, ranging from payroll to inventory accounting to patient-member intake processes.

While coming up to par with HMS’s standard was a challenge, the true challenge was what one planner would describe as “mission drift” by the city’s planning commission and department. Charlene saw the intense regulations of dispensaries as being a stand-in for the city’s inability to regulate illegal grows: “Someone starts complaining about burned down grow houses, then they’re going crazy, and they have to regulate the dispensaries.” In this stigmatizing, criminalizing view of dispensaries through land use agencies “nothing counts that you’ve done,” Charlene said, referencing the ten years of operations they’d had without a hitch. Suddenly, they had to acquire a conditional use permit (CUP). She decided it wasn’t about one condition or another (though the conditions were legion, ranging from the placement of the front door to the size of their membership to the vendor for the certification of their garden to the barcoding of their products to the traffic plan for the parking lot and so on). Rather, because dispensaries were being framed as perpetually criminal, no condition could account for the
suspicious pall cast over them. Regulation became a means of moralizing, she suggested, saying, “They look into your eyes and decide.”

Meanwhile, HPRC was constantly losing access to its bank accounts and having its credit card processing cut off. They were paying an elevated price to their landlord for the ability to operate in this grey and easily exploited market. In order to come into zoning compliance they were paying rent on an empty space ($10,000 a month) that the city still hadn’t given them permission to operate. Competition was increasing locally as new dispensaries sprouted up near Eureka and more were proposed outside Arcata. While Arcata had once been the only place dispensaries could operate with a degree of openness, now it was one of the most difficult, she estimated. “It’s like we want to be that yuppie town, where we have no homeless issues, no terrible issues, we don’t want this place to be a pot community, but it is, we can’t stop that,” Charlene says. There was no active patients’ rights organization to fight for the dispensaries and the dispensaries themselves had no organized political voice to fight collectively, divided as they were between hyper-regulation and anti-regulation dispositions. Each dispensary was politically isolated, as were its patients, requiring Charlene and others to look for stable ground to retain their public position.

The reframing of dispensaries as potentially criminal establishments in the revanchism of enraged property owners was problematic for Charlene, who understood her mission as medical in orientation. She took precautions to prevent crime, but drew the line when the planning commission began to demand bullet-proof glass and an intake process that would delve deep into a client’s medical conditions to prove ailments serious enough to justify marijuana (patients arrived with a signed recommendation from a medical doctor; Charlene understood the proposed
invasive intake to be a violation of medical privacy). Summing up her attitude to the patient base, she says, “I don’t view them as drug dealers.”

Instead, she viewed her patients as sick people who have had a medical professional determine that marijuana might help them. This was lost on the planning commissioners, who only saw a business, a land use, and a potentially criminal activity. In order to navigate the permitting process and the costs associated with bringing the dispensary up to an ever-changing par, Charlene gave up the wellness center she had established, including a cutting-edge marijuana juicing program, and halted the growth of the free marijuana program for low-income patients. Despite having to be a business, Charlene was adamant that it was their medical position that gave HPRC not only legitimacy but purpose. She knew many of her patients would use the clones they took home from the dispensary to grow for the commercial market but regardless of the ways her business abutted the larger underground market, her medical purpose was unaffected. This was why she brought production in-house. By growing their own, HPRC was able to eliminate the main way that dispensaries interacted with the non-medical illegalized economy—that is, purchasing supply from outside sources. For Jeff, one of Charlene’s employees, the on-site grow allowed them to experiment with marijuana as medicine, growing certain strains for certain effects, working with patients to develop effective medicine, teaching patients how to grow for their own use. Once a “black market guy,” Jeff was inspired by the medical tradition and the integrity it brought. Jeff viewed simple, economically-oriented discussions of an emerging marijuana industry to be a “bastard[ization]” of the original political-medical intent. Similar to Jared of Grow It in the Sun, the medical-ness of marijuana underwrote an ethical objection to the economizing forces coming to bear—a pivot and a concern that drew marijuana out of economic framings to have other societal concerns associated with patients and
the environment. For Jeff, this medical mission opens onto a fight for “social justice” in which he “tend[s] to the needy.” Once a market-oriented underground grower, he found in medical marijuana a kind of political awakening and a moral purpose.

By the middle of 2011, Charlene had decided to prostrate herself before the demands of the planning commission. When she hired a lawyer and an engineering firm to combat the city, the city began to have a change of heart. What was now a nearly three-year process had dragged on too long and the planners began to see they had overreached—they were trying to regulate an entire industry through land use mechanisms. One planner explains, “When you get back to land use, there’s a code, a couple pages on ordinances for what we do to review if it meets the code. That’s easy. We’re trying to get back to that. How does this comply with the code?” The difficulty, he estimated was that dispensaries were required to have “special consideration” in the “conditional use” permitting, thus making their approval a political, not bureaucratic and code-bound, process. The planner now recognizes the gap between medical purposes and land use: “what started as an idea to help people who were sick boils down to retail when it gets to planning.” He laments that planning departments statewide have been saddled with this responsibility of “reinventing the wheel” with the lack of state guidance. In the end, dispensaries were “a retail use for all intents and purposes” as far as planning was concerned.

Though dispensaries were divided in competition, their engagement with public life had clarified their extra-economic, medical sources of legitimation and purpose. In the grueling process of navigating a stigmatizing planning process they had gained the collective wherewithal to navigate public processes. There was a latent unity among dispensaries in their policy-based organization and their collective medical expression. They would bring this positioning to bear when the county’s producers made a play for market position.
The Fight for the Market: Distributors, Producers, and the Local Dynamics of Federal Crackdowns

One of the main issues Humboldt Patient Resource Center had in the summer of 2011 was where they would cultivate their marijuana. Arcata, which required the dispensary to either grow its own marijuana or acquire it from a city-certified production facility within city limits, was not satisfied with the dispensary’s cultivation location—it was too close to the town’s commercial center. HPRC, in response, rented a $10,000/month, 10,000 square foot space in the old industrial timber processing area. Ominously, however, in early 2011, the federal government had told Oakland that its proposed permits for four 10,000 square foot production facilities would violate federal law and that it would bring action, thereby foreclosing Oakland’s post-Prop 19 plans to become the center of California marijuana production. This was well into the period when HPRC was renting the 10,000 square foot building required by Arcata (thereby creating potential legal damages if the city reneged on its permitting process, which becomes important later).

Arcata’s requirement to grow your own or have city inspections was on the minds of SoHum producers as they drafted their county policy proposals, both of which required county dispensaries to acquire either half or all of their medicine from outdoor producers (with the rationales explained above: sustainability, jobs, localism). Some dispensaries were receptive, but issues arose. How would production sites be certified for quality and safety? Who would shoulder the cost of this? Who would be liable for product deficiencies? These legal-economic concerns were only the beginning. Outsourced production made it harder for dispensaries to control the types of marijuana dispensed, and hindered their ability to work with patient-
members to discover workable strains, since their inventory would now depend on producers. Some dispensaries argued that outdoor-grown marijuana may be more environmentally friendly but it was not appropriate for sick patients who needed the controlled conditions of indoor growing. As HuMMAP and HGA producers circulated their draft, another competing document appeared, this time from an ACLU lawyer and some dispensary owners, who argued that all production for dispensaries should be done on site.

As the county deliberated over several proposals, combining them into draft policies, the tensions between outdoor producers and dispensaries rose. The county decided to break the deliberations in two: first the issue of personal, indoor cultivation and dispensary regulations would be tackled. Then outdoor regulations would be dealt with in a second phase. Each phase would be deliberated and passed separately. A flaw in this plan was the requirement in “Phase I” (dispensary/indoor) that dispensaries either acquire their medicine from certified outdoor producers or from patient-members—but would not be allowed to grow it themselves. There were two problems: there was no process yet to establish certified outdoor producers and patient-members’ personal cultivation was being restricted to 50-feet from the previous limit of 100 feet. For dispensaries, this meant they would have to commit to not producing their own marijuana until regulations were (hopefully) passed to permit outdoor farms in Phase II. In the meantime they would have to rely on numerous 50-square foot gardens to supply their entire stock. How would those sites be monitored and approved? How would quality be assured? Who was responsible for a moldy or chemically compromised product? Further, they argued to suddenly-attentive planning commissioners, if dispensaries were required to get product from

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45 This last restriction on a patient’s personal cultivation limits, originally proposed by HGA, was seen by some as a necessary compromise to bring along politicians worried about “grow houses,” but understood by others as a cynical attempt to destroy self-provisioning and corner more of a consumer market in Humboldt—something HGA was positioning itself to do by vying for a dispensary permit in Eureka.
personal cultivation, this would aggravate the problem of grow-houses. If there was one motivating factor on which all those involved in the policy process could agree—after all, with the exception of one key advocate, those involved in the deliberations were property owners and advocated as such—it was that there should be no grow-houses in residential areas. Given these concerns, the planning commission rejected the idea of Phase I. In response, Supervisor Lovelace appointed the county administrative official (CAO) to serve as executive coordinator of the policy proposal. In other words, it would be pushed through other mechanisms outside of the planning commission so that the county’s real money-maker—permitting outdoor farms in Phase II—could pass.

Dispensaries, despite their internal tensions, had uniformly and somewhat spontaneously defeated Phase I, pitting themselves against the unprepared outdoor producers of SoHum. Over the next several months, the Humboldt Patient Dispensary Alliance (HPDA) took shape. Though this group was essentially a professional association, it came closest to representing patients, who did not have a formal organizational presence in this producer county. In basic terms, however, the county was now in a battle between distributors and producers—a political battle that, given the submerged nature of production, had never appeared in California before. Producers wielded the powerful non-economic discourse of environmental care while dispensaries wielded the equally powerful non-economic rationale of medical care. While each was deeply felt, they were both intertwined with a struggle for economic position.

As these debates developed, dispensary applicants were beginning to flood the county. While HPRC had been almost alone until the mid-2000s, by 2011, three more dispensaries opened in Arcata, three had opened in the unincorporated areas, and seven applications had come in to the county for new sites (even as three conservative municipalities banned them from
opening). Producers were similarly beginning to ramp up their efforts to organize themselves, as described with HuMMAP, THC, and HGA.

County residents and the government paid attention to this process. The county stoked fiscal desires as it set its sights on reaping income from inspections and fees (the federal government had begun making threats to localities that collected taxes, since this would abrogate the Controlled Substances Act—taxes could be qualified as profits from drugs rather than administrative fees, which were merely reimbursements). As one planning commissioner framed it: “How is the county going to make money? That’s why everyone’s here.” Rule changes accompanying timber-to-residential property conversions meant that a major source of value was in danger of being subtracted from county life, thus dealing a blow to the rentier apparatus that had supported the (now virtually defunct) timber industry. Here was another reservoir of capital, a new core industry that a study in 2011 estimated to generate approximately $415 million per year, or approximately 26% of the county’s economy (Budwig & Bank 2013). Regulators and an engaged public aimed to turn this income into a source of county revenue rather than a subtraction (such as through indoor growers’ supposed reliance on energy assistance programs). Producers, distributors, county government, and residents all looked to the marijuana industry as a rescue from the doldrums that had gripped the formal economy.

Then the federal hammer dropped.

It started in Eureka. The city had approved an ordinance to issue dispensary permits in 2010 and had spent a year deliberating and processing the applications. It was in 2011 that the city manager decided to do more “due diligence” by sending a letter to the US Attorney of the Northern District of California, inquiring what her opinion of Eureka’s ordinance was. The answer was known before the question was asked: the federal government considered all
marijuana illegal and looked especially unkindly at policies that supported “large”-scale production, which the Eureka ordinance did. (It was HGA’s proposed facility that was 10,000 square feet.) The Feds had already sent a letter to Oakland and Chico, and had shut down similar efforts in Isleton. Not only did they threaten to shut down the dispensaries but they threatened to hold city officials responsible—civilly and criminally.46

The city manager’s move came just a few weeks after he fired the police chief, with whom he had a simmering battle. While the battle took on scandalous notes, it was undergirded by more than personalities: the police chief was a reformer while the city manager was supported by (and supportive of) Eureka’s former ruling alliance of police, developers, and property owners. Within a month of the police chief’s firing, Eureka appointed a conservative replacement, conducted raids of homeless encampments, and sent the letter to the US Attorney in an attempt to roll back the reformist tide that had risen in the late 2000s. It was one thing to allow a few dispensaries if the developer-police alliance was doing well, but in 2011 Governor Jerry Brown announced two devastating blows to this conservative power formation. Brown would dismantle the state’s redevelopment agency, which he charged was a giveaway to developers, and he would cut funding to anti-drug enforcement and, specifically, marijuana eradication enforcement. This blow to law enforcement and developers—as well as the lingering and as-yet-unsuccessful efforts to bring in big box stores, waterfront development projects, and a railroad connector—suddenly left marijuana dispensaries as one of the few advancing development projects. Dispensaries could swing the balance of power in Eureka away from

46 This threat would be challenged by the ACLU as illegal posturing that wouldn’t stand up in court. The federal government perhaps agreed because they never pursued actions against localities, instead shutting down policy processes statewide with rattling sabers and vague threats.
developers and police. The city manager’s office did what many suspected the police-dominated city council wanted to do all along: it went to the Feds.\textsuperscript{47}

The firing of the Police Chief caused a furor throughout the county and the letter to the Feds was met with equal irritation. The letter was not enough to derail the dispensary applications by itself—particularly given the fact that the city was now open to lawsuits from applicants if they shut down the process. Though they didn’t trash the permitting process, the Council’s one progressive member lamented, “I don’t think there’s any way to get off the [Fed’s] radar now.”

In the fall of 2011, a new factor emerged to roll back regulatory efforts: \textit{Pack v. Long Beach}. The appellate court decision—which held sway into early 2012 when it was de-published (that is, legal citations to it were disallowed) by California’s Supreme Court and eventually overturned—ruled that localities could not proactively regulate marijuana. Instead, they may only establish a limit under which they would not criminalize marijuana-related activities. This ruling, which contradicted earlier rulings and was only technically relevant for the court district from which it came, was taken up by localities across the state as a reason to jettison regulatory efforts. Further, the federal Department of Justice’s Cole Memo, issued in the spring of 2011, assured states that they would be pursuing cases they deemed to be out of step with state law, regardless of what localities or states believed. The \textit{Pack} decision gave the Feds cause to shut down nearly every regulatory process in the state, if they so desired—and they did. By November of 2011, the writing was on the wall: there would be no new dispensaries in Eureka. Not seeking to alienate local allies and potentially bring federal attention to themselves, applicants backed down from lawsuit threats.

\textsuperscript{47} There was evidence that the requests for federal opinions was a strategy for conservative police forces. The California Police Chiefs Association was circulating the requests for opinion templates through their law firm Jones & Mayer, who had a statewide listserv.
Eureka’s conservative political core re-exerted its power, but a makeover was required. The city manager stepped down. A search for a new police chief first settled on a candidate who had been one of the officers involved in shooting a mental-disabled woman in 2006 that had incited demands ending in police reforms. This reassertion of the old law enforcement was too much even for Eureka, which had just paid $4 million to the survivors of this woman. Eureka decided on a community policing-oriented chief from southern California. Not long into his tenure, he would preside over another police shooting of a 22-year old man, shot with his hands in the air. Developers were able to push through a Wal-Mart store, despite the rejection of it by voters a decade prior. A mall at Eureka’s waterfront would eventually be defeated (it was to be built on severely polluted rail yards that the owner, Rob Arkley, refused to clean) and efforts to widen the highway to allow for industry standard-size big rigs to come into Humboldt were thwarted. Efforts to build an east-west train continued, this being a public works project that would break Humboldt’s economic isolation. Meanwhile, the (now locally-supported) redevelopment agency continued to position itself to attract tourists to its waterfront. Efforts to police homeless people increased.

After the letter to Eureka, Arcata sent a similar request for federal opinion. Though more liberal than Eureka, Arcata’s police were already avidly targeting marijuana through their Special Services force. The police, however, were integrated into a city that was run not by developers but by homeowners and small businesses. The SS did not conduct criminal raids so much as it partnered with building officials to conduct civil spot inspections, upon which criminal investigations could result. This slippage between civil and criminal lines once again set the stage for a kind of grey marketing of marijuana. The Planning Department continued to review applications but decided not to issue final permits. The first permitted dispensary
(Haubstadt’s HMS) closed after receiving a letter from the US Attorney that it was too close to a ballpark, which it considered to be a convening site for children. A second dispensary got a similar letter and, in protest, operated a mobile dispensary adorned with protest signs. A third dispensary melted into the shadows. Meanwhile Charlene’s HPRC agreed not to sue the city and, in indirect return, the city agreed to allow them to operate in the unregulated grey market, just as they had been doing since their opening in the late 1990s.

One employee of HPRC criticizes the federal letters and the localities that complied. The letters “allowed them to say, ‘you know what, I never liked the 215 situation period, so we’ll say to the Feds, “We do what you choose.” Then they watched the Feds chop the dispensaries out... The city could just call the Feds and say, ‘knock off these guys.’ It was knocked out. For a phone call or the price of a stamp, lo and behold, the business was shut down. So you got to see these aggressive communities shut the demon weed down.” Regardless, the threats to prosecute city officials and workers scared many of them, like the planner in charge of dispensary permits who asks, “Is that what I signed up for?”

With dispensaries closing in Arcata and applications shut down in Eureka, dispensaries in unincorporated county lands also shut down. One dispensary was raided by the federal government after its owner was caught trafficking marijuana to Pennsylvania. The county moved to pass a moratorium on new dispensaries. The last dispensary to be grandfathered in received a letter from the US Attorney, and closed after the landlord’s bank threatened a closure of the landlord’s accounts if they didn’t evict the tenant.

With landlords, dispensaries, and regulatory law-making bodies paralyzed in the new federal crackdown, the fourth leg of a new prohibition effort extended. Matt Cohen, the head of MendoGrown and the public face of the 9.31 farmer regulation program, was arrested.
Mendocino officials had tried to play both sides of the marijuana coin—prohibition and regulation—by supporting federal multi-agency efforts like 2011’s Operation Full Court Press and continuing to bust illegal grows (some of which were then steered into the 9.31 program) while at the same time issuing permits to growers. They were clear that they wouldn’t ask federal advice. The Mendocino sheriff said: “We didn’t write a letter to the federal government. When you do that, every time the federal government will say everything you do is illegal.” Bolstered by the Pack decision, the federal government moved. The raid on Cohen occurred mere days after Mendocino officials traveled to Sonoma County, to Mendocino’s south, where one of Cohen’s drivers had been arrested while driving marijuana through “the gauntlet” (a section of 101 notorious for search and seizure of south-bound marijuana). A flyover of Cohen’s property reportedly happened while the Mendicino officials testified for Cohen’s employee. This act of inter-county defense of marijuana was presumably seen by Sonoma and the Feds as an act of subversion of marijuana laws and prosecutorial activity. Days later, Cohen was raided. Cohen, whom many local farmers viewed as a compromising, pro-cop, domineering profiteer, became a martyr in this high-profile bust (second only to the raid the following spring on the businesses of Richard Lee, the force behind 2010’s Prop 19 in Oakland). Though other farmers were raided that same day, only Cohen’s bust received media attention. Cohen’s farm North Stone Organics and the political organization MendoGrown collapsed.

Cohen’s arrest, more than any factor, signaled the decline of Humboldt’s regulatory debates over outdoor farming. HuMMAP melted into virtual non-existence. HGA’s leadership, heavily invested in large-scale marijuana growing, ducked back into obscurity. Grow It in the Sun turned inward and dissipated. The marijuana economy’s “favoring the criminal again. Back to being a criminal enterprise,” one observer told me in 2013. Ironically, outdoor growing, under
downward price pressures, benefited. Indoor growing declined and indoor supply shops folded, but outdoor horticulture and soil shops boomed in the county’s rural areas. The aim to reduce grow houses, though already occurring because of dropping prices and high energy costs, was augmented by Arcata’s creation of an energy tax on high-usage households. Outdoor growing became the rage, not because of environmental reasons but because price drops demanded cheaper growing conditions. Advances in growing practices (such as cycle-shortening “light deep” techniques) made outdoor growing more competitive with indoor, leading to new environmental effects, such as deforestation, road runoff, and watershed contamination.

At the county level, the hopes for a potential industry to ground the liberal-progressive bloc failed as the conservative bloc of property rightists (some of them marijuana growers), speculators, developers, and law enforcement gained power. Developer Rob Arkley, who had helped push one Supervisor from office in 2010 (HGA’s lobbyist Neely) in favor of a pro-development, pro-police candidate (the former Mayor of Eureka), helped support two new property rightist candidates take control over both SoHum districts. One candidate had been a pot grower (reportedly) and civil libertarian now turned property rightist. The other, who was deeply involved in pro-development policies, had a son who was arrested in an armed robbery trying to steal back his marijuana. The General Plan Update continued to be stalled over property rightist demands. Property rights, development, law enforcement, and marijuana growing could lay in the same bed in this unpredictable, resurgent twilight of prohibition. The federal crackdown supported the most conservative forces in Humboldt, tilting the political balance: Arcata’s progressive edge continued to dull, Eureka was reclaimed by the “old guard,” and the county at large was taken by property rightists.
As for the county’s progressive forces, Lovelace was the only remaining progressive Supervisor. Kirk Girard, Community Services Director, stepped down when it became clear the new pro-developer supervisors would divide and gut his department. They put him in charge of the economic development agency, which had little power since state funds dried up. The agencies of building and planning split in two.

The DA and sheriff remained, however, essentially becoming the last stop for county marijuana regulation. While they had no legislative powers, the two were able to executively regulate marijuana through the back door. They would set prosecutorial and enforcement priorities for the marijuana industry and steer it toward a more ecologically responsible operation. Yet, the regulatory ambitions of the sheriff’s department were constantly thwarted by the budgetary necessity of fighting drugs. The governor had eliminated funding for CAMP, the state’s marijuana eradication program, as well as the Drug Task Force under the Bureau of Narcotic Enforcement. Either drug policing would decline or new governmental configurations would have to emerge if the sheriff were going to continue to receive funding. Humboldt, for its part, shifted local funding toward a rejuvenated Humboldt Bay Drug Task Force (HBDTF) as it shut down its marijuana enforcement unit. New partnerships with the federal government emerged: the Forest Service was brought in for public park raids, Immigration and Customs Enforcement for immigrant-related efforts, Homeland Security for inter-state cases, Bureau of Indian Affairs for reservation busts, and Bureau of Land Management for state lands. The US Marshals, FBI, DEA, and Department of Justice were never distant. In a significant move, the state-administered (but federally funded) marijuana eradication force, CAMP, became the California Eradication and Reclamation Team (CERT), signaling a major shift toward environmentally-focused prohibition efforts on public lands. By the end of 2013, the US
government would designate Humboldt as a High Intensity Drug Trafficking Area, opening it up for the designation of multiple funding flows and multi-agency assistance, thus shoring up a potential lapse in its budgetary disciplining of national police forces. Even though Humboldt’s sheriff was critical of marijuana prohibition, he could not but help to be involved in these efforts. Despite his announcements that he wouldn’t target “Mom & Pop” grows, small growers continued to be busted as the HBDTF scoured Humboldt for property and monetary confiscations to support its shriveling state endowment.

In light of the paralysis of marijuana policymaking, the shrinking of marijuana activists from public involvement, and the retrenchment of progressive-liberal and conservative forces in the county, there was one policy that did manage to pass the board of supervisors: the rights of patients to grow their own would be curtailed. The allowable area for personal gardens would be reduced from 100 to 50 square feet. The proposal, which had been taken from Arcata’s ordinance geared toward controlling indoor residentially-zoned growing, was brought to the county level by the Humboldt Growers Association. Many saw this move as an effort to create more customers for dispensaries supplied by HGA-certified and -brokered farmers. Among the county’s few patient advocates, it left a bad residue. One advocate says,

You guys are already rich, you’re making shitloads of money. How much more do you need to make on the back of this guy? That’s my beef. ‘It wasn’t about cutting out little guys’ [they say]. The cutting of the little guy was essential to guarantee their power! I believe that….I don’t know [if] it’s the master plan [but] it’s how it turned out. You put a lot of information in the ears of these [politicians] and your political power helped push it through. So you’d be able to get in a situation where you control this region.
Those with money and power retreated into the shadows as prohibition settled in. Patients were punished, he says. For those arrested, even the DA had been clear (after he arrested and charged marijuana trimmers but released the employer and property owner when he paid bail) that those with money would be hurt through dispossession but not, if they could pay, through imprisonment. For those too poor to pay, one patient advocate asserts, “you have no value to [the county] now. Now they have to prosecute you.”

*When the Fed Speaks, Everybody Better Listen: Reorganizing Market Politics*

“When the Fed speaks,” one Humboldt confidant told me, “everybody better listen. The Fed speaks very clearly.” In 2011, the Fed spoke. Through high-profile cases, like Matt Cohen’s arrest, coupled with a lower profile “drug war by postage stamp,” like the letters to Arcata and Eureka, the federal government’s voice resounded throughout California’s marijuana sector, devastating the political-economic infrastructure that had been on the verge of legalization in 2010. While some hoped for a second legalization ballot in 2012, money fled the marijuana political field, leaving activists alone to wonder how best to push toward a reform of the drug war. Hard feelings abounded after the tumultuous 2010 campaign for Proposition 19. No less than four ballot measures vied for signatures in the early days of 2012, ranging from a hemp and marijuana legalization ballot carried forward by old-school Jack Herer hemp loyalists, to a “Regulate Marijuana Like Wine” measure led by libertarian activists and southern California donors. The state’s civil libertarian and progressive wing pushed the “Repeal Cannabis Prohibition” ballot. Finally, Americans for Safe Access, UFCW, NORML, and others united behind the “Medical Marijuana Regulate Control and Tax Act,” first drafted as a ballot measure and then carried to the legislature by San Francisco Assemblymember, Tom Ammiano. Hemp
activists, libertarians, progressives, and medical marijuana industrialists each went their own ways under the pulverizing power of federal prohibition.

With few political survivors left on the North Coast in 2012, HGA and MendoGrown reconnoitered and combined at a different scale. They would build an organization to advocate at the state level for pro-farmer and pro-environment marijuana policies. Unlike Grow It in the Sun and HuMMAP, which were admittedly localist, this new coalition was able to make the leap in scale by declaring itself as the only voice of California growers. The new organization, Emerald Growers Association (EGA), united with Americans for Safe Access, UFCW, and NORML to push for the Medical Marijuana Regulate, Control and Tax Act, effectively positioning themselves at the center of statewide medical marijuana politics.

With EGA’s ascent to state politics, their particular view of market-oriented sustainability, government regulation and cooperation, and their scaled-up notion of “small farmer” traveled with them, albeit somewhat moderated. For instance, instead of policies favoring larger growers, they now made allowances for sliding scale fees and permits depending on farm size. As advocates of outdoor production, they pushed for taxation schemes that would favor outdoor growers, and tried to re-situate marijuana not as a medicine but as an “herbal product” that could be grown with a more agricultural orientation (i.e. not clinical). They proposed to direct tax proceeds to “greening” the industry through environmental cleanup and industry research. EGA became involved with the North Coast’s regional Bureau of Water Quality to address marijuana water issues, published a regionally-distributed best practices guide to green growing, established an Emergency Response program to deploy activists to sites of busts, and participated in controversial efforts to criminalize people carrying growing supplies in public park areas. Critics saw EGA modeling itself on the professionalized environmental
advocacy organization, rather than on community-based and radical organizing schemes, as their participation in a regional environmental council suggested. Further, critics understood their targeting of marijuana environmental issues to be a back-door mechanism to target small growers and consolidate the industry as the costs of “compliance” rose. EGA, they charged, was apologizing for marijuana, offering themselves up as respectable environmentalists, and positioning themselves as arbiters of a formalizing industry. Their rhetoric of “farmers,” “family farms,” “Mom & Pop,” and other normalizing tropes was intended to set them apart from publicly-expressed fears of Mexican (and racialized) cartels who threatened the newly-licit marijuana grower. Discussed more in the next chapter, the “Mexican cartel” became a demonic foil to the grower, as it demarcated the “respectable” from a resignified “criminal.”

This positioning echoed many aspects of a retrenched federal drug war that was also focusing on environmental damage, impact on public parks, and threats to public health. At times, press releases by the federal government and EGA read very similarly as they decried guerrilla grows on public land that resulted in pollution, threatened park tourists and wildlife, and were ostensibly run by Mexican cartels (despite no investigations conclusively linking back to Mexican cartels). EGA advanced itself through a good/bad dichotomy. The federal government’s good/bad paradigm was between all marijuana producers and a marijuana free society. Local law enforcement used an environmental good/bad logic to secure convictions with juries that generally refused to convict patients and even pot growers generally. Humboldt’s sheriff considered whether to redirect confiscated and forfeited proceeds from busts toward environmental awareness and reclamation efforts. As law enforcement, producer organizations, and advocates came to a new environmental consensus, the pressure to articulate positions in terms of the environment became a kind of general social force, a kind of “environmentality.”
EGA, HGA, and MendoGrown spoke of the need to let the economy unfold in the “inevitable” way it would. Yet there was nothing inevitable about the way the economy was developing. The two most powerful logics revolved around medical need and environmentalism, two rationales rooted in a logic of care. These were not primarily economic rationales. The marijuana economy, just like the timber economy and the developer economy, was full of economic irrationalities ranging from hyper-inflated rents for dispensaries, to tax breaks for timberlands, to public giveaways for development projects. The vaunted illusion of rationality in formal markets belied the greater scheme at play: the marijuana economy was thoroughly political, just as the entire supposedly “inevitable” economy surrounding it was political.

In 2014, a last ditch effort to establish farmer regulations emerged in Humboldt under California Cannabis Voice (CCV). The organizing model, inspired by Cesar Chavez and Saul Alinksy, was oriented toward a grassroots campaign to establish a strong voice for producers in the Emerald Triangle prior to legalization. It aimed to establish a strong local economy that could be positioned to retain the wealth many feared losing once legalization occurred. For this, they hired a key figure in the dispensary scene, a respected former employee of HPRC in Arcata, and a former mill worker and union organizer. Their vision, which included an idea of boutique resorts, a tourism industry, and an appellation system, was centered on an idea of uneven development and comparative advantage, which would favor Humboldt for the foreseeable future prior to the full rationalization of the marijuana market.

The work of CCV in organizing for farmer protections before the legalization ballot(s) of 2016 will be recorded by history as one of the last stands of the small farmer in the United States, just as the debates of 2010-2012 signaled the emergence of the small marijuana producer into public life. As the historical and spiritual center of marijuana production in the United States, the
North Coast holds the marijuana economy’s best chance of reworking what increasingly appears to be a capital- and state-led marijuana economy.\footnote{48 The efforts by producers to promote producers’ self-regulation and retention of autonomy finds parallels among alternative medicine practitioners and their effective efforts to self-regulate through organizations like the American Herbal Products Association (AHPA). Indeed, marijuana advocates worked with AHPA to develop best practice recommendations for policymakers in 2012. It also finds an apt parallel in the growth of organic agricultural regulations from the 1970s to the present day (Guthman 2004). Like organic agriculture, marijuana is now at the point organic agriculture reached in the late 1980s prior to uniform federal regulation. Numerous practices, authorities, credentials, and forms of legitimation were at play and production was widely disseminated among many small producers. When regulation congealed and the requirements for certification were formalized, the farmers who benefitted were those who could afford certification and could jump through the numerous regulatory hoops and costs that regulation required (such as a waiting period of several years before organic labeling could be used). When organics became more regularized, a pitched struggle emerged between producers, who had had direct access to markets (through farmers’ markets, cooperatives, and CSAs) and distributors, who gained more power as retailers demanded a regular stream of product. At the root of this struggle was a battle between economic sectors over control, and a battle over the ethics and politics that would guide the development of organics.}

One could easily fault producers’ self-interest and their hunt for economic position for the failure of the stand described above. A more transformative vision might have expanded beyond the concerns of property owners and commercial actors to focus on rallying cannabis workers, uniting with transient workers, breaking the parochialism and sectionalism that limited political imagination, cooperating with dispensaries, and supporting patients. Perhaps then producers would not have been hobbled by the opposition of medical dispensaries. The political actors described above failed to represent more than a small sector of the county—they failed to scale up to an effective county level. Yet to stop analysis here would be to ignore the words above: when the Feds speak, those operating in the federalist system are obliged to listen. The federal government came crashing down on producers, dispensaries, and lawmakers, undermining the ability to locally generate a regulatory apparatus and venue for civic deliberation over marijuana’s future. This type of venue may have developed in a few more iterations of county deliberation—and new voices would likely have arisen—but the civic process was instead crushed by prohibitionist forces. Instead of this locally-generated, ecologically-conscious, producer-oriented industrial regulation emerging at the county level in
California, Colorado passed a legalization bill requiring all marijuana to be grown indoors so that it could be monitored. This shut out all outdoor producers, and the great majority of indoor producers who could not muster the capital to invest in much more expensive indoor production. In Washington state, where production could be indoor or outdoor, producers would have to work through the state and its intense—some would say counterproductive and ineffective—taxation and regulation systems.

The one thing that carried forward in California was a fundamental shift in the environmental discourse and politics of the region—a political offering that is now a center of gravity in the emerging debate over the marijuana commodity chain nationally. This is fundamentally rooted in the legacy of Humboldt’s fierce environmental activism, a legacy that is now dialectically intertwined with marijuana. While this environmentalism scales up, however, locally the region has returned to an altered but familiar ruling bloc of property rightists, law enforcement, and the unregulated industry that exists in private property’s sheltered nook.

Thus, we see the pivotal role the federal War on Drugs played in supporting a certain mode of governance and political economy in rural areas. Between 2008 and 2011, Humboldt began to open up its forms of political participation as the intensity of the War on Drugs slackened. With the resurgence of federal pressure in 2011, Humboldt retreated into a politics of privatism that helped to reestablish a rural mode of governance—minimal government, ineffective regulations, property supremacy, and powerful law enforcement. This governing ethos harkened back not only to the libertarianism of both the counterculture and the timber culture of the second half of the 20th century, but had roots in the system of resource extraction that had developed in Humboldt’s early days. This mode of governance was glossed in hues of a romantic yeoman self-reliance, allowing land to be pillaged, labor to be controlled, livelihoods to
be criminalized, and local power to concentrate. It is this governing tradition of Humboldt that enables the very thing people despise—the ruination of their county’s environment by supposedly amoral, anti-environmental “big growers.”

The formalization and regulation of marijuana is unlike the emergence of other commodities. Medicalized decriminalization, since 1996, has fostered a kind of federally-criminalized experimentation with policy solutions throughout California. The effect of this was that marijuana policy would develop in one direction, but would be reined in if and when it exceeded the federal government’s nebulous criteria (see Vincanne Adams 2002 on this dynamic of criminalization and monitored allowance). This discretionary criminalization placed many in legal limbo, particularly in Humboldt after producers became the object of regulatory formation.

Unlike the period from 1996-2010, the entry of producers into the policy deliberation mix brought the question of industrial development to the fore. Up to that point, distribution and consumption had been the acceptable area of debate, while production was left to the criminalized shadows. The federal government, it seemed, would not relinquish its privileged criminalization of marijuana production, critical as it was to its mechanisms of supply-side drug strategy. As this chapter recounts, what was being decided was not whether the drug war would continue in its old form, but rather how marijuana production would be regulated and who would be at the helm of formulating this regulation. The effect of federal intervention was to ensure that marijuana producers and activists, however compromised they may have been, would not become a pivotal force in determining the shape of marijuana production.

A renewed but altered criminalization now stressed environmental crimes, crimes by non-citizens, and crimes by those on parole or those growing on other people’s lands. This new mode of criminalization served a different function than the blanket prohibition that had preceded it.
Instead of criminalizing all producers to stop the supply of marijuana, the war on supply had been given up in favor of a criminalization aimed at regulating how and by whom production would occur. Criminalization acquired a regulatory function. The case of marijuana might be most closely compared with the legalization of sex work explored by Patricia Kelly (2008). Sex workers acquired a legal, regulated status but, in substance, endured old forms of moralization and stigma and new forms of regulatory criminalization (public health codes, geographic restrictions, etc.). Similarly, marijuana gained some legal latitude but it is still regulated by law enforcement and governing rationales that, if anything, now have a deeper reach into the everyday practices of producers. It is not just that all production is illegal (federally) but that some types of production practices are more illegalized and stigmatized than others.

While the drama over marijuana production unfolded, within county lines another nation was navigating its own path through marijuana. Native American lands figured prominently in the emerging political economy of marijuana in rural Northern California. From claims that marijuana was yet another scourge, like alcohol and prescription opiates, intended to wound and suppress Native Americans, to claims that the denial of marijuana rights on tribal lands was another in a series of discriminatory policies, Native American marijuana policy most directly reflected the core of federal prohibition. Reservations, after all, were a special zone of federal pressure (if not jurisdiction) in which the results of federal policies were most stark. As we’ll see, tribes were an important link in the emergence of marijuana regulation just as they were a critical link in the bolstering of arguments for prohibition. Like settler-colonial marijuana producers, they were subject to the ambiguities and vicissitudes of law and its enforcement. But on reservations, the line between local and federal was not mediated by the thick layers of municipal, county, and state government. As such, the Hoopa and Yurok tribal areas of the North
Coast were uniquely subject to the dynamics of the federal War on Drugs—the latest method of criminalization, governance, and dispossession extending back to the days when “the federal government” was simply an assertion made in letters and proven by the barrel of a settler-colonialist’s gun.
By 2012, both federal prohibition and efforts to end it were in disarray. Under Governor Jerry Brown’s tenure, California had virtually defunded state efforts to combat marijuana. Most local legislators were paralyzed into inaction, caught between dreams of new marijuana tax revenues and nightmares of being arrested for facilitating the drug trade. At this moment, federal efforts had to undergo reorganization. They formed new inter-agency alliances, reorganized their enforcement priorities, and launched a shift in public relations efforts. Unable to enforce marijuana prohibition everywhere—or even most places—federal prohibition underwent a re-territorialization. It targeted sensitive zones near children’s gathering sites, as authorized under federal DARE legislation. It launched multi-county efforts to rid federal parklands of marijuana. It continued to implicate Mexican “cartels” in marijuana production, thus playing upon xenophobic fears, discursively “bordering” marijuana and justifying the growing numbers of immigrant detentions under the Obama administration. Finally, it beefed up interdiction cooperation with prohibitionist state governments that served as highways for marijuana trafficking to the East Coast, and it carved out a special zone of marijuana enforcement on Native American reservations. Around one reservation on which I spent time, tens of thousands of plants—ranging from 30,000 in 2009 to 100,000 in 2010—were pulled each year in highly publicized raids covering the period of my fieldwork until 2012.

Native reservations have always been a staging ground for the consolidation of federal sovereign powers. Defined as “domestic dependent nations,” tribes are directly related to the

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49 In this chapter I switch between “Native American” and “Indian.” Generally, when speaking of a more removed analytical context, I use the term “Native American” but employ “Indian” when speaking of ethnographic contexts, in which many of my informants referred to themselves as “Indian,” or when speaking about tribal-governmental relations, in which “Indian” (e.g. “Indian country” or “Bureau of Indian Affairs”) has developed as common parlance.
federal government, unmediated by layers of local and state governments. They are subject, through exceptional legal powers, to the whims and pressures of the US federal government. For this reason, reservations are an important barometer of how federal prohibition reformulated in the face of its most significant challenge since its inauguration in the 1930s. This chapter aims to understand this reformulation through tribes, but analysis—including the present one—cannot simply use tribes to illustrate something about settler-colonial society, narcissistically casting tribes as a penetrating mirror of dominant US society. Native American tribal reservations have their own internal dynamics that require specific analysis. By understanding tribes as continuous with and exceptional to the political geography of rural Northern California developed in this dissertation, I explore how prohibition was foisted upon tribes as part of a long history of federal interventionist impositions and how it interacted with tribal governance and social life. This doubled analysis reflects the core concept I develop in this chapter: tribes are subjected to a system of “dual outlawry” or, in terms reflecting Cattelino’s “double-bind of sovereignty” (2010), the “double-bind of outlawry.” Dual outlawry connotes how Native Americans are both placed on the outside of settler-colonial legal systems, and yet are simultaneously subjected to that system. This contradictory condition acts as a seesaw that allows the federal government to alternately intervene in or abdicate responsibility for tribes. It is important to assess this phenomenon not just through legal codes but through the political-economy of federal-tribal relations and in the everyday elaboration of “lived sovereignty”—the social space-time in which sovereignty, power, intervention, and autonomy are deliberated.

The chapter begins by arguing that Native American reservations are a “privileged” zone of marijuana enforcement and then highlighting the systemic crisis of marijuana prohibition in the early 2010s. Tribes were both targeted by prohibition and enlisted in prohibition’s
recuperation. To contextualize this dynamic, I turn to a historical periodization and characterization of tribal-federal relations that reveals the role of criminalization and settler-colonial law in killing, dispossessing, and subordinating Native peoples. Law and criminalization instilled dependence upon the federal government and created many levers for federal intervention even as the federal government increasingly abdicated responsibility for tribes, their governance, resources, and well-being. I then show how this dynamic played out differently on two different reservations as they grappled with marijuana. One reservation I studied was pressured into compliance with federal forces through indirect fiscal pressures and through the powers that prohibition lent to a particular power bloc within the tribe. The other reservation rejected compliance with federal marijuana prohibition, arguing they should abide by state marijuana laws. They reaped economic and developmental benefits of the marijuana economy but they also suffered annual federal raids. I conclude by arguing that the history of criminalization of Native Americans highlights a core contradiction within liberal capitalism more broadly: “criminals,” like Native Americans, are produced as an exception to ideals of freedom and equality. In a system based upon the criminal act of dispossession—the foundation of the private property system—liberalism resolves this quandary by criminalizing those who oppose its terms. Marijuana is one among many substances through which this social control is achieved.

The Drug War Spectacle: New Terms, Old Exceptions

At the sound of my car door shutting, a chorus of barks erupted from the neighborhood dogs. I hurried to the front door and was greeted by Stephanie, to whom I handed a jar of honey a friend had harvested. Within minutes I found myself seated at her dining room table, a plate of
fresh Chinook salmon before me. The harvest this year was explosive. Another acquaintance had just tried to offload an entire salmon onto me, fresh from the Styrofoam cooler in the back of her pickup truck. Though we were 42 miles upstream from the ocean, the salmon were now able to make the long trip, assisted by downstream and tribal salmon restoration efforts, decades of replanting denuded hillsides, the affirmation of tribal fishing rights, and the building of salmon ladders over upstream dams.

Stephanie’s tribe had been at the center of the “fish wars” of the 1970s when Natives—not the timber companies that had obliterated watersheds, or the dams and agribusiness interests that had blockaded salmon from their traditional spawning grounds—were blamed for declining fish counts. The federal government used military force to keep them from fishing. The fish wars were only one of the struggles between tribes and the federal government over the past 150 years; the reason for my visit, marijuana, was just the latest.

The tribe found itself caught between a booming marijuana economy in the surrounding lands and a drug war that prioritized Native lands as an enforcement target. With marijuana’s growing licitness in the state of California, the federal government was re-territorializing its marijuana prohibition to concentrate on federally-administered and -sensitive lands. Native lands, like federal parks and federally-designated anti-drug zones (schools, playgrounds, etc.), were part of the federal government’s attempt to retrench its drug war efforts in a new geography of social control. Despite California tribal lands being under the jurisdiction of California criminal law, the federal government still asserted its legal enforcement powers. This was recognized in a leaked memo that emerged in 2011, where the US Attorneys Office (USAO) released guidelines about which cases law enforcement should pursue to make prosecution by the US Attorney more successful. Among these guidelines was a stipulation that on non-tribal lands, law enforcement
Through the Gateway

Michael Polson

should pursue cases involving more than 1000 plants whereas on tribal lands they should pursue cases involving as few as 500 plants. With this lower bar for tribal prosecution, the USAO carved out exceptions that would reach below 500 plants: if marijuana was growing on land with exclusive federal jurisdiction (such as tribal trust lands) or if grows caused significant damage to natural resources. Federal interest would be raised, additionally, against medical dispensaries that obtained product from tribal lands.50

In these international affairs, Native lands were continuously subordinated to US power through assertions of right backed by force. Like the history of salmon, Stephanie spoke of another legacy of federal incursion onto tribal lands: “I told you last year my cousin probably wouldn’t talk to you but I suppose he might talk to you now that he’s talked to the Discovery Channel,” she says.

I had heard that the Discovery Channel had joined the rush of media outlets coming through northern California since 2010, when coverage exploded around Proposition 19. While film crews had become somewhat normal through late 2011, by 2012 it was a wonder that anyone would want to talk to the media. The North Coast and indeed all of California were in the midst of an intensive federal crackdown on the medical marijuana industry that (formally) shuttered approximately a third of the state’s dispensaries, targeted the activist-led industry, and targeted headline-grabbing growers and distributors. It was a time to keep one’s head low. While the Discovery Channel had lobbied many of my more public informants for recommendations of people to interview and “follow,” many growers had shut their doors. I had been given the number of Discovery producers several times now. There were two numbers: one for the crew working with law enforcement, and another for the crew working with growers and those on the

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illegal side. After the recent intensification of federal prohibition efforts discussed in the previous chapter, this flimsy segregation did little to assuage people’s fears given new revelations of government spying.

The county supervisors had approved the Discovery Channel to film the sheriff’s eradication effort. The contract, which offered unprecedented access to the county’s eradication efforts, was supported by the sheriff, who believed it would offer a platform to highlight the “marijuana issues” on the North Coast, particularly the environmental degradation the illegal industry was causing. The Discovery Channel’s presence was eyed suspiciously by many: their other reality television series, Weed Wars, exploring the reputed Harborside Health Center in Oakland, was one of the agitating factors behind the US Attorney’s targeting of the dispensary for eviction and tax violations. Similar media appearances by Mendocino’s sheriff and that county’s new farmer regulation program were an irritant to already-strained relations between county officials and the US Attorney. By 2012, the county and the federal government were sparring over the release of county records on participating farmers. Talking to the Discovery Channel—or any media makers—risked bringing down the wrath of the federal government in what seemed to be increasingly a war of symbols and publicity.

A local tribal reporter had been fuming to me that morning: “It’s really kind of pissed me off. I’ve been trying forever to build relationships with different cops and, for whatever reason, maybe they don’t like my reporting or the way I write, but I still can’t get much response from them. They never tip me on stories or anything. Then here comes Discovery, a channel with a national audience and it seems like they bend over backwards.” She had spoken to the filmmakers and attempted to get them interested in issues relevant to the tribe but “they’re only

looking for the explosions—guns and the whole performance of the thing.” She continues, “No wonder no grower wants to talk to them… I’ve heard [from a source she wouldn’t identify] that they’ve been at almost every single bust in the county. They were just supposed to be at a few. This whole thing is a big show.” Spectacle had always been an element of the drug war—and of the claim to sovereign power—but, as prohibition efforts stumbled in the face of marijuana legalization and medicalization efforts, prohibition became an orchestrated spectacle producing moments of targeted messaging to a skeptical public. Each bust, it seemed, had a purpose.

The reporter’s words lingered in my head as Stephanie’s cousin, who had arrived in his tribal police uniform to eat salmon and talk with me, recounted his interview with Discovery. Officer Bry had participated in the raid of a multi-site marijuana grow with 26,600 marijuana plants, all of which was filmed by Discovery. Part of the narrative Discovery aimed to tell was about the trash the growers had left behind. They needed more footage, however, to tell the story. So they asked Bry to come back and pretend as if he was still at the bust, which had taken place weeks ago. “I had to stand there and just pretend like I was pointing to a big pile of trash,” he explains, “but there was no trash there.” The show, he was assured, would splice his interview with other shots of trash, completing the narrative: illegal marijuana growers polluted and disrespected tribal life.

The resulting TV episode was telling. By focusing on the sovereign territory of the tribe, they would point to a different kind of extra-national threat: Mexicans and their cartels. The narrator would first opine that the grow “probably” belonged to a Mexican cartel, a charge it would support with a loose narrative interspersed with shots of undocumented immigrants apparently crossing a border and unexplained images of cartel victims in Mexico. Another

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officer would conclude that the features of grows on tribal land were typical of “a large Hispanic grow.” They linked suspected Mexican involvement to violence by discussing a shooting—of a Hispanic grower by a police officer. They backed this up with reports of anonymous shots being heard in the woods. Flashing to the trash piles, one officer concludes after the bust that the grow must be cartel because of tortilla wrappers and salsa, things that “you might see in Mexico.” This shaky proof of the nationality of the growers leads one officer to conclude that the “for profit” grow is for “the betterment of the [cartel] organization.” The show concludes, saying that “a clear message [was sent] to the cartel to leave the reservation and never come back” and that the children on the Native reservation would be safer “at least for a while.”

Like most raids on outdoor grows like this, nobody would be arrested and charges of the national makeup of those who fled would remain allegations—but convincing ones. By 2012, without one case proving a link between Mexican-run grows and organized cartels, it was surprising these allegations were still supported. By establishing the Native reservation as an endangered zone, the show was able to incite fear by reference to an extra-national threat. Because this threat is always external and evanescent, it is able to loom everywhere. Likewise, the threat to Native sovereignty was created by the reference to an interloper—the Mexican—that challenged the ability of the US to protect its “domestic dependent nation.” The paternalistic hierarchy between the US and Native peoples was reestablished, this time with Natives as the unwitting victims of malicious, polluting Mexicans, aka the wrong sovereign interlopers.

While narrative deconstruction of this episode is perhaps unnecessary—its tropes, racial stereotypes, unfounded linkages, and inflated sense of danger and intrigue are typical of many police reality shows—it is worthwhile to understand it as a performance of an argument. This type of show is blatantly partial and seen from the perspective of an omniscient narrator who
sides with law enforcement only, yet it is not far from the normal routes through which crime reports travel. Police press releases are often the only sources cited around criminal activities, since most accused are encouraged to stay silent until trial. With unilateral control on messaging, the state is able to effectively project theories and narratives of what constitutes crime and why it occurs in a virtual vacuum of other sources. Like helicopters from which criminal grows are surveyed and targeted, media renderings of crime are equally top-down, traveling over a flattened geography in which outlaw narratives cannot be heard or seen because they are already excluded from public enunciation and materialization (Jusionyte 2013; Macek 2006).

Instead, “criminals” are known through plant counts, charges filed, deals struck, and fines collected. This process dovetails with vague sentiments about danger, race, and geography. Each step of the way, the state controls the narrative of truth.

The episode’s bust was more than just a production; it was indicative of a shifting political economy and legitimizing discourse. The bust was well attended: the Discovery Channel and the sheriff’s office were accompanied by the US Marshal, the state Bureau of Narcotics Enforcement, the Bureau of Land Management, CAMP, and, since it was on tribal lands, the Tribal Police and representation from the Bureau of Indian Affairs. The sheriff had recently announced his intention to pursue cases that seemed to have environmental impacts. It was with this purpose that the episode would describe how the grow was discovered: by biologists surveying for spotted owls on tribal territory. Multiple scenes—including the one with Officer Bry, which was ultimately cut during the final edit—emphasized the amount of trash, thereby linking pollution, threat to public lands, Mexican criminality, Native vulnerability, violence, and a ruthless profit orientation. In 2012, these were the rhetorical pillars of a retrenched War on Drugs in rural northern California.
As marijuana growing had become ubiquitous and state support for prohibition had faltered, localities struggled to project some sense of control in the absence of regulations. Prohibition was not a blanket phenomenon anymore but one of exceptionality, pomp, and spectacle. Overwhelmed by a region exploding with marijuana production, law enforcement turned not to more pervasive enforcement, but toward a media campaign to parlay a kind of “state effect.” Outlaw territories, it announced, would be ineluctably discovered by law enforcement, their temporal, eternal power extending to every quadrant of the flat social geography laid before it, flattened under its own legal terms into a uniform space of the lawful and the aberrant. The illegal only entered into legal time in the spectacular moment of “the bust,” when its tender interior was exposed for the world to see, this time with national TV crews filming, milking the moment for all its drama and impact. In a time of looming legalization, this attenuated and performative moment was the produced face of the War on Drugs in northern California. Bry performed a drug bust to project the sense that the state could intervene in a realm in which it was completely out-resourced. As a television show, it sent a message to not come into the area—a negative tourism campaign—just as much as it was part of a play for resources.

For locals, however, this was just an unlucky grow. By 2012, growing marijuana was a covert affair, but not a particularly dangerous one for those who could keep a secret, not upset their neighbors, and not cut down too many trees. Yet the unlucky chance always existed that one’s property might be raided much like a fire might destroy one’s farm. Law enforcement, in marijuana agriculture, was part of the rhythm of farm life. Yet, in this case, the fact that this was a farm on Native lands made it more susceptible to the danger of a raid. Down the road from the bust was another grower I knew who was, at that time, growing hundreds of plants on land that
had formerly been Native land but, as “fee land,” eventually found its way (through debts, deeds, and dispossession) into the US property market in “checkerboard” fashion. Because this grow was on private, not tribal, land, they were better protected and would not as easily fit into the narrative linkages above. Not only was growing ubiquitous, but growers were well integrated into local life. Indeed, during the episode it became clear that someone had leaked information that the bust would happen so the growers fled. In order for this to occur, communicative conduits had to be open between law enforcement, locals, and these particular growers—a fact the episode’s narrative skipped over. Communication between police and criminals, of course, was not supposed to exist.

By the end of the episode, the tribal chairman would tell the viewers that he could rest easier now that the reservation is safer. Having run on and been elected to an anti-drug platform, the Hoopa tribal chairman would give extensive quotes to local papers saying the land was sacred and needed to be protected for future generations. He promised to test for pesticides and rodenticides to understand the environmental impact. He also noted the proximity of marijuana to the streams, the potential impact on salmon, local diets, and tribal heritage. Having performed a purge of plants and exorcised the menace they posed—a threat to sovereignty and environmental heritage—the Native tribe was enlisted into a US-federal War on Drugs that was part of a broader legal apparatus that had long ruled over the reservation. Ironically, this federal law now celebrated by the chairman was the same law that had recorded generations of environmental destruction under a persistently debased tribal sovereignty. Over the 165 years of this dynamic, it was not just federal laws that were being enforced, but a strife-ridden disciplining of Native peoples into a foreign legal, economic, and social system (cf. Dunbar-Ortiz 2014).
Enacted on tribal territory, the episode’s bust highlighted the multi-jursidictional, multi-national cooperation of forces to target Native lands as a special zone for drug enforcement. The overlaying of federal laws and enforcement powers onto Native lands was nothing new; it was part of a weighty history of making Native lands an exceptional place for the performance of US power. Natives on the North Coast were the area’s first criminalized and outlawed class. From Humboldt’s first settler-colonial days, the rule of law, premised as it is on private property and the notions of individualism, rights, freedom, and liberty that flow from it, required dispossession in order to establish itself on this frontier of US society. The rights and attachments of Natives to land had to be nullified in order for dispossession to occur and the private property system to establish itself. Natives were quite literally placed outside the protection of laws, culminating in genocide and their confinement to reservations in 1864. Yet, they were never intended to be fully external to the US state. The ensuing 160 years were ones of inculcation and incorporation into dominant economic and political systems even as sovereign rights ostensibly grew. In what follows, I unearth the struggle over law, sovereignty, and resources to illuminate the complex social geography of marijuana in the contemporary reservation system. A place of federal exceptionalism and power, reservations have a particular and complex relationship to the federally-driven War on Drugs, especially in a time when states—not the federal government—lead the drive toward medicalization and legalization.

_Dual Outlawry: Violence, Law, Property, and the Excepted Native American_

Much was foretold in the first interaction of the North Coast Yurok people with Spanish settlers. The Spaniards docked by what is now the seaside town of Trinidad, California, for two days amicably exchanging wares, attempting to communicate without a common language. In
surviving papers of the encounter, the writer recounts the second day on which the Spaniards exposed the Indians to a “gala spectacle” (Raphael 1982: 36) of “Christian societies.” The “commander…the Fathers, officers and armed men” from the ships planted a cross on the shore to “perform the first adoration.” In “as orderly a fashion as the narrow trails permitted,” they plodded to the top of a hill that jutted into the Pacific Ocean, forming the shelter for the bay in which the Spaniards had landed. On it, the Spaniards “took possession with the most scrupulous formality.” They celebrated mass and, in what must have been inscrutable muttering to the on-looking Yurok, Father Miguel de la Campa gave a sermon, which was “solemnized by several volleys of gunfire” (Heizer & Mills 1952 in Raphael 1982). The gunfire terrified the gathered Indians, understandably, as they had not previously seen a gun. If they had understood that their lands were being taken possession of and claimed for the Spanish King Charles III, they may have been equally terrified.

For reasons never registered in official history, two sailors deserted the Spaniards, rendering themselves criminals under Spanish maritime law. The captain suspected the Indians of assisting the criminals and ordered the search of the village’s houses. When one deserter was found, he told the captain what he wanted to hear: the Indians had helped him. The captain stormed ashore and “brutally beat the first Indian he saw” (37). The deserter, who had just confessed to the captain, was now ordered to repeat the confession to the Natives, who were doubtless bewildered listening to this foreign language, picking up the remnants of their ransacked houses. This was the first—but not the last—raid conducted by a colonial state in Native territory.

The deserter eventually admitted he had lied in an attempt to shift the blame of his crime onto the Yurok. Nevertheless, Spanish-Yurok relations declined, leading to the Spanish to record
the Yurok as “savage, wild and dirty, disheveled, ugly, small and timid” (Caughey and Laree 1962 in Raphael 2007). The perspectives of the Yurok do not appear in history books.

In this story, we see the ceremonial spectacle of establishing sovereignty, law, and its power to criminalize and punish from the first few days of Western arrival. What we also see is how Yurok bodies, possessions, and lands—sanctified through the blasting of guns and the erection of a cross—were subordinated in this imposition of law. Like the deserting criminals, they could be lumped together as degenerate outlaws who were both outside the system of law and subject to that system of law. As an originary moment of sovereign power—a criminal seizure of lands and peoples—the subjugation of Native peoples, with whatever ideological justification, was necessary for the assertion and maintenance of Spanish sovereign power.

The power of law to control space was incomplete, despite the solemn ceremonial claims of the ship’s leaders. House raids and manhunts were performances of an anxious state looking to confirm its abrogated authority. Violence and violation reproduced law in space but no matter how many incursions into life and possessions were made, the law was always haunted by the looming spatiality of an outlaw realm—a kind of alternate dimension that exists within and among legal space.

This episode of “first contact,” presaged the future of Humboldt County’s settler-colonialism. Legal order was born in a moment of violence and assertion of right, only to declare those same types of violence and rights claims illegal when used by Native peoples. The state, born in an exception to its own rules, guiltily and with paranoia, pursued “the outlaw” into a criminalized zone it called into creation and yet could never fully penetrate.

The Spaniards arrived in Humboldt in 1775, a year before the War of Independence and the publication of Adam Smith’s *Wealth of Nations*. The type of socio-legal system that arrived 75
years later couched itself not in monarchical-religious right but in the right of property—of white settler-colonial property, specifically. Like the Spanish arrival (which never took root in Humboldt; Spanish missions only extended as far north as Santa Rosa), the establishment of property rights meant a disqualification of all previous claims through violent dispossession.

Though Humboldt had seen Russian fur hunters and the occasional expedition, like that by Jedidiah Smith in 1827, it wasn’t until 1849, when gold prospectors made the long trek along the banks of Humboldt’s Trinity River, that Humboldt began to “open” to these new settlers. Soon settlers “discovered” ocean outlets and the rush to claim land—already occupied by Natives—went into full throttle. “The state” was a distant thing, abstracted in claims and assertions of right, but the institution of private property was immediate and violent. Beginning in 1849, 14 years of genocidal extermination ensued, reaching the most brutal moment in the Wiyot Massacre (Nelson & Bayer 1978). No fewer than 56 massacres (Raphael 2007) occurred in these years, finally coming to an end with the 1864 establishment of the reservation system, the quelling of local land grabs during the oil boom in Humboldt’s town of Petrolia, and the gradual growth of timber and agriculture.

This period of “primitive accumulation” (Widick 2009: 11) and land conquest was the extra-legal—or criminal—moment within which the private property system was established. Native people were rendered outlaws in order to facilitate the illegal conquest of their lands—afer which this same form of conquest would be illegal. Outlawry was hard-wired into the foundational “settling” of capitalist Humboldt County. The rendering of land as fungible

53 The aim of Spanish colonialism was to extract wealth and enrich the coffers of the monarchy (Arrighi 2009; Lavender: 94-109; Robinson 1948: 5-22). Far from being the Gold Rush’s bourgeois contract-based system (supposedly) of property rights, Spanish missionaries did not recognize Indians’ individual property rights in collectivized missions, despite limited reforms in the 1830s as the Mexican government (which had assumed control in 1822) tried for a limited (but ineffective) enfranchisement of Native peoples.
property available for capitalist reproduction required the removal of all previous claims and the illegalization of all other foundational territorial-legal systems.

It was not enough to simply dispossess Natives. As economic emissaries of the US private property system, settlers *criminalized* claims by indigenous peoples to land, ensuring the permanency of dispossession. For instance, in Mendocino and Humboldt, cattle theft justified violent reprisals against indigenous people in Mendocino and Humboldt (including the Mendocino War of 1859). Yet many of these acts of thievery were committed on former tribal lands (that had been forcibly taken) in acts of open hunting customary for local tribes, and were often committed by Natives who had no recourse to land and survival and were in various stages of penury and even starvation. Other criminalizing measures abounded. A justice of the peace could declare an Indian a vagrant and put them up for auction. Indians weren’t allowed to testify in court. Any white person could ask a justice of the peace to grant a Native child for indentured servitude. White people could apply to these justices for the removal of any Indian from lands that whites wanted. In a pattern set in the original Yurok-Spaniard encounter, Native people, not interloping settler-colonialists, who were Humboldt’s first class of “outlaws” in a double sense: as those who lay outside the bounds of the rule of law and those who were criminalized by—and thus included in—that same system of law.

The “state” (such as it was) tried to mediate some of this rabid process of dispossession, even drafting a treaty with 18 tribes from 1850 to 1852, covering half of California.\(^\text{54}\) The negotiator for California’s treaties with Indians in 1851 informed them that “the great father at Washington” was now the master of his “red children” (Raphael 2007: 45). Despite treaties

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\(^{54}\) Redick McKee would negotiate agreements from many of the signatories. Several generations later, Bob McKee would welcome a new tribe of back-to-the-landers who held these Native American tribes and their connection to land in very high (and romanticized) regard. This time the signatures would populate deeds and rental agreements instead of agreements between nations.
formalizing the holdings of Natives, the violent rule of property would trump the weak words of the state, as treaties granting land to Native Americans were rejected in Congress. In 1864, President Lincoln established reservations on the North Coast, drawing the intensive genocide to a close. US policy toward indigenous peoples became one of isolation and containment, whereby tribes could conduct their own affairs and witness their own federally-instituted demise and immiseration, so long as they kept within reservation bounds.

In the 1880s, this period of isolation came to a close. The reservations were now to be administered by civilizing forces that would mold indigenous Nations into the legal and economic systems of dominant settler-colonial society. While isolation and incorporation may seem to be moments of disjuncture, the progression from genocide to assimilative incorporation was continuous. It was one arc establishing the private property system and the legal apparatus that enshrines it.

The first manner in which tribes were to be reined in and assimilated was through their subordination to federal law and jurisdiction—a formal moment upon which all other federal actions depended. The issue arose in the early 1880s in the Ex Parte Crow Dog decision, which found that the federal government could not prosecute a person on a reservation who had already gone through the tribal justice system. The local Indian agents had appointed an assimilationist tribal chief who worked with the Bureau of Indian Affairs. When Crow Dog, a rival leader, killed this assimilationist leader, the federal government seized him, tried him, and sentenced him to death by hanging (a sentence seen more just than the restitutional and restorative justice meted out by the tribe). The case, which came before the Supreme Court, concerned whether the federal government had authority to try intra-tribal crime. The Court rejected the prosecution’s case and ruled, in some of the strongest language surrounding the principle of tribal sovereignty,
that were Indians subject to federal prosecution it would mean being tried “not by their peers, nor by the customs of their people, nor the law of their land, but by superiors of a different race, according to the law of a social state of which they have an imperfect conception, and which is opposed to the traditions of their history, to the habits of their lives, to the strongest prejudices of their savage nature.” While couched in radicalized language of the “savage” “red man,” the decision nonetheless established precedent for a separation of the US and tribal legal systems (a precedent set in *Cherokee Nation v. Georgia*, which found that Indian law ruled Indian land).

The details of the case are significant. The federal government was vying for political power over the tribe by operating through its appointed assimilationist broker. When their designee was killed, they exercised extra-legal authority to seize, try, and schedule the death of his killer. The federal government, in other words, would allow sovereignty but only to the point that it facilitated political control over the tribes.

This same mentality of political control, of rule by fiat, underlay Congress’ move to grant itself the authority to prosecute tribal crimes in an effort to rid Indians of “heathen” customs and “civilize” them under US jurisprudence (as well as new laws outlawing polygamy and tribal war dances). The Major Crimes Act granted the US power over seven crimes (later revised to 15) and was explicitly aimed at assimilating Indians to US law, dissolving tribal law, and extending law enforcement powers to the Bureau of Indian Affairs. As this law now contradicted both *Cherokee Nation* and *Ex Parte Crow Dog*, it was not long before it was challenged from the Hoopa Reservation in Humboldt’s distant northwestern corner.

The *Kagama* case also centered on intra-Indian violence. The reservation’s Indian agent had taken to illegally allotting small parcels of reservation land to local individuals, which disrupted pre-existing systems of communal and familial tenure and inheritance. Disputes soon
arose between the new “owners” and those who, under tribal law, were entitled to the land. When Kagama and his son stabbed another Indian (“with a pitchfork,” one of his ancestors would remember) over financial default on the property, the federal government seized and tried Kagama and his son under the new Major Crimes Act.

The details of this case are also important. Like Crow Dog, Kagama upset the political rule of the Indian agent—an agent who was illegally subdividing and granting land. These illegal allotments would be legalized post-facto in the Dawes Allotment Act of 1887, much as federal law enforcement would be legalized after Crow Dog in the Major Crimes Act. The reservation at that point—illegal allotments aside—was collectively held by all tribal members, with some families having a heritage claim to certain areas. Yet land allotments were integral to the system of patronage and favoritism that the Indian agent used to divide and rule tribal members. Crow Dog and Kagama were both about the power of the federal government to intervene in criminal matters to maintain its own political patronage and defend itself against superseding claims for sovereignty and land from Natives. Kagama, moreover, was about the ability of the federal government to implement an individualized private property economic system, a project at the core of the Indian agent’s land grants.

In order to claim the ability to violate the pro-Native Crow Dog decision, Kagama set a crucial precedent that would characterize federal-tribal relations to the present day. The issue before the Supreme Court in United States v. Kagama was whether the US could invoke its plenary power—a comprehensive power to act at will—to intervene in tribal criminal matters, regardless of tribal justice proceedings. Though the Supreme Court rejected the prosecution’s argument that the Commerce Clause allowed it to intervene, and there was no court precedent to grant the US these powers (at least two cases had rejected this power), the Justices, citing
Cherokee Nation’s framing of Natives as “wards” and “pupils” of the federal government, ruled that Indians were weak, degraded, and dependent and thus required US oversight of their matters. In doing so, the Court defined what it meant to be a “domestic dependent nation.”

In a mix of liberal uplift with autocratic power, the Kagama case and the Major Crimes Act marked a pivotal moment in the governance of indigenous tribes and the plenary power to take exception to all other law systems, thus ceding authority to the federal government. Plenary power is a legal modality of arbitrary government power rarely cited and usually only in relation to Native Americans, immigration, and executive pardons—all three of which concern populations that are “outlaws” in a double sense. This unmitigated power—unlike the Supremacy Clause—does not have a clear expression in the Constitution but is understood as pre-existing the state’s constitution. Plenary power is the raison d’etat, the political moment of the state’s founding, its originary power. It is through this power that US law establishes itself in matters of Native life. From the genocidal years following 1849 to the intra-Indian violence of the 1880s, the legal expression of state plenary power is merely the codification of the arbitrary and violent dispossession of Native peoples.

Further, the legal incorporation of Native peoples was inseparable from the process of incorporation into the liberal private property system, which itself was founded on the original period of genocide and dispossession. Indians were to remain outlaws but were to be incorporated into dominant economic forms. Following the illegal parceling and allotment of land to individual Indians by the Indian agent in Hoopa in the Kagama case, Congress passed the Dawes General Allotment Act of 1887, which established a process to designate individualized parcels or “fee land” that could eventually be sold to non-Indian buyers and would be subject to

state and local taxation and legal systems. The effect of this “free” market was to alienate huge swaths of tribal land from tribal members. This marketization was assisted by the law’s granting of the ability of the US to purchase land from tribes. In both matters, Indians were asked to participate in their own alienation from land through contracts and market systems, the effect of which was to shrink reservations and “checkerboard” what was left. To be clear, Native people were first dispossessed and dislocated and then allowed to enter property markets in conditions of structured poverty. Banished to unproductive lands and excluded from many labor markets, taxes went unpaid, debts accumulated, and properties were lost in a massive but incremental period of marketed dispossession. In Hoopa, new land extensions to the reservation were granted in 1892 but the land was not designated as reservation trust land and thus became fee land—land able to be alienated. Though some hoped the free market system would uplift Natives and teach them morals of efficiency, thrift and value, the more cynical understood this for what it was: the subordination of communally-held Native lands to the system of private property, much as their legal systems were subordinated to federal power. The power of law and the power of property were interlocking and interdependent.

By 1934, tribal reservations were dispossessed and decimated, checkerboarded and impoverished, leading to the passage of the Indian Reorganization Act (IRA), which marked a third phase of federal-tribal relations and governance. The IRA created a process for new nations to apply for sovereign recognition, establish government, reacquire lost lands and, in their new recognized status, become recipients of economic assistance and infrastructural development. It was a curious admixture that both promoted sovereign independence and linked this sovereign recognition to the newly-emerging welfare state. Tribes could self-govern, if the federal government recognized them, but sovereignty was crosscut by a kind of federal government-at-a-
distance in which tribes were heavily influenced by the federal government’s ability to grant or
withhold rights and resources. Tribes did not have to accept these resources but having been
dispossessed, dislocated and impoverished, it was a Hobson’s choice.

The Hupa people\textsuperscript{56} incorporated as a sovereign nation in 1952 but just one year later the
rules changed. PL280 was passed, which devolved federal authority and jurisdiction over “Indian
Country” in matters of criminal law to state governments in select states, including California.
The law covered about half of all Native Americans, concentrated as they were in these six
states. The federal government did not fund states to execute their new criminal powers, and the
“Feds” retained abilities to govern resources and trust lands. In this combination of retreat and
retention of power, PL280 was an attempt by the federal government to offload its fiscal
responsibility for service provision and governance while still retaining control of indigenous
lands. Tribes should be autonomous, the IRA declared, and should not be dependent on the
federal government, as PL280 made clear. However, the federal government, ever the guide
toward moral and economic uplift, kept ultimate control of tribal land and final say in the rules
tribes made.

PL280’s devolution of federal jurisdictional powers to states with no financial support (an
early example of the “unfunded mandate”) compromised the ability of tribes to self-govern. Fee
land was already subject to local and state taxes but collected taxes rarely found their way back
into service provision for tribes.\textsuperscript{57} Further, significant swaths of tribal land was administered and

\textsuperscript{56} “Hupa” designates the people of the tribe while “Hoopa” refers to the place and the tribe name.
\textsuperscript{57} Proposition 13, which restricted the levying of property taxes, became a problem for many families. Hoopa and
Yurok, with their own definitions of family and processes of land transfer, did not fit under the definitions of
Proposition 13, which defined those transfers not as within-family—and therefore insusceptible to re-assessment and
often a precipitous rise in property taxes—but as akin to a sale, requiring a new assessment and new property tax
levels. Where people used to desire fee land because it granted autonomy from a system of patronage and favoritism
that ruled the Indian agent’s power to designated trust allotments, now it was trust land that was desired because it
avoided the state’s taxation regime. One informant was fighting a 300% “escape tax” on his property when he didn’t
controlled as federal trust land, which couldn’t be taxed. Lack of taxable lands required tribes to generate income from regressive sales, excise and income taxes. In this fiscal structure, public services became nearly impossible to support, furthering a cycle of impoverishment and subjection to outside economic and state forces.

Granted sovereignty in 1952 and severed from federal funding in 1953, Hoopa had to figure out how to raise its own funds to create a viable system of government and socio-economic life. Reminiscent of the “freeing” of property in the market in the 1880s, Hoopa now turned to the marketization of its tribal resources—namely, timber—as a solution. The federal Bureau of Land Management (BLM) signed an agreement with Hoopa in the mid-1950s to essentially serve as broker for its timberlands with private timber companies. The Hupa would share in profits but, as settlements in 1988 and again in 2012 would attest, the deal was a swindle and a mismanagement of their timber resources. It was another system of dispossession, this time not based in coercive force or the autocratic power of the US government, but rather in the “consent” between (quasi) autonomous sovereigns in a free market based on contract—a “consent” structured in conditions of dispossession, displacement, and impoverishment. The IRA may have granted autonomy, but it did so within a political economy that assured continued subordination to US economic and political power.

This timber contract was signed with the Hupa but had effects on the lands of several local tribes. Since Hoopa was the only recognized sovereign tribe, they were the only corporate body with which the federal government would do business. The land of the Yurok, who largely resided in an 1892 fee land extension, was administered by the Hupa because the Yurok were not

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footnote:

politically recognized. In 1963, one of the longest federal court cases in history commenced as the Yurok contested the BLM’s profit-sharing agreement\(^{59}\) between the Hupa and timber companies. The Yurok won the first round in 1972 and again in 1988 with a major settlement that rewarded the entire Hoopa tribe\(^{60}\) but only made individual payouts to select Yurok plaintiffs in 1993. As relationships between the BLM, timber companies, and tribes disintegrated in the 1970s, the federal government launched what became known as the “fish wars” on Hoopa, another route of intervention into federal control over tribal lands. Hoopa tribal members were blamed for declining fish populations, which displaced blame from the ravaging effects on the watersheds by BLM-permitted timber companies. Armed federal agents took to protecting the rivers in the double-bind of outlawry. The Hupa could be autonomous and operate outside US law, but if they challenged their subordination to private property and law, they would be subject to a punishing coercion.

The retraction of funding, pillage of resources, and criminalization of Natives surrounded the rollout of PL280, enabling the federal government a privileged opportunity to bring pressure on and guide Hoopa affairs even as it abdicated fiscal and legal responsibility over the tribe’s administration. How this system was to actually work and its basis in law have been the subject of generations of debate and litigation. The plenary power of the federal government over tribes was established in the Kagama case, but the jurisdictions of states over tribes was questionable. Since states didn’t have civil authority over tribes, where exactly was the line between civil and criminal law? Where exactly did jurisdictions begin and end in tribal territories now


checkerboarded with different types of land and jurisdictions and citizenship statuses? As the federal government made its laws enforceable by retaining control over certain tribal lands and by exerting its pressure through agencies like the BLM, the state now contributed its own layers of criminal law, like drunk driving laws. The state’s assumption of jurisdictional power had the added effect of eliminating tribal police jobs. After the 1934 IRA, federal enforcement groups began hiring tribal members to serve as law enforcement, but now these jobs disappeared as county and state police forces assumed control. Often relationships between tribes and the sheriffs now in charge of criminal matters were tense and/or non-existent.

Though the 1968 Indian Civil Rights Act granted limited abilities to tribes to establish judicial and punishment systems, most tribes did not have the capacity to do this. As one local resident explained to me: “The law stopped in [the next non-tribal town down the road]. There was no law up here. They used to throw people off bridges. My cousin was thrown off a bridge.” The Humboldt County Sheriff had very little presence in the area, earning the reservation a very tough reputation locally as being lawless. By the late 1970s, Hoopa managed to hire what one resident described as a “security force.” This was the only law enforcement in the area until 1995 when the tribe signed an MOU with the county for law enforcement assistance (which was notable in its observance of tribal sovereignty and intergovernmental coordination).61

In practice, PL280 meant that tribes often went without police forces and were thus dependent upon outside funding sources for support of these institutions—while other non-PL280 tribes were able to contract with the federal government to provide law enforcement. In sum, federal and state governments starved tribes of funds, subjected them to the questionably

legal jurisdictional control of states, and then took advantage of tribes’ compromised political and economic condition to ensure cooperation with federal priorities—particularly drug laws. This is how the War on Drugs should be understood on tribal lands in PL280 states (and how modern efforts to “assist” tribes with law enforcement functions should be viewed).

Marijuana posed a quandary in this scenario. Federal laws dictated marijuana should be prohibited while state laws posited a virtually decriminalized marijuana. Under PL280, Hoopa was under state criminal jurisdiction and by this logic, should not have recognized federal law. But the tribe reasoned that since marijuana was decriminalized at the state level it was now a civil issue and didn’t apply to the reservation. Financial support from the federal government seemingly dictated that federal laws be followed. Once again, rules like PL280 were in place but bent easily when political and economic power was at stake. I now turn to Hoopa’s struggle over marijuana and the creative yet consistent logic of the double-bind of outlawry.

We’ll Outlaw You

In this section, I will argue that marijuana policy on one reservation mirrors the broader dynamics sketched in the preceding historical section—federal disinvestment from tribes while federal interventions persist in a tribal-federal relation of cultivated dependence. There was virtually no law enforcement on the Hoopa reservation for several decades, making the tribe, which couldn’t levy property taxes under federal stipulations, desperate for federal law enforcement assistance. Federal law enforcement funding came at precisely the moment when the tribe passed a medical marijuana ban in one of many arms of the federal government’s offensive strategy to shut down medical marijuana in California in the late 1990s. This anti-marijuana, prohibitionist rule empowered a certain brand of anti-drug tribal politics and served as
a means to control—through drug tests and police targeting—large parts of the impoverished community. The anti-democratic political environment, bred in part by the repression of marijuana in the middle of marijuana-growing country, facilitated a system of graft and corruption within the tribe. At the end of an effort to repeal marijuana prohibition by petition in 2011, the petition organizer was exiled from the reservation and several other key supporters of marijuana liberalization found themselves tied up in criminal investigations as the anti-drug tribal leaders continued to capitalize on the spoils of federal prohibition. Much as in the case of the timber-realty-financier network of ruling class interests in Humboldt (Polson 2013), marijuana prohibition also enabled a class of ruling interests on tribal lands.

The federal government, which had recorded a significant rise in indigenous crime rates amidst a US decline in crime during the 1990s, began to funnel support to tribes in the late 1990s to support law enforcement (stemming from the COPS initiative of 1994). Hoopa received $170,000 and was thus linked not to just to federal funding but, by a backdoor incursion on sovereignty, was subjected once again to federal laws to which this funding was connected.\(^\text{62}\) By the late 2000s, Hoopa had an established (if small) tribal police force, partially from federal funds (two of approximately 12 officers),\(^\text{63}\) with what amounted to a cross-deputized status with the county.\(^\text{64}\) In 2010, a federal law was passed to allow PL280 states to request that the federal government resume enforcement of criminal law under the Major Crimes Act (and the General Crimes Act covering crimes involving Indians and non-Indians). In a formal recognition of what structural impoverishment and backdoor funding had already generated, in 2012 Hoopa

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requested federal enforcement of federal crimes—including drug law enforcement—on tribal lands. Federal money for security cameras in 2006, requests for police funding in 2010, and Department of Justice funding in 2013 were examples of how Hoopa leadership tried to position itself for federal funding and the prohibitionist forms of governance that it required and enabled.

A matter of weeks after Hoopa received federal funding in 1998 for its resource-starved law enforcement agency, the tribal council passed Title 34, banning California-approved medical marijuana from tribal lands. Title 34 revoked the ability of any tribal member to use a “medical defense” for marijuana and enabled a fine system and a potential punishment of exclusion (i.e. banishment) from tribal lands. It stipulated that offenders may be handed over to “appropriate authorities,” such as federal or state officers. The State of California had jurisdiction over tribal criminal matters and, as marijuana was a criminal matter, its medical decriminalization ostensibly meant that medical marijuana should be decriminalized on tribal lands, too. But Hoopa argued differently in Title 34: since California decriminalized marijuana, it became a matter of California “civil regulatory” law. Since tribes were not governed by California civil law, medical marijuana laws did not apply on tribal lands and marijuana policy defaulted to federal policy, which enabled criminalization of marijuana under the Major Crimes Act, originally passed in 1883. If this default position was not clear enough, Title 34 made the case that the tribe actively elected to continue marijuana prohibition in accordance with federal funding streams, pointing out that tribal trust land, a significant portion of the reservation (but not of individual residential lands) was subject to federal law in any case.

The argument that California medical marijuana laws made marijuana a civil and not a criminal matter was the exact opposite argument that California was making in the US court and

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law enforcement system. The state argued marijuana is criminal, not civil—it’s just not punished as a criminal offense under medical marijuana laws. This argument by California allowed the state to relegate medical marijuana to being a simple “defense” rather than a civil right, as stated in the ballot initiative and subsequent law. It might have been assumed from this contemporaneous argument that marijuana was still a matter of criminal law but, in the double-bind of sovereign “dependent” nations, the creative logic of federal supremacy was strong.

In 2011, a Hoopa tribal member and resident named Scotty began circulating a petition to end the prohibition on medical marijuana. In response, anti-drug advocates on the reservation—many tribal elders among them—wrote a letter to tribal members saying the petition would jeopardize all government jobs and funding. The regional BIA officer, however, had admitted in print that federal funding revocation had never happened before, though it was a possibility. “It was a scare tactic,” Scotty said. The threats of lost federal funding did not hold water, he argued. It “is bogus bullshit because it was against federal law for an Indian to have a gun—now everybody’s got a gun. It was against federal law for us to leave the reservation. It was against federal law for us to vote. It was against federal law to have gambling. It was against federal law…‘We’ll outlaw you!’” he says, wagging his finger as if he was a federal legislator. “The only thing I’m now asking is I want to be equal.”

When I first met Scotty, we sat across from each other in his niece’s living room, and he laid across the brown microfiber couch, his leg thrown over the arm. He was a toughened Hupa man of about 50 years who had lived his life on the reservation (except during his military

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66 Jessica Cattelino (2008), in her work on gambling and the Seminole tribe, writes of a double-bind in which tribes need economic wealth to exercise sovereignty (toward which they are pushed by US settler society that doesn’t want them to be “dependent”) but when they acquire this wealth, the legitimacy of the wealth is questioned. Similarly with marijuana there is a kind of legal-economic double-bind whereby tribes have been pushed to be self-governing but when they self-govern in ways not amenable to federal wishes, they are threatened with the loss of ability to govern in quite literal terms: the funding through which government is provided.
service). When he spoke his voice topped the fan, the TV, and the children playing in the next room, a fitting resonance for someone as barrel-chested and stout as himself. His niece, Pia, and nephew, Ryan, sat on the other L of the couch, speaking when they could. Two people had suggested I sit down with Scotty, one because he had been pivotal in circulating the marijuana petition, the other because he was “the biggest drug dealer in the Valley.” I chose to inquire about the petition first.

Controversy was not new to Scotty. He had brought suit against the federal government in the 1970s for mismanagement of funds. He had been in the American Indian Movement and “labeled a radical militant agitator.” Having been thoroughly politicized, Scotty understood clearly: “I’m marked.” His house had been habitually “flown” by helicopters as they attempted to discern if Scotty was growing. No evidence forthcoming, Scotty found officials entering his property one day as they supposedly sought to investigate a fire behind his property. “These were federal marshals… [they] had firearms on them. They weren’t regular firefighters. How are you going to fight fire with guns? So they went back there, armed, to look at the fire, whatever reason I don’t know, then they scoped out my bamboo plants,” in an unsuccessful treasure hunt.

“Everyone says [the petition]’s my idea but it wasn’t. The state of California voted on it. The senators passed it,” Scotty explains. “It’s a medicine. I’m a 100% disabled veteran, I’ve got bone on bone in my back.” “And your skull,” Pia chimes in. “And my skull,” Scotty agrees. Ryan puts a point on it: “I want it to be like everywhere else in California, you know? Using marijuana instead of prescription pain [pills]. It’s a lot healthier to ingest or smoke marijuana than it is to take Vicodin. Less side effects. It should be an option to people here but it’s not. We don’t recognize [Proposition] 215. That’s gotta change.” This is where the petition to change a
12-year old policy (in 2011) emerged. The petition sought to repeal the medical marijuana ban codified in Title 34 of tribal law.

Scotty’s expressed motivation for circulating the petition was medical. He had been offered Oxycontin and Percocet at the Indian Health Service (IHS) but he “didn’t want to get sucked into things. I’ve got pain but I don’t want to sit around, spit droolin’ out of my mouth, totally out of control, can’t even move.” Though Scotty expressed his preference not to take pills, he didn’t have much choice in the matter. As a former addict, he had tried for three years to get approved for painkillers for his cartilage-corroded back but was only provisionally allowed medication, dependent upon whether or not he checked in with the doctor on a monthly basis. He had recently admitted that in the absence of painkillers he had been using medical marijuana—for this he was denied another painkiller prescription. As the Indian Health Service (IHS) is a federal agency, it abides by federal drug laws and prohibits the prescription of painkillers to anyone who has a history of addiction or currently uses any illegal drug, including marijuana. The irony was that the IHS was issuing addictive painkillers but was denying them to people who used marijuana to reduce their addiction-prone intake of painkillers.

Scotty had been watching the escalation of prescription narcotics over the last several years; the results were devastating. Pia explains, “Everyone’s gotten way more—social values are down, robbing, can’t leave your house, gotta stick around, everyone losing their minds, walking around, talking to themselves. You see the decline of the population. Everyone—everyone’s on medication.” Another tribal elder I would later talk to would tell me that on the trip from the pharmacy counter back to the car, he could easily sell all his painkillers, with several buyers lurking in the parking lot. Even the pharmacy clerk had been fired for stealing nearly 400 pills and diverting them into unknown networks. For several years running now, there
had not been a time when either Ryan, Scotty, or Pia had not been at home, keeping an eye on the two houses on the lot. I would later learn—as a result of press releases about Scotty’s eventual arrest—that one reason for this was the significant amount of money stored in his house. That said, they couldn’t name one neighbor who hadn’t been robbed in recent history. “We’re being held hostage right now. If I go to the grocery store, she stays home. If I go some place, she stays home. Every house in this area has been robbed. This whole town has been robbed.” Though the methamphetamine scourge a decade ago had been bad, the “prescription folks are way more cutthroat than the methamphetamine crowd was.” Meth, they explain, at least wasn’t as addictive, allowing people to be “weekend warriors and go back to work on Monday” and it was something people could supply themselves, cheaply.

Now the IHS was getting stricter about its prescription opiates, but this was causing more agony on the reservation: “Once you’ve got a group of people, two or 300 people who are spun out of their mind, and you cut them off, they’re going to rob, steal, get back to where they were at.” With black tar heroin making a comeback in the 2010s, reports of its usage as a substitute for prescription opiates reached me several times. Opiates had torn families apart, Pia says, “parents not caring what their kids are about, where they’re at; grandparents raising grandchildren, way more worried about standing around town being out of it than being at home being productive.” With marijuana, Scotty says, “you can get out of bed, go to the bathroom, take a shit, clean your house, take care of your kids, walk up to the store. You’re not out of your mind. Know what I mean? You might eat a little more abnormal, but you’re normal to get up and realize is that my stove on, is that my baby crying, is my car on empty, is my bank, geez am I supposed to go to work.” Unlike alcohol, which Scotty refers to as “liquid LSD,” or painkillers, the worst that
happens with marijuana is you fall asleep. “You don’t do the stupid things like fall around the house, set the house on fire,” Scotty argues.

“On an Indian reservation, we’re like the national test dummies for all medications that are synthetic. If we get pills it’s better to get the white man’s pills off the reservation than the generic ones on the reservation. We’re the test dummies. What people don’t realize, people look at us like we’re lucky ’cause we live on an Indian reservation. This is a 20th century concentration camp. We’re 20th century POWs,” Scotty says. These strong words are echoed in work on Native Americans and psychotropic substances: between 1998 and 2011, addiction to prescription opiates increased over 3600%, the highest increase of any demographic group in the US. The prescription opiate phenomenon is just the latest in a wave of substances that have cascaded over Native reservations, from methamphetamines to heroin to the generations-long destruction wreaked by alcohol. The intensity of substance abuse is a constant presence in everyday life on Hoopa and many other reservations, being structurally weakened through dislocation, marginalization, and oppression, and living with the ongoing historical trauma under a settler-colonial capitalist state.

Though Scotty explained to me the explicitly medical reasons for the petition, it soon became clear that the effort to expand marijuana rights was one facet of a larger political and economic struggle within and beyond the tribe. I discovered this soon after arriving at Hoopa to explore a series of articles being written at a local paper about the petition and marijuana policy of the tribe more broadly.

On the surface, the focus of the articles was marijuana. Scotty’s petition had floundered. He had given out the petition to gain more signatures, it was lost, and they were unable to garner enough signatures in time to submit to the council for a referendum. A few months later, the local
tribal newspaper published two stories: one on the marijuana debate over the tribe’s medical ban, and a second article featuring an interview with a man wanted for involvement in a murder that had just occurred in a neighboring town. The murder had been a botched burglary that left the homeowner dead after he attempted to ambush the burglars. The murder article, critics (including the tribal chief) charged, was sympathetic to the alleged murderers and aired the meth-fueled impoverishment and desperation of some of the tribal youth for the public to witness. Criminals were meant to be written about but not speak themselves, as this man did to the newspaper in a phone call while he was on the run. The Hoopa chairman took aim at the first story on marijuana, which pointed out that other reservations had approved medical marijuana and had not had funding pulled. Supposedly the article “promot[ed] drugs” and did not jibe with the chairman’s “strong stance against drugs.” In response, the chairman pulled the paper’s charter and ordered it shut down immediately. After a packed council meeting, the chairman rescinded his actions and the paper was allowed to continue to operate.

In subsequent interviews, I learned that, while the chairman’s concern with fighting drugs had been at the core of his election campaign, the more likely reason for his threatening actions was a story the paper had run two months prior on commercial fishing—a practice from which the chairman among many others had profited. The technical issue was whether or not commercial fishing was allowed without an ordinance to govern it and ensure it was benefiting the tribe as a whole. A 1989 referendum permitted commercial fishing but required an ordinance to be established to govern it in the interest of the tribe. Twenty-two years passed with no ordinance. Instead, commercial fishing operations were controlled by some families and benefited a few. Salmon fishing was integral to the living tradition of the tribe—rights for which

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were hard-won by the tribe against the federal government; profit-oriented, private fishing seemed to violate tribal trust.

Marijuana growing, despite its illegality, was economically attractive for many tribal members, living as they did in a somewhat wealth-stratified tribe with few employment options. Even at $1000 a pound (a cheap price in 2011), 36 pounds would net $36,000. Short of a government job, this was exponentially more money than any tribal member could expect to make elsewhere. According to Scotty: “Once a year we’ll have a Christmas dinner, people will walk up there with all their kids because they have no car, no money. They’ll get their $2 dinner, get their $2 presents for their kids, and if we did the medical marijuana through the dispensary they’d have at least a chance to have a $5k car, and have their own money for their own presents, their own food.” Scotty points out that marijuana is easier to grow and replenish than timber. With marijuana, he estimates, one could stay out of the tribal government and still “make it.” “Basically, they’re keeping us behind the times,” Pia opines, “It’s like this gold rush going on all around us. People are coming in from different states, buying their plot, growing big, getting their card, growing their huge greenhouse.” Scotty agrees: “It’s being done everywhere except the reservation.” “Everywhere except a 12x12 mile square,” Pia says.

Under Title 34, tribal members who wanted to grow or use marijuana were placed in perpetual legal and economic jeopardy. Many had to find growing and selling connections off the reservation, something that put tribal members at a disadvantage. Scotty explains: “you’re giving up more of your weed to grow with them [the off-Res growers]. You’re giving it up to grow because they know you’re stuck. ‘Hey, I’ve got a $100 and I need a ride.’ ‘Well you know it’s a $90 ride.’ You got a choice, give it to them or walk. If you don’t do this trip with certain people, everyone knows you’re in a bind.” Pia’s cousin, who grew off-reservation, confirmed this. Since
many people on the reservation didn’t have cars and couldn’t make the hour and a half trip to the nearest dispensary to purchase medical marijuana, they often gave their medical recommendations to local (white) growers who used these “recs” to grow the authorized number of plants, give the patient a portion of that, and then sell the remainder in whatever markets they could. Repealing Title 34 would give tribal marijuana patients more power in these dynamics.

Some tribal members felt as if marijuana legalization would proceed and that they were being denied a major source of income while prices were high. They had little hope about the longevity of the marijuana economy as legalization seemed more likely. They gave it five years until it was over. “We’re like the moonshiners in West Virginia in Prohibition. Up in the mountains,” Scotty reflected. On one hand, they understood the “revenuers,” or tax collectors, were on the way to torpedo their mills, because they were uppity hill people who were trying to get a little “piece for themselves.” On the other hand, like moonshiners, they’d be hard to shut down because it was so insidious and existed beyond law’s leveling gaze. They would resist but, ultimately, the price would drop as economic scale increased, and the controversy would subside, leaving the reservation still impoverished.

The effect of allowing medical marijuana wouldn’t just be economic, it would be political. Having an income outside the quasi-spoils system of government work meant a self-sufficiency that would allow for political independence. Political independence, under the current chairman, they told me, meant a lot. Not only did the chairman earn $100,000 a year, but he reportedly was able to reap nearly $80,000 a year for selling salmon with a commercial license issued by the government he stood atop. On the other side, Scotty says, “we have tribal members that get paid $150 twice a year and that ain’t enough to pay your rent on.”
Prohibition enabled some in the tribe to constrict sources of livelihood for other tribal members and thereby tighten their grip on political-economic power. It also enabled a system of surveillance and control over tribal members. Pia, a Hupa member, has a medical recommendation but she can’t use it because she works for the tribal government—the main source of employment on the reservation. In 2011, a tribal government job was the only one on the reservation that provided good insurance and decent wages. Timber had been an important income source but supply was nearly exhausted, regeneration took decades, and timber prices were down. Since many of the jobs are federally-funded, they are subject to federal drug testing laws. Marijuana would get Pia suspended or fired under the federally-mandated zero-tolerance policy on tribal government (on account of their federal financial support). If called in for a drug test, which can be required at will, one has to report for testing within two hours according to tribal policy. The system, however, was quite political: the tribal chairman tested positive for Vicodin, for which he had no prescription. He got a prescription afterward and “it was all right.” When another chairman did the same thing, they fired him. In an episode just prior to my meeting Scotty, another council member—a vocal opponent of the chairman—had tested positive for marijuana. Despite charges of blatant irregularities and political motivations to the testing, the council member was suspended. (Six months later the council member was re-elected and continued to be a thorn in the leadership’s side.) The drug testing system was a lever of control over government employees, allowing anyone to be tested at any time, something that Pia and Scotty said contributed to a spoils system, where political leaders could capriciously fire and hire government personnel. The political nature of government work led to government workers overtly supporting currently-elected politicians out of fear of losing their positions if they did not. In the late 2000s the current chairman was elected on an anti-drug platform, ostensibly
taking aim at all drugs. According to another informant who worked at the tribal court, though “all the citations that come through there—the drug charges—it’s all marijuana, all cultivation.” Importantly, the cases “stay in our jurisdiction” and they rarely (if ever) refer cases to the sheriff, which could enable those cases to “go federal.” Marijuana charges, then, serve as a way of indenturing certain tribal members to tribal government (materially with fines, and figuratively with the public shame) and help manage potential threats to the political order.

As suggested above, Native tribes were cultivated as systems of patronage and favoritism and rewarded for cooperation with the US and its system of property-based expropriation. Tribes are punished when they step out of line with that system. The effect of this is to empower local elites as brokers of federal-tribal relations. With the power that comes from this brokering position came a fair amount of nepotism, graft, and corruption. Examples abound of this, such as with a convenience store and gas station that, with the chairman at its helm, hemorrhaged nearly $500,000 a year in the late 2000s. While most convenience stores pull in a 20-30% profit, this store operated at 3%, with anywhere from $100 to $5000 of voids and refunds a day, suggesting money that just disappeared in a rural, slow-paced store that was ranked in the top four retailers in the county (along with Costco and major urban supermarkets) of beer, cigarettes, Pepsi, and alcohol.\textsuperscript{68} The chairman was eventually removed from oversight of the convenience store in a charge led by the same council member who months later would be removed from office after a positive marijuana test. In my time on the reservation, I would hear of other instances: $80,000 missing from a tribal towing company, kickbacks to cops, confiscated drugs that would disappear

between bust sites and the police station. One former council member described the government to me as “tribal organized crime.”

The failure of governance led to major political skepticism by tribal members. This was driven home in the 2013 vote on the distribution of funds from the federal government’s settlement with the tribe over its uncompensated extraction of timber from tribal lands for decades. Two-thirds of the amount—$49.2 million—had been distributed to each member of the tribe in $10,000 checks, but the remaining 35% was to remain with the tribal government to invest in infrastructure. Trust in the tribal government was so weak, however, that a petition circulated and a special election was held to force the council to distribute the remaining funds.69 Though these checks were undoubtedly boons in the daily lives of tribal members, Scotty also knows that few people have the familiarity with money to make wise investments—something he learned to do with the payout from his successful suit against the US government in the 1970s for misallocation of his (Vietnam) veteran payments.

Eight months after Scotty’s petition failed, he was arrested and his house was raided. The multi-agency sting resulted in the dispossession of his property, half of his savings, and many of his belongings. He had been arrested with numerous pounds of meth, marijuana, and nearly $200,000 in cash in his possession. Under California’s beleaguered prison-industrial system and the justice system that filled it to excess, Scotty was saved by the “realignment” program that sought to divert drug offenders from state prison toward alternative systems of punishment—three years of probation and 400 hours of community service.

His story didn’t end with state criminal prosecution. The tribe could also mete out its own punishment. The year after his arrest, the tribe, led by the anti-drug chairman, initiated an

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exclusion, or banishment, process against Scotty, which would require that Scotty leave the reservation forever. This was arguably the most serious sentence the tribe could enact; it would dispossess all claims an individual has to property in tribal land (which was one of the few reservations that has been home to a tribe since before white people arrived). One hundred and fifty years of colonial rule had not displaced Scotty’s line, but now marijuana charges would.

This power was granted to the tribal chairman under a 1986 tribal law, which was revised in 2009 when the then-current council updated it to include drug charges—and first offenses, to boot—as potential reasons for exclusion. Though there were procedural irregularities that challenged the legitimacy of this updated power, the process continued. It was interrupted by a leaked (or forged) memo (no author was attributed) with names of 100 people who might be excluded under the same criteria as Scotty. Undeterred, Scotty appealed the decision, saying that his land (which was an allotment granted by the tribe of trust land that was itself held in trust by the federal government) couldn’t be taken because he had converted it to fee land and was thus out of tribal jurisdiction. Since this conversion occurred after his arrest, it was disallowed.

Though dozens of letters came in supporting Scotty from former council members, judges, and local families, at a packed hearing, the tribal council—which had been asked by the chairman to approve his exclusion decision—voted to banish Scotty from the reservation.70

As for other arrests, it is worth noting that two other significant county-tribe joint raids resulted in arrests much like Scotty’s. All three of these cases involved multiple agencies, not just tribal police, and they all targeted people or relatives of people who had opposed the chairman. In 2012 a person bearing the same last name as the marijuana-ousted council member was arrested, and in 2013 two people were arrested bearing the same last name as one of the

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primary tribal journalists involved in the stand-off with the tribal council. Meanwhile, the problem of opiate addiction continued apace, Title 34 stood unchanged, drug testing continued to discipline tribal workers, more raids on tribal lands were launched with high-profile federal-tribal teams, and Hupa members continued to live in conditions of poverty and dependence.

The effort to repeal Title 34 failed because it could not successfully challenge a system of tribal governance that derived significant power from marijuana prohibition and the alliance with federal forces (realized in overt funding stipulations and less obvious practices such as drug testing). The chairman’s motives aside, federal power structured these questionable tribal dynamics. Once this dynamic had a life of its own, it became a tool deployed by tribal leaders to control their own people in ways that perpetuated the subjugation of tribal members to federal power, led to further impoverishment in a region booming with marijuana proceeds, and denied tribal members the marijuana rights, guaranteed under state law and, arguably, PL280.

Poverty Aplenty: Marijuana, Tribes, and the Challenges of the Market

While Hoopa decided to ban medical marijuana by the reasoning described above, other tribes came to a different conclusion. The Round Valley Tribes had not received federal law enforcement funds and felt free, in 2007, to pass a “Compassionate Use Ordinance” allowing cultivation of up to 33 medical plants per patient. Round Valley, like Hoopa, was deep in marijuana country, where cultivation was an open secret and a main reason local economies thrived. It was, moreover within the power of Round Valley tribes to pass tribal laws under the 1934 IRA.

The Compassionate Use Ordinance was voted on and approved by the tribal membership a year after two tribal members were shot and killed in a marijuana garden on tribal lands (which
would lead to a second 5000-plant grow a few miles away). News coverage of the incident and unsolved murder investigation (as of 2013)\(^1\) reported that several “undocumented aliens” were arrested, along with three people from Santa Rosa, for the murder. One story (repeated to me) on the migration of Mexican crime families northward into the lucrative marijuana production market, described the workers as “Latinos,” effectively causing a slippage between ethnicity and affiliation with criminal organizations in Mexico—something that is and has been a common conflation in news coverage.\(^2\) Since the investigation documents were sealed, the motive behind the murders was left hazy and became one of several instances that justified policy transformations to fight the growth of illegal Mexican cartels operating on tribal, public, and federal lands. In an interview, one Mexican-born farmworker (who had grown up near the Round Valley reservation and lived in the community from where the undocumented marijuana workers came) argued that the shooting was not due to Mexicans protecting their illegal grow, but workers brought in by tribal members to work a grow on tribal lands. The tribal trust lands were communally held and the Indian growers did not want to be associated with illegally growing on it, thus necessitating the hiring of undocumented and Latino workers. According to a tribal member, the Indians involved had “pushed the limits” by growing on trust lands and placing each of their 99 plants (theoretically covered by each of their medical recommendations) next to each other on top of a hill “so anyone driving [by]…could see it.” The resulting 500 plants were already becoming a topic of tribal debate by the time the shooting occurred. A conflict emerged over when the marijuana plants should be harvested and what kind of payment would go to the workers and to their Indian “employers,” resulting in a shootout in the marijuana garden.

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After the shootout, the need for some sort of regulation was clear, leading to the Compassionate Use Ordinance. This was augmented by the realization that without an allowance to grow on residential properties, people would grow on collectively-held tribal trust land in an effort to avoid being held culpable (much like “guerrilla” grows on public and timber lands allow growers to avoid having marijuana plants linked to them). Though Mexican cartels growing on reservation land was cited as a reason for the allowance, evidence of “cartels” was scant; there was a simpler explanation for undocumented workers in the area. Whether on federal tribal lands or public parks and forests, the employment of undocumented workers was a common practice among growers because it separated growers from any culpability. One white grower explains, “There’s deniability factors. ‘Geez, those Mexican cartels will grow right next to your house!’” he told me, feigning incredulity. “I’m afraid to walk that way! I hear some guys speaking Spanish!’ That’s been typical for years.” Ironically, in order to protect the sovereignty of the Round Valley nation, threats to the sovereignty of the US had to be cited, in a kind of circular game of fear and suspicion, which ultimately hid real situations of economic subordination of both Native people and Latino immigrant workers.

Though the marijuana ordinance did not cause federal funding to be withdrawn from the tribe, in 2010 the DEA and local law enforcement busted 14 gardens and arrested 42 people on the reservation, including the chairman of the Round Valley tribe, despite the allowance for growing by tribe members.73 “The reservation was hit hardest. The town is devastated. We are already very poor and now what little we had has been taken,” said one reservation resident.74 Indeed, many of the raids were “open field” raids, which means police could enter properties at

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will because the property’s curtilage was not protected. For Indians, who had been relegated to the valley floor when they were originally corralled to the area in the 1800s, their properties are easily surveilled and raids are easy to conduct. In contrast, as some chat boards pointed out, growers in the more protected hills, where visibility is scant and fences block roads, are left relatively unscathed during the raids. The publicity on the raids addressed the massive amounts of money and plants discovered in public parks but little attention was paid to the effects on reservation and town residents, who were placed in a battle zone with low-flying helicopters hovering over reservation houses. One interviewee, a local schoolteacher, recalled children wondering if their families were being busted or if they might be taken away by child services. Another informant was at first enraged but then understood why his wife cut down his entire pot garden during the raid. “It was fucking scary, man. I have a family and my wife chopped my plants down because she didn’t want to lose her kids. Some of these people lost their kids—one of them was my cousin. These are the harsh realities, again and again.” He sees the raids “as a scare tactic to make the people police themselves. They did. They were scared shitless. They cut back their numbers and then [law enforcement] went after, what do you call them, the ‘foreign nationals.’”

PL280 repealed the applicability of the Major Crimes Act of 1883 (and the Indian Country General Crimes Act that followed it) to reservations in sovereign nations in designated states. Because of this, it should have been impossible for the federal government to selectively enforce federal drug laws in the Round Valley Reservation. Yet the raid on Round Valley took place only two months after the federal passage of the Tribal Law and Order Act of 2010 (which enhanced federal jurisdiction over PL280 states, if tribes requested it) in an effort to address high rates of crime. This act, which was passed with the intent of addressing violence against women, also had
the effect of targeting drug trafficking by increasing “concurrent jurisdiction” over PL280 states. Officially, it had no effect over Round Valley or any other PL280 tribe for that matter, unless they elected to be covered by federal powers. For this reason, the lead agency in the raids was the Bureau of Narcotics Enforcement, the notorious home of the state’s federally-funded eradication program, CAMP. It was this kind of jurisdictional enforcement shuffle in which federal laws came to be imported into state criminal jurisdictions that produced a substantive blurring of federalist divisions of authority through “multi-agency” raids and forces. Indeed, these multi-agency formations are often justified in terms of resource sharing, efficacy, and non-duplication of efforts but they become a substantive way of making an end run around the divisions between jurisdictions and the necessity of law enforcement following the laws of the jurisdiction and political body they are empowered by. Like the transfer of seizure cases between federal, state, and local levels, “multi-agency” task forces become a way of shifting federal laws up and down the jurisdictional ladder.

Round Valley Indian Tribes passed an ordinance to allow growing medical marijuana in response to perceived threats from Mexican cartels, and to abate growing on their common trust lands. On a deeper and less publicly discussed level, they hoped to rectify intense poverty on tribal lands since the closure of the local mill and the structural impoverishment of the tribe through regressive taxation and the denial of federal assistance (by devolving much of the governing capacities to state government). Mike, a self-described “scary Indian,” grew up on “the Rez” and began growing as a teenager in the first days after the local timber mill’s closure. As marijuana has come more into the open, not only has the quality improved (“fuckin’, way better”) but the attitude of many of tribal members has shifted. Once labeled a stoner by friends, he now says they’re “all doing the same thing.” With the passage of the medical cultivation
ordinance in 2007, marijuana largely moved from illicit operations on federally-held tribal trust lands to people’s homes. The tribe requires fences around the gardens to prevent blight and thieving but many people couldn’t afford fences, causing much misery during the 2010 multi-agency raids. “Open field” seizures essentially suspend the requirement for warrants: if there is no fencing-in of a property’s curtilage, an officer is empowered to enter if there is a reason such as visible marijuana plants. Mike still does not have a fence though in the course of our discussion he became increasingly committed to putting one in, reasoning that the police “don’t fuck with you” as long as you’re not “flashing around.” Pondering recent flyovers, he realized that as one of the more successful growers in town, “maybe it’s me they’re looking at.” Despite this raid, which had a chilling effect on tribal growing, people still grow largely on their own land. However, it is still “common practice” to grow on trust lands, to which no one owns a title, the natural resources are commonly held, and culpability is hard to place. “Everyone grows on Indian land without permission because you can get away with it. Everyone. Everyone.”

Mike, who has a medical “script” to grow up to the 33 plants the tribe allows, has ample private plots to grow on—“fee land.” Mike grows well under the allowed 33 plants on the reservation, choosing instead to make individual plants as big as possible and to grow other plants off-site in the hills. He continues, “everyone in my neighborhood except the tribal cop…has a garden.” Since his land is on the reservation, Mike was not participating in county regulation programs (a ziptie program to certify marijuana plants)—“I’m Indian so I feel like I don’t need to take that shit.” He is likely right: since the farmer regulation program is under county civil (not criminal) code, it does not bear upon tribal lands.

The main effect Mike sees of marijuana growing is that it has meant jobs and dispersed income on the reservation, much as Scotty argued would be the case in Hoopa were marijuana
cultivation to be allowed. Unlike gambling (see Cattelino 2008), marijuana’s disputed legal status has prevented the tribe as a whole from assuming control of marijuana production and distribution. This meant the economy was dispersed and accessible to all tribal members who could access the requisite seeds, knowledge, and connections—unlike the hierarchical, government-brokered and capital-intensive structure of gambling on reservations. After the Louisiana Pacific mill closed in 1991 and took the bulk of local jobs with it, unemployment levels reached 43%. Housing conditions were substandard and the per-capita violence rate rivaled some of the most violence-ridden urban areas. Mike himself has gotten a job with a white man he met through his uncle (while on the commemorative sojourn his tribe undertakes every year to recognize their removal from their traditional lands to this remote reservation). First working as a trimmer, he soon found himself digging holes, smoking weed with his boss, and eventually taking over growing operations, while his employer bought and sold properties to other growers, managed the money and work crews, and flew to the Philippines for yearly vacations. As one of the tribe’s most seasoned growers, Mike has found freelance work setting up gardens for others on county lands. He even works with one of his friends, who buys and sells real estate, to set up ready-to-go marijuana gardens for potential buyers (who don’t know of the set-up until they physically see the property), allowing them to make well above market prices. Mike avoided guerrilla grows and growing on forest lands. Unlike private land gardens, on which owners were at greater risk than employees because they had more to lose in terms of property and were bound to the garden through property titles, guerrilla grows allowed employers to redistribute risk toward workers, who spent more time there. Mike now only worked on private lands, mostly for people he grew up with. Having his own garden and working freelance allows Mike to employ people. “I employ because I know they’re struggling and that’s
what the business is for. I’d rather see somebody who needs it get it than somebody who doesn’t… I was struggling for a time before I got it. It’s only right that I help those who aren’t going to fuck me over.” This ethics of community assistance and reciprocity extends to Mike’s annual winter gathering, “where we try to keep the money, bring local vendors, help generate money for my friends that are still hustling.” The desire to help his community is behind Mike’s intention to start a local business (which would also allow him to launder money and turn a buck and reduce the amount of risk he encounters). Though he already has a contracting business, he’d like to see something with more public utility—somewhere his kids could work so they “don’t have to pull leaves” off pot plants. His ultimate goal is to start a nursery in the area so as to redirect the flow of marijuana genetics outside of the tight circles of mostly-white growers toward his community. He wants this “so there’s no more of this shit going on, we don’t have to travel to god knows where to see a friend that [another grower has] known for 20 years in god knows where to get a plant that his buddy grew that was great over there. I want to be the guy you come to see to get your plants because as it is you gotta know somebody.” Unlike the struggling businesses in the Valley, “that’ll be a business that works.”

In small ways, he’s seen the larger effect of job growth. “My community is growing… we’ve got three [plant] nutrient stores come in. That’s about all that’s come.” But, he notes, most of the economic growth is from the white side of things “I’m more from the Round Valley side. I don’t see the growth that they see on their side.” He continues, “if there’s a positive, [it’s that we’re] feeding our family, building our houses.” But nutrient stores did not fill the gap left after the mill closed. Many people chose not to buy locally in order to retain some privacy around the scale of their operations. Yet, fundraisers for the volunteer fire department have been quite successful, bringing in several new fire fighting vehicles. For growers, the
capacity to fight fires is absolutely essential—something they readily donate toward, and something easily covered in charitable cash donations, sometimes anonymously.

“If you’re moving here, you’re moving here to grow weed. There’s no fucking acting school here. That’s the truth of it,” Mike tells me. The reservation is nestled among public forest land and there is only one paved road in and out of the area—a road that is an hour drive from the main highway and even further to the nearest town. This isolation originated in the colonial efforts to remove and discard California’s tribes in the most remote regions of the state. (Even this remote place nearly became a reservoir for a proposed dam several decades prior.) This isolated remoteness of tribal lands makes them amenable to pot-growing and to many types of illegal economic activity far from the reaches of county and state police. This remoteness has also led to a curious openness among growers about their business, something much less common in other regions, including southern Humboldt, which has Highway 101 running through it.

Though marijuana has meant more jobs, the job market is riven between the Native community and the surrounding settler-colonial society. One of Mike’s main jobs is for a local white grower, but an Indian working for a white man is uncommon. “Everyone…brings in their own crew or they hire Mexicans to work it.” This means that “there is no money [put] back in the community” by the white growers who set up gardens in the area, he says. “The money that’s made here, doesn’t stay here,” which is hard to swallow because “we’re a community where there’s probably a gross amount of $30 or $40 million at harvest—I don’t know how much weed goes through here, how many people are trimming, what the rate is—but none of that stays here. Most of it is taken out of the Valley. They bring in their own workers, they pay them, it doesn’t stay.” Many of the people who come just for the season don’t have the same investment in the
community. Some people “will tell you it’s great, we’re all having fun and the locals will tell you a whole other story…It’s a whole other story when you stay here all year.” Even for those that stay on the reservation, marijuana wealth can cause growing inequalities, as one educator on the reservation observed, noting that she is closely engaged with two families, one of which grows successfully and one which doesn’t grow at all. While the growing family has prospered, the non-growing family has become more desperate, with the ultimate result of two of their children dying in fights in a year.

But access to jobs is only one of the ways in which Native economic circuits are closed. Mike explains, “There’s only a few people in the Valley that know how to move it.” For many people on the reservation, this means that they are either ignorant of market prices and dynamics or they are desperate to unload product they grow but can’t sell. “Brings the price down,” Mike says. “This area isn’t used to that kind of money, they don’t give a fuck. They’ll sell it all for $1000 a pound, $500 a pound” (compared to general market rates toward $2000 a pound at the time). He continues: “’Need money for my kids, man, they’re starving.’ I can’t knock anybody, any one of my people for doing what they got to do to put food on their plate.” Knowledge and social circuits are not only crucial for moving marijuana to market but also for attaining plant “genetics” to produce quality marijuana. Even people who can sell their product have a “hard time because they have all this money they can’t spend because they’re way out here.” Lack of access to loans for cars and properties and barriers to banking (where deposits are monitored and any amount over $10,000 has to be explained and documented) is not only a general problem for pot growers but something endemic to impoverished Native communities.

Because many people don’t have cars to transport product, bank accounts to deposit cash, or even the ability to transform marijuana into cash, marijuana itself becomes a means of barter.
Mike, for instance, bought a car the previous year for five pounds. “That’s how it works out here. Not everything happens with money.” Yet, most of the trading and bartering seems to occur among Mexicans and tribal members, or “lower level people,” instead of white people who have less trouble transforming marijuana to cash and selling product. This kind of trade facilitates economic survival within conditions of generalized impoverishment. For example, where someone without market contacts would only get $4500 for five pounds of marijuana, a person with good contacts could net $10,000. This kind of product shuffling increases total receipts for the community and allows different locals to play to their strengths.

For Mike, the lack of market contacts has meant that he has taken his product on the road, placing himself at risk to get the East Coast price per pound. Transporting marijuana is only “if you can do that, but if you can’t, you stay here, you might sit on your harvest. Everyone’s trying to get it out.” Unless you’re in the “right circle,” you’re in “the 12s, 9s, the 5s” (meaning hundreds of dollars). Even at this low market price, 40 pounds for $1000 each is “$40,000! That’ll last me all year. And still got 60 pounds to go.”

The sum total of this lack of access to jobs, disappearing community benefits, and limited access to seeds is a striking contradiction: in an area flush with money, intense poverty exists. One local white schoolteacher, who was dating a marijuana grower, explains it as marijuana “is abundantly flowing out of this valley just like food. It’s abundantly flowing out of the valley, but we have people starving. We have little kids that are starving.” She observes that the “Anglo community” is completely separate. White people “are not friends with the tribal community” and the apparent “dysfunction” in the tribe “is intimidating” for whites. This dysfunction, she clarifies, is not because of any innate quality but because of lack of resources historically. The presence of absolute wealth among some local growers and absolute poverty is even starker
because the rich and poor “in the same community…don’t interface at all.” As a social worker by training and a person who has struggled with substances as a result of growing up in a homeless family in often-harmful dynamics, she understands that poverty can be dealt with through substances. For this reason, marijuana is both a drug to be abused and a medicine to cope with what life presents. “As an educator, I would never talk about marijuana for students” but she understands sometimes that it is the best way for students to detach from and persist through tough circumstances. “I can relate to kids who want to use marijuana to cope with their circumstances,” and, to a degree, she believes this is a better choice than speed, dropping out, having kids, and the many other ways people cope with trauma. “I can see in their eyes and just compassionately love them and know that there’s an inequality happening where those kids don’t have access to a medicine—this is just such a touchy issue.”

The structuring of marijuana through the historical impoverishment of Native communities gives Mike a kind of antipathy toward not only white growers but toward Mexicans, too, something resonant with the 2006 shooting between Mexican workers and Indian employer-growers. “Mayflower’s coming. It’s selling tickets. Send them all home. Put that in your report.” And yet, he understands that everybody who’s in the Valley is just trying to make money. “If you can find it, take it. Keep it.” He continues, “It is a gold rush. Everybody who’s anybody is trying to make the money. From a business standpoint, if you see a business investment was 300% profit, you’re going to try it.” He reckons this allure attracts organized crime—something he explains in terms of the investments he sees in people building major growing operations. Cartels, he reasons, are one of the only organizations that can do that, saying “We don’t have the money to do this.” Given this antipathy, Mike is happy if each group—whites, Native Americans, Latinos—keeps to their own. Each group has its distinctive geographies, central actors, and
power brokers, as well as its own histories and stories. That way, he figures, everybody is able to get their own hustle on without being impacted or poached upon by others. “Everybody’s got to get theirs while it’s good. A lazy hustler don’t get fed. In the pot game you gotta hustle somehow.” Even though this means trouble from people who grow on public lands and bring in federal law enforcement, or people who cheat and steal or undersell their neighbors, or pollute tribal lands and common resources, it’s hard to criticize the need to hustle. “When you’re a local you hate to see a good thing go bad but you hate to knock anyone for trying. I’d like to see it stay where it is, have everybody do their own thing, everyone works their own thing out. But it’s not staying that way forever, so I’m trying to get what I can while I can.”

Liberalism and Illiberalism on “the Rez”: The Next Double-Bind

In the early years of the 21st century in California’s North Coast, marijuana took on many valences for indigenous tribes. On one hand, marijuana production was a critical means for impoverished Native communities to build economic viability in isolated, deindustrialized regions. On the other hand, prohibition was the means through which resources could be attained through the federal government and its multiple circuits of discipline-inducing funding. This scenario is a classic double-bind in the sense that tribes received conflicting messages from the US system of law—the law either enables tribes to follow state law or it requires tribes to adhere to federal law. Choosing to follow state law puts tribes at heightened jeopardy of federal opposition. Following federal law assures the criminalization, denial of rights and medicine, and relative impoverishment of one’s tribal members in a region characterized by a growing degree of marijuana freedom. Either way, tribal lands became an exceptional economic and political zone in relation to the US settler-colonial society. Economically, tribes were isolated from the
surrounding economy—whether through prohibition as in the pot-producing region of Hoopa or through the lack of economic networks and the isolation that characterized life in Round Valley. Federal forces continued to oversee tribal lands even when the federal government had abdicated responsibility and jurisdiction to states, a modern-day echo of the federal government’s autocratic plenary power, its *raison d’état*. When Round Valley stepped out from federal power—despite 60-year old legislative precedent under PL280—it was met with devastating raids. This inconsistent exceptionalism is only surprising if one ignores the history of tribes as objects of political and economic rule and analyzes only the letter of the law.

Agamben (1998) is correct in calling this border between illegal/legal a zone of “indistinction,” where enemies and friends merge. To people who have been simultaneously cast as morally degenerate or childishly helpless, the liberal impulse to civilize and economize is connected with the sovereign impulse to criminalize and kill. Capitalist systems of private property ownership and resource extraction have never been separate from liberal systems of betterment and progress, as I’ve shown in the progression from North Coast genocide to legal and economic incorporation of Native life. Natives are enemies and friends of this system, sometimes enlisted and sometimes targeted. In this apparent contradiction, we find the core of the dual outlawry notion I have described—dual outlawry suggests both a position on the outside of an entire system of law and, simultaneously, the ability to be criminalized—and therefore subject to—that law.

As I concluded writing this chapter in 2015, the federal government had issued rules that tribes could grow and sell marijuana if they did not violate certain federal principles (trafficking, sales to children, etc.). With this move, an entire realm of economy and society became available to Indian involvement, much as gaming did before. Since tribal lands are not subject to state and
local taxes, the potential for tribal marijuana to dominate local markets is large. Yet, for tribes that have not only seen the vicissitudes of law but also the devastating effects of painkillers and alcohol, there is justified concern over this policy shift. Whether marijuana is life-giving or life-depleting is something each tribe will have to debate. As with casinos and gambling, however, if tribes manage to enter the marijuana business, the “double-bind” of sovereignty looms. Cattelino (2010) describes this double-bind as the granting of sovereignty to impoverished tribes until those tribes are enriched, after which demands for taxation mount. As the kind of mirror image of the double bind of the outlaw, the double-bind of sovereignty is consistent with the rule of indigenous communities through political and economic exceptionalism. These double-binds are present within the letter of the law but cannot be understood in the absence of political-economic analysis. Attending to political economics during the coming marijuana legalization shuffle will be of paramount importance.

In the ongoing international struggle between settler-colonial US and “domestic dependent” First Nations, we see a nexus between liberal rule of law, private property, and criminalization. The power of the US to exempt itself from the rules of its own legal and property system in the genocide and governance of Native people is plain to see. This exceptional power is not, however, an aberrance of liberal rule of law. Rather, the moral judgments of “the criminal”—Native American and settler-colonial alike—and the denial of rights, freedoms, property, and citizenship are an everyday exception-making practice of the US state. Under the cloak of “justice” (that liberal tenet that masks the exception-making power of the government), the criminal is moralized and placed outside the protections of liberal society, allowing for an ongoing system of punitive governance and dispossession. “The outlaw” is a broad category that is most evident in the case of Native Americans but extends deep into US
governance. Marijuana has long been a method of managing the outlaw, but in California since
1996 an exception to the liberal government’s exception-making power of criminalization
dawned in the form of medical marijuana. It posed arguably the most direct and widespread
challenge to the US government’s most illiberal mode of governance, the War on Drugs. It is the
drug war system and the medical challenge deep in the heart of the rural conservative drug war
exurbs of the Sierra Foothills that I explore in the next chapter.
VI. ‘There’s a New Sheriff in Town’: Exurban Revanchism and the Politics of Marijuana

Marijuana Emergent: The Sheriff, the “Good Ol’ Boys,” and the Exurban Crisis

Tom was cooking a Thai-style pork that he later threw into fried rice. For the more white-bread members of the board of directors, he summoned a lasagna. Tom, an active and rotund white man in his late 40s, finished the meal off with his obligatory salad—a mitigation of the constant meat buffet in this Sierran mountain house. For an hour, while board members trickled in, we milled around the kitchen, griping plastic plates, eating and talking. Eventually, the group convened in the living room to move through the evening’s agenda. First, they covered small matters—communications issues, a discussion on which community organizations Collective Patient Resources (CPR) might donate to (or, more to the point, which organizations would publicly take money from medical marijuana patients and providers). Then they addressed the main item: whether, how, and to what extent CPR should endorse candidates in the upcoming Board of Supervisors elections.

CPR had made limited endorsements in 2010 but not very publicly, unsure whether an endorsement would help or hurt their candidate. Back then, the worry was how to keep people from going to jail. Two years later, the concern was how to win a pro-marijuana majority on the county’s core governmental body. A lot had changed.

Tom made the case for each of the district races. Half collective political education and half deliberation, the board settled on two “must-win” candidates and one candidate whose opponent fell in the “anyone but” category. CPR’s candidates ran the gamut. The must-wins were a pro-medical marijuana Democratic conservationist and former urban planner and a Libertarian rancher who had been advocating for the end of the drug war since his election to the
board of supervisors in 1984. The third selection was a Republican small business owner, former Teamster, and exurban migrant whose opponent, a Stockton-oriented developer, was tied to a staunchly anti-marijuana core within county government. The assortment of potential endorsements for this medical marijuana advocacy group reflected the motley crew that had assembled around the struggle for marijuana in this conservative county in the Sierra Foothills, deep in the heart of the federally-delineated Eastern District of California—law enforcement’s backbone of resistance to medical marijuana.

It was decided that all three would receive support, but the Democratic conservationist would receive the bulk of it. This might have been a tough decision for the heavily libertarian- and Republican-minded board of CPR, but they understood this candidate was their best bet to regularize marijuana within the county after years of repression by law enforcement. This libertarian-liberal unity, common with marijuana from Alaska to New Hampshire, was a result of CPR’s professed “single-issue” politics—an agreement to set aside all other political concerns to focus on creating a “different atmosphere” around marijuana in the region.

The evening wore on. The agenda was retired and joints were passed out—even Tom, a rare smoker, lit up to “prove I’m not a Narc to our friend Michael, here.” As conversation roamed from marijuana trimmer machines to dispensary politics to this year’s choice strains, Tom let me in on the profound implications of the possible election of Democratic conservationist Chris Wright, a county newcomer. “Five, ten years ago, this would never happen. You’d never have someone who’d been here just 6 years even think of running for supervisors,” he explains. “With all the eggheads moving in, across the Route 4 corridor [from the Bay Area], the good ol’ boys network is starting to loosen up.”
Calaveras was part of what many thinkers have labeled the “exurban boom” of “amenity migrants” to places where they can consume landscapes of “rurality” (Gosnell & Abrams 2010). Sociologists and geographers have produced a good amount of work on this process (Cadieux & Hurley 2011; Gosnell & Abrams 2011; Rudzitis 1999; Smith & Krannich 2000), particularly in the foothills of the Sierras (Hiner 2012; Walker & Fortmann 2003; Beebe & Wheeler 2012), giving special attention to demographic patterns and the political ecology of land use. Calaveras was a typical exurb (Hiner 2012), bearing many of the characteristics of deindustrialization, a burgeoning service economy, an influx of older, white exurbanites, increased emphasis on landscape preservation, and so on. It was sparsely populated with 45,000 people, 92% of whom were white and less educated than the rest of the state. Their average income was comparable to the state, and the area had lower rates of poverty. While Tom noted that the “good ol’ boys” network was loosening, they had maintained power through much of the exurban boom—largely as a result of the unifying political power of an anti-drug, “get tough” sheriff.

This chapter will show how marijuana in Calaveras was a key modality though which this exurban political economy came into formation in the 1990s and 2000s. In response to the ongoing ecological, economic, and social tensions of exurbanization, which came to a head in the recession of the early 1990s, Calaveras arrived at a political solution that I describe as a law-and-order “exurban revanchism.” This revanchism was rooted in the period’s conservative

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75 The label “exurbanization” says little about how the exurb is governed and ordered. To understand what the politics of the exurb were, then, one must look to both the specifically exurban dynamics of these spaces as well as to dynamics that operate through and beyond the exurb. This suggests an analytical shift from an “exurbanization” focus to a focus on “rural restructuring”—from what and who defines exurbs to how exurbs come into formation through processes that exist within, through and beyond the exurbs. The result is not just a focus on a politics of the exurb, which sets exurban politics aside as something phenomenal, to politics in the exurb (Ching & Creed 1998), which understand the exurb in its connections across various forms of space, jurisdiction, processes, and power flows. While it is important to understand the particularly exurban qualities of a process, reducing these processes to being simply exurban effaces the seething and bursting tensions that exist through exurbs. At worst, it reifies reductionist political narratives that see an absolute, unbridgeable difference between “rural” and “urban” America.
politics, reflected at state and federal levels, that sought to shore up a racialized anti-urbanism that displaced anxieties around “economic” (but always ecological, urban, and social) crises onto criminals. While many thinkers have explored how this anti-urbanism and its centerpiece, the War on Drugs, evolved in urban areas (Davis 1992; Parenti 2001; Sharff 1998; Waterston 1997), this chapter points to the flipside of this process: the ordering and consolidation of power within exurban spaces through the War on Drugs.

In Calaveras, the “anti-urban federalism” (Davis 1993) represented within drug war funding, institutional development, and ideological power tilted the balance of the local political economy toward a morally-inflected law. Anti-drug law enforcement not only shielded the exurb from urban corruption, but also ordered exurban society in the moralistic terms of criminalization and public safety. Law enforcement, which capped the conservative ruling bloc in Calaveras, positioned marijuana—medical or otherwise—outside the bounds of moral-ethical community in a revanchist buttressing of the exurb. Law-and-order governance was fueled by marijuana prohibition, which was the unspoken but core element of America’s domestic War on Drugs (measured in terms of pounds, value, producers, and people arrested and treated). A marijuana-fueled exurban revanchism smoothed over the contradictions of exurbanization (deindustrialization, the growth of a low-wage service sector, unfettered development, ecological degradation, and opaque and laissez-faire governance) thereby allowing for another decade of development, ultimately ending in the mortgage crisis of 2006 (two years earlier than the national recession of 2008). This new crisis would spell the end of the law-and-order governance and introduce a new polarization of the political terrain between libertarian-inspired property politics of the Right and a Left-tilted regulation-oriented conservationist-progressive bloc. The War on Drugs had served as a temporary political fix in Calaveras to consolidate and protect
exurban political power that would begin to disintegrate in the late 2000s. Indeed, the exurb was a product of the crisis in a white racial and economic order and became a key base of conservative, reactionary power in the US. This chapter explores a primary mode through which this was accomplished by following the simple story of the rise and fall of a Calaveras sheriff—and the medical marijuana advocates who ate away at the core of his power.

The chapter follows a simple structure. First, I describe the conflict between medical marijuana advocates and the sheriff as both parties attempted to delimit the boundaries of medical marijuana. Then I review the rise of the get-tough sheriff and his anti-drug power in the context of the early 1990s recession, and the challenges this posed to the existing political-economic order. Next, I show how the sheriff’s power declined during the new economic crisis and the rise of a sophisticated power bloc of exurbanites, planners, and conservationists—with medical marijuana advocates shutting the door on his authoritarian power. Finally, I reflect on medical marijuana advocacy, the War on Drugs, exurban politics, and the emergence of a new political-economic paradigm around marijuana—one in which fault lines are no longer between prohibition and liberty but over the terms of social regulation.

Law Enforcement and Marijuana: California’s Eastern District and the Backbone of Medical Marijuana Resistance

Dave Jack’s brain surgery had gone all right. But, by 1996, when Proposition 215 passed, the epidermoid cancer in his brain stem recurred. Given a 10% chance of surviving more than five years, Dave turned to marijuana to ease some of the symptoms he began to experience. When the tumor responded, its growth slowing, the doctor recommended Dave treat marijuana like he would any medicine—joints dosed throughout the day, every day. Dave assented.
It was in the summer of 1998 that Dave’s neighbor invited him to a medical marijuana “event.” At the Calaveras courthouse, Tony Serra, the celebrated lawyer, was holding a press conference with Supervisor Tom Tryon, the anti-drug war libertarian. These were tumultuous times in California: the previous Monday a blind diabetic in Tuolumne County to the south had just been found guilty of possession, setting off years of appeals in a landmark case that put into question even the most minimal “medical defense” interpretation of Prop 215 (California v Mower). The same day the founder of the state’s first dispensary, had been ordered to close up shop. Now, in Calaveras, another medical marijuana user, who provided marijuana to Oakland’s new cannabis buyers’ club, had been arrested by Calaveras’ new sheriff, Dennis Downum.\(^7\)

This was gravy for Sheriff Downum, who had left Oakland a few years prior, repulsed by the social breakdown of the crack epidemic and homelessness boom. Now, from his new exurban perch, he had the good fortune of busting a medical pot grower supplying his old, corrupted city of Oakland, which had become the epicenter of the growing medical marijuana movement. The case, People v. Galambos, which concerned common law defenses of “medical necessity,” was typical of the period: it was a struggle to clarify and delimit the powers of law enforcement and the in/violability of patients’ rights.

When Dave arrived at the courthouse, he was immediately confronted by a police officer with a video camera asking him why he had come. Sidestepping, he made his way to the courthouse, where Serra, Supervisor Tryon, and several patients were holding a press conference. As Dave remembers, Sheriff Downum had set up a squadron of 24 officers “standing at parade rest in full swat gear” flanked by two cannons. If Serra and Tryon sent their messages, Downum would, too. Marijuana in Calaveras, medical or otherwise, would be responded to with force.

Downum’s show of force was not uncommon in California’s Eastern District, which encompasses the San Joaquin and Sacramento Valleys, ranging from agricultural Kern County to the Oregon border, including most of the Central Valley, the Sierra foothills, and the sparsely populated Sierra region. Law enforcement operates out of the federal offices in Sacramento and a regional Department of Justice office in Fresno. The Eastern District encompasses 34 of the 58 counties in California, yet contains only 20% of the state’s population, leading McCartney (forthcoming) to compare its electoral power to the US South. This translates not only into legislative power for these conservative counties but also greatly influences the statewide law enforcement professional associations and lobbying groups of law enforcement agents. The majority of California State Sheriffs Association members come from the Eastern District. The California Narcotics Officers Association has a leadership that emanates out of (conservative) southern California and the Eastern District, with few exceptions. Finally, 40% of the California Police Chiefs Association Board is comprised of Eastern District representatives. These groups are dependent on a steady stream of federal anti-drug funds and contracts to conduct a significant amount of officer training. Further, their members—California’s sheriffs, police chiefs, and narcotics officers—are dependent on federal funds to supplement their own local budgets. These groups, their support drawn from the heavily-white and very conservative Eastern District, have consistently been behind efforts to undermine marijuana ballots and legislation since 1996, most recently in the successful effort to defeat 2010’s Proposition 19.

As Pat McCartney (2004) uncovered, after Proposition 215 passed it took only 9 days for these organizations, along with California’s Attorney General’s special assistant, DEA representatives, and dozens of other officials and representatives, to convene in Washington DC, hosted by former President Clinton’s Drug Czar Barry McCaffrey. In four meetings over the course of a month, the working group drafted strategies to torpedo Prop 215 before it ever took hold. California’s Attorney General Dan Lungren convened a Sacramento meeting to urge law enforcement across the state to continue arresting with impunity, arguing that the status of medical marijuana was a matter of courtroom defense, not arrests and prosecution. This restrictive understanding framed marijuana as “an affirmative defense” and not a constitutional protection and right (despite the fact that California ballot measures have the same status as constitutional law). Lungren’s actions set the stage for a series of Eastern District court cases—with defendants Richard Levin in Redding, Steve Kubby in Placer County, Bryan Epis in Chico, Myron Mower in Tuolumne, Aaron Paradiso in San Joaquin, Richard Galambos in Calaveras, among many others—between adamant sheriffs and equally-adamant patients over the status of medical marijuana. Where would the boundary between reserved rights and law enforcement power lie? To bolster the side of law enforcement, the DEA gave local sheriffs a powerful new capability: federal cross-deputization. Sheriff Downum was quick to seek this designation.

The authority for cross-deputization was granted in 1997 by US Attorney General Janet Reno, immediately following the passage of Proposition 215. While the change in DOJ regulations to allow for this cross-deputization oddly did not trigger a “Federalism Assessment” (for an action with implications for the balance of federal and state and local powers), it effectively set up a bureaucratic practice that empowered local law enforcement to sidestep state

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law by using a federal deputization. California’s county law enforcement was now the federal government’s law enforcement. In this way, Downum and other sheriffs throughout the Eastern District were able to settle the question of medical marijuana rights through policing practices. There was no question that marijuana of any sort was illegal under federal law.

During the Calaveras trial, Downum took the stand, going head-to-head with the defense. When Serra asked Downum whether he was aware that 215 was now state law, Downum likely had in mind his cross-deputization when he responded he didn’t care. In this county, it wasn’t legal. In a way, he was right.

*Politics of Delimitation: Libertarian Right, Law Enforcement, and the First Round of Medical Marijuana Activism*

Dave Jack, electrified by his first foray into activism, soon found his voice. Along with a close compatriot, Dave traveled the state, immersing himself in a community of activists and deciding how best to handle the law enforcement power in the Eastern District. Time and again, they’d show up at legislative meetings from Mariposa to Calaveras, becoming experts on state law, particularly Article 3, Section 3.5 of the constitution that disallowed government agencies from subverting state law. In their view, any encroachment or regulation of the right to possess, cultivate, and consume medical marijuana was subversion of citizens’ intent. In essence, Dave held a libertarian “politics of delimitation”: a practice of circumscribing, defining, and delimiting the scope of law (enforcement) in its relation to in/violable (medical marijuana) rights—a political struggle that was typical of medical marijuana’s early days as it found its place within a legal-governmental order.
Conversely, law enforcement (i.e. California’s law enforcement officials and district attorneys) had embraced an interventionist politics in their effort to position medical marijuana not as a right but simply a defense, thereby allowing government intervention of nearly any sort. This put the onus upon patients to prove their medical marijuana status instead of on the government to justify the abrogation of rights—the difference between a right and a defense.⁷⁹ (The possibility of federal prosecution always remained, especially in places where sheriffs were cross-deputized and district attorneys were keen to prosecute marijuana offenses as felonies instead of misdemeanors, under marijuana’s status until 2010 as a “wobbler,” a charge that could be either a misdemeanor or escalated to a felony.) Like many counties, Calaveras had no legislative policies to adjudicate between these two different political practices, thus leaving its resolution to the courts, DAs, and the discretion of law enforcement.

Given the court’s default power, Dave understood that advocates would have to set judicial precedents and shut down the possibility of conviction by juries. To this effect, he and a core of activists organized a “walker patrol.” This patrol, many of whose participants were in wheelchairs or using canes like Dave (on account of his tumor-induced balance issues), would attend trials of people charged under marijuana laws. “When the defendant was left alone and had no support, they generally…went down,” he explains. “What we did was we bring in the walker patrol and they sit in the court. Usually we would sit in a block but there’d be 10 or 12 of us in a trial.” The first Calaveras case they patrolled was that of Bill Harrison, who had been busted with 64 plants. When he showed the sheriff his recommendation, Downum allegedly responded he could use it as toilet paper. Nonetheless, Harrison was found not guilty, the first

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⁷⁹ The issue wouldn’t be resolved until 2002 Mower decision, originating in Tuolumne County to the south of Calaveras. The court ruled that the “arrest first, ask questions later” practice was untenable, setting the stage for SB 420 in 2004, which effectively removed medical marijuana patients from the court system.
decision of its kind in Calaveras. This was one of the (if not the) last actual prosecutions of Calaveras medical marijuana patients. Despite this win for advocates (nullified juries and judicial precedent), the sheriff continued arresting hundreds of medical marijuana advocates over the following years. The aim was not to prosecute but to strike a plea bargain, thus creating a kind of pre-judicial practice giving the sheriff (and DA) substantial executive force.

It was this same year that Dave Jack’s petition to have the county develop a workable medical marijuana policy—one that would officially delimit rights and procedures—stimulated the formation of a county commission. Dave found himself on the task force with four doctors, two pharmacists, Sheriff Downum, the DA, and the police chief of Angels Camp, the only incorporated town in the county. The task force met over several months and eventually voted on a proposal made by a physician in the group, which would allow approximately 32 plants and two pounds for legal possession (a limit the county was able to decide on its own because of lack of state guidance). Downum, the DA, and the Angels Camp police chief voted against it. During this meeting, Dave recalls, Downum accused Dave of being the one: “He was pointing at me—‘you are the one that’s doing all this shit to me.’” With that he picked up a folding chair, Dave remembers, and threw it to the ground, storming from the room. Afterward, a county supervisor participating in the meeting walked over and informed Dave that regardless of the resolution having passed, “it is not going to fly. If we don’t have the sheriff’s cooperation it doesn’t mean a thing.” Despite the sheriff’s de facto veto power, the supervisors ultimately passed a modified version, signaling that his power was not absolute.

To signal his displeasure, Downum raided Dave’s Northern Lights Church while both of them were sitting on the county commission. Northern Lights, a Gnostic sect that considers cannabis a sacrament, claimed a freedom of religion defense for their ability to provide
marijuana to patients—yet another tactic in the aim to circumscribe rights and delimit governmental power. The church had begun in Sonora, one county to the south, out of fear of Downum; Calaveras had just shot up from one of the lowest marijuana arrest rates to being fourth in the state. Dave became emboldened in a growing community of activists. A couple in Calaveras (Rick and Sue Garner, who had recently converted to the sect) agreed to use their property to grow marijuana for 23 patients under the auspices of Northern Lights. It was the first dispensary (of sorts) to exist in Calaveras and put to test a statement by county counsel that private sector dispensaries were not prohibited. Resourcefully, Downum claimed the church didn’t have a proper business license. Dave responded with a lawsuit against the county for a violation of the boundary of church and state. Eventually, Dave and his codefendants dropped the lawsuit when the county changed its policy on churches and business licenses. The charges against the Garners were dropped, however, only when they struck a plea bargain in what was becoming a classic move for the sheriff and DA. For renouncing the Northern Lights church—and shutting down its official operation—no charges were brought against the Garners. Despite this, the couple was granted an allowance by a judge to continue to grow for patients. The sheriff wouldn’t tolerate it: two years later he came and chopped down their plants, eventually driving them from the county to Oregon after they went bankrupt and foreclosed on their home. “Last I heard [they’re] not doing well,” Dave reports. Once again, though advocates made some advances, the substantive power of Downum’s policing and pre-court practices curtailed medical marijuana rights and extended law enforcement power.

For the first few years of the 21st century, Dave Jack and a small number of Calaveras patient activists sparred with the sheriff in this war of position, going on the offensive as they tried to expose suspected informants, support arrested patients, and, in one case, catch the sheriff in a lie about plant counts (since large plant counts in a given year translated into increased federal funding for law enforcement the next). Things came to a head in 2004 when Kim Cue stepped forward to open a dispensary—the first since Northern Lights and the first storefront-style dispensary. The county, caught off guard, placed a moratorium on dispensaries while they studied the issue. One supervisor remembers:

We heard about the issue, we brought people in with cancer, who were medical marijuana patients and then Downum comes in with this reefer madness video, a PowerPoint to show all these doubtful connections. It was appalling,” he explains. “It was so backward, messed up, so ridiculous that it kind of lost those who were taking this study seriously.

One supervisor said, ‘Come on, this isn’t at all what’s going on, this is crazy.’”

The Sheriff overplayed his hand, particularly amidst the less hysterical tone of advocates, who advanced “facts and not ideology.” “It was so clear one side was ideological and the other just had a human side,” he concludes. Unlike the county commission four years prior, the board rejected Sheriff Downum’s opposition and allowed Cue to open.82

Undeterred, the sheriff drew upon his war chest, brandishing his DEA cross-deputization to circumvent the supervisors and enforce his own ban on dispensaries. In response to Cue’s licensing, he remarked, “I guess we have to see whether the feds trump the state.”83 This was interpreted by many, including Cue, to mean that Downum, who wore both federal and county

hats, would execute that “trump.” Demurely denying his statements were threats—“If she took something I said as a threat, I can’t imagine why”—he then extended the threat to the supervisors, stating, “In some other jurisdictions the board’s decisions have left it open for some liability.” In line with his cross-deputization, he said of the dispensary that the federal government “could expect my cooperation.”

The threat had its effect: “Anybody would be out of their mind to open up a dispensary after that,” Cue said, despite the county go-ahead. Regardless, she went on to open a two-county delivery service. Her car was followed daily by a deputy as she made her deliveries. When she crossed the county line, the deputy would wait at the bridge for her to return and then resume her tail. Under such duress, she eventually stopped the service and moved to the Bay Area.

Dave Jack also made an escape. The harassment was too much: police parked outside his driveway, miles from the police station; a deputy started a whisper campaign against his son; county deputies raided his house (despite it being in a different jurisdiction); he was threatened with removal of his son; a request went to the DEA to initiate an investigation of him. One day his son walked in the house with three-quarters of an ounce of marijuana he had found hidden in his backseat—a day later his son was pulled over and his car searched, though nothing was found, to the befuddlement of the officers. Pushed to the limit, Dave and his family, Calaveras residents for over 30 years, left. The first wave of Calaveras medical marijuana activism lay in shambles.

Downum’s chief opposition in drug-related matters prior to 2004 had been libertarian Tom Tryon, a politician whose philosophy mirrored the “politics of delimitation” of marijuana advocates: keep government out of private affairs. But in 2004, Downum’s substantial power to override legislative power sparked the ire of the newly-elected progressive supervisor, Steve
Wilensky. The shift from Tryon to Wilensky signaled a new aim: instead of a politics that aimed to get government out of marijuana, the question would be how government would be involved in marijuana. This new paradigm was part of a broader political-economic shift in Calaveras around issues of property, ecology, and governance—a shift that would eventually pull the rug out from under Downum. Few issues would prove as pivotal as marijuana in the struggle over the political vision for and governance of a county undergoing broad restructuring. The stage for this shift, however, was not set with Wilensky’s election in 2004. Rather, the seeds were planted in 1989, during a faltering economy and the first major hiccup in Calaveras’ decade-plus exurban boom.

*The Moral Fortress: Ordering the Exurbs, Moral-Conservative Spatiality, and the War on Drugs*

Prior to 1989, proceeds from the exurban boom had papered over the decline of Calaveras’ extraction industries as residential development and a new exurbanite-centered, low-wage service economy took hold. In the years leading up to 1990, the exurbs had been the destination of and spatial fix for deregulating flows of capital and a white population destabilized by deindustrialization and urban transformation. In what follows, I explore the contradictions and tensions of exurban formation in their relation to the ascendant anti-urban, moral conservatism. The War on Drugs was a key policy setting the stage for an exurban revanchism that would take hold when the exurbs experienced their inevitable ecological, social, and economic crisis.

Since the 1970s, Calaveras’ core extraction industries—concrete manufacturing, gold, asbestos, and talc mining—were undergoing massive structural changes that left the county faltering for economic footing. Though timber, sand, gravel, and crushed rock production continued, profit pressures from corporate consolidation and globalization (which caused other
core industries to vanish in the 1980s and 1990s) led to the continual replacement of labor with technology and the evaporation of multiplier jobs—jobs that effectively supported the rest of the economic infrastructure (Limbaugh and Fuller 2004).

Despite this, Calaveras’ population boomed, increasing 53% in the 1970s and 35% in the 1980s, surpassing the county’s highest absolute population during the Gold Rush in 1860 (Limbaugh and Fuller 2004). Between 1970 and 2010, the area’s population increased by 233% compared to 52% for the nation, placing Calaveras solidly in the middle of what has come to be called the “exurban boom.” Calaveras’ in-migration was typical of exurban booms. It:

1) was overwhelmingly white and older, leaving Calaveras with nearly quadruple the proportion of elderly people as the state at large;\(^84\)

2) saw a marked increase in the proportion of county revenue comprised of dividends, rents, interest, and transfer payments (e.g. retirement fund payments);

3) came in largest numbers from urban areas—specifically the Central Valley and the East and South Bay (San Joaquin, Santa Clara, and Contra Costa);

4) signaled the decline of in-county jobs and the rise of commuters (41% of workers commuted out of county\(^85\) as county income inflows from elsewhere increased 82% between 1990 and 2010);

5) led to a wage labor decline (from 72% in 1970 to 50% in 2000 of total income)\(^86\); and

6) led to decreases in industrial jobs (e.g. mining fell from 5.5% in 1970 to less than 1% in 2000; manufacturing declined from 13% to 4.4% in the same period); and

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7) led to increases in retail and service sector jobs (becoming the largest job creator) and construction (which doubled).

The new jobs were not, as a whole, well-paying: real income in 2010 was just 75% of what people made in 1970 (in 2011 dollars). While industrial jobs paid 7.5% above county averages, service jobs paid 20.4% below. Given that total service job income skyrocketed 223% from 1970 to 2000, one can deduce that more people were working for less. In this new economy, exurbanites replaced miners and loggers as the new, peculiar, multiplier population, multiplying low-wage service workers who lived off the anemic trickling down of exurbanite rents, dividends, retirements, and interest. The local economy could continue as long as retiring workers were well off and good jobs existed elsewhere to commute to or draw retirement from. Calaveras was now exurbia (Garreau 1991; Jackson 1985).

This boom was part of a broader regional trend. In the 1970s, California was home to the most rapidly increasing housing values in the nation, increasing at three times the rate of income (Davis 1992), even in the Bay Area, which held the highest incomes of any metropolitan area in the country (Walker 1996). The Golden State was very much at the center of America’s “Golden Age” (Hobsbawm 1996): agribusiness, the banking industry, construction, microelectronics, and defense were at the industrial core of California and the core of American reconstruction of the global market after World War II (Walker 1996). With the economic turbulence of the 1970s, California land became an attractive investment for many. By 1989 half of all US-based foreign-owned assets were in California (Walker 1996). Property or proprietors’ income (rents, interests, profits, dividends) increased by 40% in this period (CDF-CEI in Gilmore 2006). Also,

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87 EPS-HDT, 2014.
California, taking a cue from Reagan’s deregulation of S&L banks, became the center of the S&L industry—the foundation of the mortgage industry at the time (as a result of the 1982 Nolan Bill’s deregulating force [Robinson 1990]). While Proposition 13, which virtually froze property taxes, was meant to provide relief to homeowners impacted by the property boom, it also made California land investments that much more attractive to investors, leading to a second boom in the 1980s. Localities were starved of property tax revenue in post-Prop 13 California, so to gather sales taxes they turned to developers to produce more properties, particularly commercial properties. Localities also offered bond measures to investors, in order to fund larger projects. Capital poured forth into California’s rural landscape, in a time-honored but crisis-prone tradition (Henderson 1999).

In California’s rural areas, legislation that established different property taxation systems for timber (the Forest Taxation Reform Act of 1977) and ranch lands (the Williamson Act of 1965) put some restraints on the reach of developers, and California was spared the worst of the 1980s farm crisis (Walker 2004; Dudley 2000). Yet, California did take hits, particularly in the Central Valley, where San Francisco-based Bank of America was heavily invested. Bank of America would nearly fail in the S&L scandals of the late 1980s, one of the effects of which was a wave of foreclosures throughout the Central Valley (Gottlieb 1998 in Gilmore 2006). Indeed, disinvestment in farmlands occurred more rapidly than re-investment in residential construction, leading to a fierce competition for developer attention by governments on the fringes of urban and suburban areas, where farms abutted the built environment. This interurban rivalry transferred power to developers in boom-hungry localities (Gilmore 2006).

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As urban areas went through their own bouts of deindustrialization and devaluation, developers and investors increasingly sought other investments in the exurbs, where post-industrial white flight had landed, seeking the supposed safety and reclusion of rural life (Walters 1992 in Gilmore 2006). The racial character of this migration out of the city was tied to a maturing anti-urban ideology (Macek 2006). It blamed purportedly diseased, criminal, blighted and morally declining cities (Smith 1996; Wacquant 2001) for the dissolution of the dividends of imperial and racial privilege. The moralistic condemnation of cities underwrote the disassembly of the welfare state (Goode & Maskovsky 2002) even as it cohered around a nostalgic reverie of a frontier life (perfectly encapsulated by Reagan, the cowboy president [Lasch 1991]) and homogenous, white, heroic culture (Slotkin 1992). These forces were fixed in space by exurban sprawl (Davis 1993). The exurb was now a moral fortress.

This moral fortress not only withdrew social spending from urban areas, it was also mirrored in the continued impoverishment of rural whites. The militarized policing of people of color and the poor in urban areas went hand in hand with the arming of exurban police forces to enforce “law and order,” an arming that was but one extension of a larger gun rights logic. This was not the unreformed, rural “backward” police of Easy Rider, but rather was a new and contemporary form of policing that obfuscated progressive ruralist traditions in favor of a new rural-exurban conservatism. Law-and-order governance and its drug war sought to order society in conservative, moral terms. It excluded the criminalized from political participation, and consecrated a political language of moral decline and public safety. This was most intense in California, Reagan’s home state, within which Reagan tested his first rural domestic policing initiatives in the form of the federally-funded Campaign Against Marijuana Planting (CAMP) program. Originally seen as Reagan’s revenge on the counterculture for its uprisings during his
governorship, the more so for focusing on the central settlements of the back-to-the-land movement in California, by the 1990s CAMP had spread through the state (Corva 2014). Efforts like this sought to fortify and buttress exurban and rural areas from the wrong kind of (political) development—not just from racialized people marked as “urban” but by white people (hippies, environmentalists, dope growers) who threatened the moral, homogenous exurban political bloc Reagan and others cultivated.

The exurb was a spatial expression of white flight buttressed by what Mike Davis called “an anti-urban federalism” (1993). This form of US anti-urbanism has a long genealogy from Goldwater on, but its full elaboration came in the Reagan era in the geography of trickle-down economic policies, the benefits of which were “centrifuged off to Edgeland” (Davis 1993). The cuts made to urban expenditures and the trickle-down economic policy of tax breaks came to settle in suburban and exurban overbuilding of office and retail space. These policies were amplified in California when retail and commercial development (such as strip malls) became the desired form of development, since they brought new sources of local sales tax revenue after Proposition 13 denied localities property tax revenue. Davis (1993) argues that Reagan’s policies, the War on Drugs included, “subsidized white flight and metropolitan resegregation” from which the exurbs emerged as “the culmination of a racial sorting out process.” The fear instilled by the drug war’s association of cities, racial minorities, crime, and moral decline worked to ideologically fuel white flight just as the fortification of exurbs bolstered the (declining) value of whiteness. People of color (and welfare recipients, people living with HIV/AIDS, criminals, among others) were meant to stay in cities and bear the brunt of blame for broader social-economic decline. This process culminated in California with the LA riots, which were, in a way, simply the flip side of the rise of the exurban-suburban fortress.
“The age of the edge city” dawned in the early 1990s (Davis 1993). The exurban moral fortress was now reworked by Clinton, the centrist Democratic Leadership Council from which he came, its suburban-oriented appeal to “the middle class,” and its rejection of the urbanism of Jesse Jackson and his Rainbow Coalition. The War on Drugs continued and welfare was dismantled. The urban specters of morally-offensive artists, welfare queens, crack users, and “AIDS-infected” gay men made ominously threatening under Reagan and Bush were reheated and rehashed under Clinton. Significantly, 1992 marked the year the political majority of the American electorate became suburban and exurban. This new ex-urban electorate was the muscle behind the two-party consensus around an anti-urban, racialized War on Drugs. Maintaining control over these fortresses of electoral power was critical to continued Republican power, but appealing to them was also critical to the gains of Democrats.

Calaveras was typical of these layered processes. By the late 1980s it found itself bruised and battered, its in-migration faltering after the 1987 California-centric S&L scandal and the early 1990s economic recession. The fervor of the 1970s and 1980s construction and property boom had concealed the deterioration of Calaveras’ core extraction industries and the devastating reality of Proposition 13 for local budgets. Now, with a high unemployment rate, Calaveras turned inward, looking for a way out. It was in this moment that both Steve Wilensky and Dennis Downum found their calling, albeit in very different ways.

_Governing through Crisis: Conservationism, Laissez-Faire Extractionism, and the Contradictions of Exurban Growth_

In 1989, Steve Wilensky was part of a growing upsurge of conservationists in Gold Country. The first wave of this movement came in the 1970s “back to the land” movement
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(Duane 1999), but rural conservationism in early-boom 1970s was a much different beast than the environmental movement of the late 1980s, when exurbanization was in full swing and reaching its first substantive crisis. Nationwide, local grassroots environmental groups were on the upswing, many of them disaffected by the increasingly bottle-necked, conservative politics of large, national organizations. Also, the growing concentration of wealth in the Reagan years lead to an explosion of conservation land trusts in the same period. These developments drastically reworked the environmental movement nationally and spread environmental outfits into all corners of the country (Cawley 1993; Walker 2009). In Calaveras, this was reflected by an organizational boom: the Mother Lode Land Trust (1991); the Central Sierra Environmental Resource Center (1990); the Sierra Nevada Alliance (1991); and Wilensky’s Foothill Conservancy (1989). Environmentalists continued the expansion of their base with the founding of the Sierra Forest Legacy in 1997, Blue Mountain Community Renewal Council in 1999 (which Wilensky would direct), and Ebbets Pass Forest Watch (2000). In addition, environmentalists won an early 1993 victory against the East Bay Municipal Utilities District (which relies on water from Calaveras’ Mokelumne River) for its role in contaminating local water supplies.\footnote{Ninth Circuit Court. 1993. \textit{Committee to Save Mokelumne River v. East Bay Municipal Utility District}. Accessed on Aug 20, 2015. \url{http://home.sandiego.edu/~jminan/waterlaw/Committ.html}} Notably, this case was not won just by environmentalists but was joined by a rough coalition of sports fishermen\footnote{California Sportfishing Protection Alliance. 1998. Request for Rehearing. Accessed Aug 20, 2015. \url{http://calsport.org/dev/12-21-98.htm}} and consumption-oriented, landscape-conscious exurban “amenity migrants.” Though not yet very organized at this point, exurban residents were nonetheless beginning to make successful demands, as in the 1989 lawsuit against the county, brought by Copper Cove subdivision residents, for approving a gold mine without an environmental impact report.
The significance of these victories should not be underestimated. A potential exurbanite-conservationist unity held out a different notion of property and governance than that which had developed over Calaveras’ history of resource extraction. It would require property to be thought of not only in terms of its production value (as potential houses or extracted, marketed resources) but in terms of its impact on natural ecologies and physical landscapes (as a place people live, invest in, appreciate, and desire to be conserved). Similarly, it would require more transparent government. Variegated and often conflicting land use agendas necessitated a more public process to mediate disputes and public priorities, particularly as exurbanites sought a landscape to enjoy, consume, and draw value from. In a more crowded county, downstream and downwind properties made new demands upon land use that weren’t an issue in less-populated times. Conservationists and their fledgling exurbanite allies faced a governing system that had developed over 130 years of resource extraction.

Extraction fostered a laissez-faire yet tightly-controlled (nepotistic, some would argue) government. This is referred to in conflict theory as the “resource curse,” which posits that the larger the “lootable” wealth, as Nazih Richani explains, “the more likely that political entrepreneurs will emerge to challenge governments, given the payoff prospects.” This theory posits that government is weakest and most inscrutable in situations where private economic interests compete with the government for control over and access to these resources. This is because resource extractors do not seek land as a “location” for their operations; rather, the land is their operation, making relocation impossible at one level. They seek a different type of control over land, one that posits absolute control and minimal governmental interference—in effect challenging government’s claims to territorial power. To understand the “resource curse,” states need to be seen as one among many competing claimants to a territory (Chalfin 2010;
Gallant 1999; Hibou 2004; Richani 2010; Tilly 1985). This theory has been criticized for
drawing too stiff a relation between resources and political form, which in effect eliminates
politics, history, and power from analysis. Yet, there is a way to understand, as Coronil (1997)
does, how resources factor into the formation of political power and can tend toward certain
historical outcomes—in this case, nepotistic, laissez-faire, law enforcement-heavy governance.

Competition for territorial power affects the physical environment, as land is ransacked in
the name of wealth creation, cultivates a weak rule of law, and other political-economic entities
vie for power and subvert the function of government. As is common the world over (Watts
2003; Coronil 1997; McCoy 1991; Hibou 2004), the polyvalent, loosely-cohered, weak
governing structure trends toward laissez-faire land use policy and violence-filled social life.
This was evident in Calaveras’ reputation as “being a good place to drop a body,” according to
one retired outlaw-turned-marijuana grower, because of its sentencing leniency toward murders
(“you’ll only catch seven years there but the next county over you’re going for life” he explains).
This characterization holds when one surveys periodic Calaveras news stories of murdered
bodies found (including a mass grave of 700 body parts built by Wesley Shermantine and Loren
Herzog) and the serial murders by Charles Ng and Leonard Lake in the 1980s. From its Gold
Rush days as the site of California’s first vigilante manhunt (for a mythical Mexican outlaw, no
less) (Brands 2002), Calaveras (“skulls” in Spanish) was a place where law was weak, violence
mundane, and wealth extraction the aim.

The little coherence that Calaveras held onto since its inception in 1850 was the principle
of “private property.” The valorization of property rights was a bedrock belief among yeoman
‘49ers, many of whom had left the rigid class structure of the East Coast (and other countries) for
the promise of land, rights, and autonomy. Indeed, Calaveras, once the Rush and the
expropriation of native Miwoks began, was little more than a collection of property claims. Fittingly, the first Gold Rush government was essentially a pact to respect property rights (Limbaugh & Fuller 2004). “Government” came late and slowly to Calaveras, and then mostly to mitigate competing property claims and maintain law and order.

Property rights as historical heritage⁹¹ dovetailed with and was mobilized by extraction industrialists to support a *laissez-faire* government through much of Calaveras’ history leading up to the exurban boom—and continuing well into it. The government that greeted exurban developers was one brewed in the days of resource extraction. The example of Chief Building Official Ray Waller, who held various county positions for 22 years before his highly public demise in 2007, tells the story. In his position as regulator of county building projects, Waller was at the center of two decades of a breakneck exurban boom, parlaying this position into a powerful gatekeeping role for county construction and development. An audit of his offices during the episode that would oust him from county employment revealed missing records, evidence of approval of substandard construction projects, the outlines of a “pay to play” system, a conflict of interest in Waller’s partnership in a local speculative housing development (the paperwork for which he would try to fudge, despite county warnings), and evidence that he discarded documents that recorded errors by his department in order to avoid liability. There were allegations that Waller’s involvements possibly went much deeper. Steve Weber, a building inspector fired by Waller alleged such when he filed a grand jury proceeding against Waller. Weber turned up dead in a Sacramento hotel room; no investigation into his untimely death was initiated. His documentation against Waller would never see the light of day and the grand jury, led by a pro-developer future supervisor, would dismiss the case.

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⁹¹ While one should have caution about projecting founding ideologies of property rights forward into history (Starr 1973; critique by White 1998), even as late as 1996, the mission of Calaveras General Plan (essentially the county’s constitution and governing rulebook) was to “preserve individual property rights.”
While Waller’s prominence shows a seamlessness from extraction-based to development-based government, Calaveras’ new core industry—housing—was different. It did not start and end with capital development. Unlike a mine or factory that can be abandoned as workers scatter, houses and communities are where people live. Housing is a commodity, which, when created, can stymie its builders. Residents, though beneficiaries of previous development waves, often seek to stop newer waves of development and residents (Davis 1992; Dolgon 2007). In exurban areas, this is often put in terms of efforts to preserve the rurality of landscapes, signaling the conversion of land use (and property valuation) from extraction and production to its configuration as an amenity to be consumed, experienced, admired, and preserved (Cadieux & Hurley 2011). It is only a matter of time before the housing commodity produces populations that produce political demands (Gosnell & Abrams 2011; Beebe & Wheeler 2012; Nelson 2002; Smith & Krannich 2000; Walker & Fortmann 2003). As residents find political voice, governing systems have either to accommodate and order these demands or face extinction.

**A New Sheriff in Town: Anti-Urbanism, the War on Drugs, and the Buttressing of the Exurban Fortress**

In the early 1990s, the threat of conservationist-exurbanite unity to a _laissez-faire_ developer-extractionist political economy found its answer in a recent exurban arrival: soon-to-be Sheriff Dennis Downum. The year Wilensky was helping to found Foothill Conservancy, Downum arrived in Calaveras (first working as a welfare fraud investigator) from the Oakland Police Department, where he was a vice cop commuting from suburban Pleasanton. Downum was disillusioned with a city in decline and yearned to return to Calaveras, the home of his youth, “made up of unbelievably good people” where “nobody had ever heard of public assistance” and
“everybody worked and looked after each other.” His vision of a community-based police force, which he hope to build, seemed an unattainable dream in a world ruled by “liability” and moral decline. To him, the rise of “medical” marijuana encapsulated these seismic shifts; the war against it would presumably avenge, if not rectify, a community in the process of being lost. Wilensky, however, viewed Downum’s vision as rose-colored, simplistically situating today as a fallen Eden: “This was a guy who was still fighting the culture wars of the ’60s. He came to Calaveras to get even. He harassed anything that seemed like a counterculture… He devoted his life to this. It was a simplistic way of viewing the world: get rid of marijuana and your problems will be over.” The existence of a prior, idyllic, static rurality has been debunked (Henderson 1999)—the rural West has always been a radically changing social landscape (Brechin 1999; Lamar & Thompson 1981; Slotkin 1992; Wolf 1999). However, this truth does little to mitigate the actually-existing desire Downum expressed as he mobilized for political power.

Downum provided an answer to growing insecurity among conservative exurbanites as property values declined, new waves of migrants and developers encroached on an increasingly crowded landscape, and unemployment reached its height. The county tried to find new footing in an emerging, fragile, low-wage service economy. Timber production was dropping precipitously in response to new Forest Service guidelines; the cement plant and its railroad connection had been dormant for a decade. Two major gold mines, sparked by a brief countercyclical boom in gold prices, closed in 1991 and 1994. Worse, “anti-growth” environmentalists were ostensibly ruining any possibility of economic comeback as they brought lawsuits against gold mining projects and water pollution.

Downum united the county’s longstanding and newer conservative elements, many of them white-flight exurbanites who moved away from cities to escape “urban” problems. He offered a vision of law and order, public safety, and protection of private property and public morality. Though Downum expressed a reverie of a “rural” county of his childhood long since built over in the exurban boom, it was not “newcomer” exurbanites and the radical changes they brought that were problematic—it was marijuana, criminality, and the wrong type of exurban migration. Marijuana and crime were framed as the progenitors of insecurity. As a sheriff who was part of the exurban wave, he would say during one marijuana case that it was his duty to serve constituents, like himself, who had moved to Calaveras to escape urban crimes and drugs.\footnote{Lewis. 2000.}

He even pitched himself as an outsider candidate who sought to establish law and order despite a “good ol’ boy” system that might wish against it.\footnote{Metzger 2010.} Downum answered an exurban yearning for a stronger government but, rather than protecting exurbanites from developers, extractionists, and a laisser-faire government, he proposed to protect them from criminals and drug users that threatened their rural respite. Here was a figure that could divorce exurbanites from “anti-growth” conservationists by channeling their anxieties into a “revanchist” (Smith 1996) discourse of “law and order” and “public safety.”

Downum’s moral order was a campaign aimed at consumers of rural life. Studies of (exurban) gentrification have shown that is deeply related to flows of capital (Darling 2006; Smith 1990), as evidenced in Calaveras’ outflow of industrial-extractive capital and the influx of development-based capital in a particular regulatory environment of the credit-easy 1970s and deregulated 1980s. Consumption-based studies (Rudzitis 1999; Zukin 1987) posit that flows of people toward and away from certain landscapes and built environments are determined by
lifestyle preferences; they also illuminate the political resonance Downum found. Both conservationists and law-and-order conservatives appealed to different aspects of the same exurban dream: rural landscapes and/or a moral, safe, homogenous community. To the degree that Sheriff Downum and the conservationist core around Wilensky appealed to these desires, they could consolidate a base of power. Institutionally and discursively, the small infrastructure of conservationists, counterculturalists, and anti-development exurbanites could not impact the historical power bloc of developers, extractionists, government officials, and conservative, public safety exurbanites now organized under Downum’s unifying vision. Downum’s iron-fisted order—and its articulation of exurbanites anxieties—would stabilize an unreformed, laissez-faire government and its economic sponsors, enabling it to continue unabated for another decade.

Downum’s election as an “outsider” and “get-tough” candidate reflected the general atmosphere of 1994. The Republicans took control of the State Assembly (as well as the US Congress under the leadership of Newt Gingrich) for the first time since 1969, comprising one of the two times in the last 50 years Republicans have held the speakership. Like 1969, when California was reeling from statewide protests related to the civil rights and peace movements, the most immediate cause of the Republican ascendance in 1994 was the aftermath of the 1992 LA riots following the acquittal of officers in the Rodney King beating (as well as controversial protests for Chicano studies at UCLA and Dennis Peron’s opening of the first public medical cannabis buyers club in San Francisco). In 1994, Dan Lungren, a fabled law-and-order Republican whose multi-decade career centered on fomenting and formalizing the War on Drugs, was re-elected for a second term (and would later come to represent Calaveras and other Foothills counties in the US Congress). California’s Proposition 187 passed, which denied social services like education and health services to undocumented immigrants, as did the “three
strikes” law, which would lead to a prison overcrowding crisis in the 2000s. The state legislature passed an initial version of what would become Megan’s Law to track and identify sexual offenders. The justice system underwent sweeping reforms: Proposition 191 upgraded the court system, particularly in rural and exurban areas, so as to “professionaliz[e] and equalize[e] the administration of justice”; Proposition 189 repealed bail options for sexual offenders; Proposition 190 made judges subject to review by a majority-citizen board (which opponents believed threatened the independence of the judiciary). Combined with federal pressure under anti-drug legislation to force courts into abiding by federal minimum sentencing for drug crimes, these measures unloaded ambient insecurities on immigrants and criminals and made sure courts would fall into line with this populist revanchism—again, particularly in rural and exurban areas. As jails were built across the rural and exurban landscape up and down California’s conservative interior, the political economy of much of the state (particularly its white, ex-urban interior) was linked to the rise of this punitive governance (Gilmore 2006; Parenti 2001), even as anti-environmental, spotted owl controversies vilified progressives in these areas.

Though he may be a strident example of the form of local power in rural and exurban areas, Sheriff Downum was by no means atypical, as shown by a survey of county sheriff departments’ involvement in the federally-funded (but state-run) marijuana eradication (CAMP) program (45 of 58 counties), the four federally-funded High Intensity Drug Trafficking Area (HIDTA) teams operational in California (covering 26 California counties), the 59 federally-funded Multi-Jurisdictional Task Forces dedicated to drug enforcement (covering all but 2 California counties), special regional multi-year federal-state-local joint operations, and forfeiture processes (only revised in 2000) that linked local law enforcement funding to federal drug laws. For cash-strapped rural counties, these sources of funding were not only crucial to
building local drug enforcement powers—and purveying an idea of the War on Drugs through local institutions—but also in creating an independent power base for sheriffs’ departments across the country to circumvent legislative power and enforce an anti-urban federalism.

For exurban areas, which were navigating the decline of resource extraction and rise of residential development, the independent force of the law-and-order drug war altered local political economies, sweeping them up into dominant anti-urban politics. Instead of an interventionist vision of property and governance advanced by conservationists around land use and planning, law-and-order politics proposed a minimalist notion of government as a moral-spatial buttressing agent that sought to preserve property from the moral decay of urban contagion. This philosophy of minimalist government and private property protections appealed to insecure ex-urban homeowners just as much as it did to developers, extractionists and the political class they sustained. In this way, the early 1990s conservationism was defeated by a rising exurban revanchism.

Upon entering office, Downum began organizing a governmental-political machine in the image of Sheriff Russell Leach, who ruled the department for 20 years beginning in 1958. He expanded the force, won a bond measure for a new jail, and organized the Office of Emergency Services and Animal Services under his aegis. At his side was his wife June Downum, who, Wilensky remarked, “was at the center of making the Republican Party more conservative on a great deal of social issues.…[The Downums] were a constant force in re-building what was essentially the only party in the county, building a machine that more or less picked the winners for every race.” The Downums’ political activity, such as their efforts to unseat anti-drug war

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libertarian Supervisor Tryon or their support of their niece’s election, led many to complain of their sprawling political influence.

Marijuana was a critical piece of Sheriff Downum’s growing political-governmental dominion—not just as rhetorical combat against “the counterculture” but as dollars and cents. Federal and state interdiction money would provide funding for seven to eight positions in the sheriff’s department; participation in local and state anti-marijuana task forces and contract-based eradication campaigns provided an extra source of income for officers. Meanwhile, forfeitures from marijuana busts provided a stream of funds for officer training and other costs. Maximizing plant counts during busts—and finding more ways to do more busts—was essential to the core method of obtaining additional funds: grant-writing. Even Downum’s detractors would readily admit his prowess at winning monies through grants. Reflecting on marijuana’s role in Downum’s funding strategy, Wilensky charged: “Money determined the level of activity in that arena. He got more money than anywhere else, any other county.” In an anti-tax county, Downum’s capacity for grant-writing for everything from deputy pay increases to equipment modernization was key to the building of his governmental machine.

The building of this power bloc via marijuana came to a climax when the sheriff arrested Calaveras Coroner Kevin Raggio. Acting on a tip from a disgruntled ex-girlfriend (who had a restraining order levied against her by Raggio), the sheriff’s department raided Raggio’s house, finding a dead man’s wallet and an amount of marijuana under the county limit. Downum, using a plea deal, offered to make the “charges go away” if Raggio, who had held the office for 25 years, would step down (Raggio, unlike many others, did not acquiesce). This was the latest (and

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96 The more plants eradicated, the more money Downum would get. Dave Jack threw a wrench in this when he was tipped off by a local reporter about a suspicious bust by the Sheriff. The reporter was denied access to the site and Dave couldn’t find any sign of any plants—only the plant count in the public record.

97 Metzger 2010.
last) effort by Downum to claim control of the coroner’s office and become Sheriff-Coroner, thus giving him the power to declare causes of death, a prospect that worried many already concerned with the sheriff’s unilateral power.\(^98\) The plea bargain Downum proposed to Raggio was a typical police tactic that was likely no different from the 200 arrests (but not prosecutions) per year the department made for marijuana possession under an ounce.\(^99\) Pleas, not prosecution, were the point. For arrestees who were not an elected coroner, their plea led to them being deployed as part of a wide network of informants and surveillance of themselves or others.

In sum, Downum’s fiefdom extended: 1) institutionally, as Downum claimed more agencies and personnel under his purview; 2) fiscally, through his multilateral grant-writing prowess; 3) politically, through his and his wife’s role in the county Republican Party; and 4) by giving a new meaning to community policing through plead-out informant-probationer networks. This network functioned to de-mobilize wide swaths of the population from citizen participation—except as informants and potential suspects. The exclusionary political effects of Downum’s tenure had no clearer example than in their exception: the battles fought with medical marijuana advocates, who refused this exclusion. In the “order” meted out by Downum, people like Dave Jack, Kim Cue, Rick and Sue Garner, Bill Harrison, Chris Demars, Robert Galambos ranked at the bottom, their claims to political citizenship denied in their affiliation to a plant. While government doors had been opened slightly to some exurbanites with the election of Downum, the label “criminal” became a primary means of excluding the wrong type of migrant, resident, and citizen from entering. This was not lost on those who worried about threats to their


power by environmentalists—in “culture clash” terms, the association of the counterculture, environmentalists, and marijuana was political fodder (at least, that is, until marijuana came to be seen as a serious medical issue in the county policy deliberations of the 2000s).

As the county population boomed before the mortgage crisis of the mid-2000s, the public safety revanchism shaped this growth in three ways. First, it positioned the sheriff as a lynchpin of a power bloc consisting of flagging extractionists, enduring developers, and the *laissez-faire* political class. Second, it refocused exurban anxieties away from environmental, land use, and governance issues. Third, it criminalized a broad section of the county as it transitioned out of a core extraction job market into a low-wage service economy. It wasn’t until the 2004 election of Wilensky to the board of supervisors—and Downum’s opposition to him—that this holding pattern would crack. The brewing conflict would burst forth onto the public scene.

*Marijuana’s New Political Milieu: Sustainability, Liberty, and the Decline of the Sheriff*

Steve Wilensky was an apple farmer, but his other qualifications—a founding member of Foothills Conservancy and a union organizer—did not make him the most likely candidate in this libertarian-leaning Republican county. Yet, 2004 was a year of “general uprising” in Wilensky’s estimation. The five candidates who opposed him—supported by timber, a realtors’ PAC, the Chamber of Commerce, the Rotary Club, local ministers, and the Downums—were shocked when he won 46% of the vote in the non-partisan, open primary. To his coalition of conservationists, liberals, and countercultural locals, he would add ranchers, libertarians, and small businesses. He would also split realtors, many of whom ended up supporting his vision of service improvement and rural landscape conservation over continued, unmitigated development. His aim: to establish a “rural progressive” pole in what had been a county with “one party rule”
where “the government was not for public benefit.” Like Downum, Wilensky ran as an “outsider,” excoriating the gilded politics of developers and nepotistic officials.

Wilensky wanted a “smart growth”-minded progressive capitalism focused on “the triple bottom line” of “people, planet, and profits,” (an approach popularized in business management circles) and “full cost accounting” of the ecological and social costs of development. This stance allowed him to navigate among his conservationist, social justice orientation and the desires of a growing exurbanite force for a responsive and measured government. His message of “sustainability” found open ears amidst yet another housing boom that crammed even more people into what many felt was an already overcrowded county.

As Wilensky sailed toward what would be a 59% victory in the election, Sheriff Downum came out swinging, sending a letter to county voters alleging that public safety would be threatened (and their guns and chainsaws could be confiscated, thus linking the argument for robust law enforcement to general gun rights and yeoman independence) if Wilensky were elected. Wilensky’s campaign responded with the argument that “public safety” was not simply filling jails and making arrests; it was a comprehensive approach to addiction, mental health, child and domestic abuse, and it would require a “multi-disciplinary and community” approach, thus proposing a downscaling of law-and-order politics. Threatened by this alternative vision of growth and policing, Downum was joined by timber companies and developers—one Los Angeles firm with designs on Calaveras development even sponsored a week-long training for Wilensky’s opponent. Despite this, they couldn’t defeat the groundswell of support that carried Wilensky to office, consummating a stunted process that had begun 15 years before, in the county’s first wave of conservationism.
Wilenksy’s election marked the rise of conservationism and the maturing of a pro-planning exurbanite political core. Conservationists had been slowly building power since their displacement years earlier by the political order capped by Sheriff Downum. No incident represents this better than the moment in 2000 when timber giant Sierra Pacific won permits to clearcut 900 acres, but found opposition both among environmentalists and, surprisingly, among local business leaders who perceived a threat to tourism (Limbaugh & Fuller 2004), leading Sierra Pacific to scale back its plans. This victory would have been unfathomable 12 years earlier. That same year, Ebbets Pass Forest Watch formed to promote community-based forest protection,\(^ {100} \) and later convened the Calaveras Planning Coalition (CPC) in 2005 to promote community participation in the scheduled revision of the county General Plan, due in 2006. CPC became a center of gravity for a new political shift toward planning-based solutions to the county’s environmental, land use, and social problems. MyValleySprings.com was incorporated in 2007 by a group of exurban residents to moderate growth in the Stockton-facing west part of the county by mobilizing citizen participation in the planning process. That same year, Keep It Rural, Calaveras also began to combat unplanned development. FoCuS (Foothill Collaborative for Sustainability), Friends of the Lower Calaveras River (FCLR), the Calaveras Foothills Fire Safe Council, and the Amador-Calaveras Consensus Group (formed to address “sustainable local economies”) all convened during these years, indicating a new unity among planning-oriented exurbanites, conservationists, and an ascendant reformist wing of county government. In this new rhetoric of planning and sustainability, exurbanites and conservationists formulated the basis of a new political-economic paradigm leading up to and following the budding mortgage crisis

that began in 2006—a crisis that would throw the property system and its political base into disarray.

The ascendant force in Calaveras was the growing population of exurbanites and their particular mode of consumption. Environmentalists and developers both struggled to sway this core grouping to their side. In the early 2000s, Calaveras’ population had grown by 26%, placing it as the ninth fastest-growing county of the state’s 58. Exurbanizing indicators were constant between 2000 and the mortgage crisis of 2006: in-migration accounted for 100% of population growth; wage labor continued to proportionally decline; dividends, rents, and interests grew as a proportion of county income (increasing by 12%); and transfer payments, which primarily included Medicaid and retirement in this aging population, increased a whopping 73%.

Relatedly, the elderly population increased 17%, displacing school-age children and 33-45 year olds (who declined by 30%). Between 2003 and 2005, building permits (and property values) increased by 50%. New home prices continued to rise (even through the mortgage crisis) as they targeted higher-income individuals, reaching a 2009 high, 60% higher than 2001. The economy continued to reorient itself toward an exurbanite service economy as realty, finance, insurance and health care became the growth industries, service jobs increased 4%, and non-service jobs decreased 17%. Retirees and exurbanite consumption had become the county’s new “core industry,” as workers depended on the stockpiled investments of new residents, low-wage service jobs became the key employment sector, and the contradiction of low wages and rising housing prices and endless development mounted.

In 2006, a souring housing market, the basis of exurban growth, exposed the contradiction between a weak economy and rising housing prices and unchecked residential construction. Building permits ground to a halt in 2011, recording only five percent of the
amount of building permits issued in 2005.\textsuperscript{101} Construction and retail rapidly declined, translating to reduced tax revenue, sending the government into fiscal straits through 2012. Property values dropped up to 50% in the region, with Calaveras and neighboring Amador becoming the hardest hit (Bardhan \& Walker 2010).\textsuperscript{102} Over the decade, real income declined, average earnings per job decreased by 2.9\% (nationally they increased by 2.3\%), 1000 jobs disappeared from the county, and unemployment rates tripled, topping their previous high in 1992, two years before conservatives placed Downum in office. Ranchers now united with conservationists as they placed their land in easements (Sparks 2012), and land trusts made large purchases in the area on bargain land, making Calaveras the county with the highest conservation easement increase in the state in 2007-08.\textsuperscript{103} Mining and agriculture also saw a minor resurgence as property values plummeted, making these land uses temporarily profitable again. Marijuana, a new crop to Calaveras (except for some small pockets), began to grow too, as property owners turned to new sources of income and people from around the state snatched up troubled properties for bargain prices.

As the exurban boom stalled for the first time since the early ‘90s and exurbanites found a burgeoning pro-planning, conservationist voice, Downum’s law-and-order revanchism and the developer-extractionist-government bloc it shielded looked more and more inadequate for the times. If Downum’s hold on county power had proposed a solution (and assigned causation) to


\textsuperscript{102} California was ground zero for the crisis: 56\% of the $1.38 trillion in subprime loans were issued from its banks, much of that money fueling unprecedented building booms throughout the exurban fringe, where many were moving as urban property values skyrocketed. The exurban development agenda in Calaveras and California had come to a full stop (Bardhan \& Walker 2010).

the anxieties of the early 1990s economic recession, after 2006, it became clear that a feared infectious urbanism and criminality was not the core problem. Rather, the economic order Downum shielded was the problem. This was painfully obvious to those on the left, given the crisis in property, overbuilding, and ecological health. As Downum’s control grew weaker, a new force consolidated against planning and environmental forces. In 2009, the Calaveras Tea party began holding protests, supported by a core libertarian grouping, the Ron Paul MeetUp group, the Gold Country Patriots (2011), and a local property owner’s association, the Calaveras Taxpayers Association (2007), founded by a neo-confederate Christian secessionist who later went on to start the strict constitutionalist Campaign for Liberty. For these groups, planning and conservation, and their rhetoric of “smart growth” and “sustainability,” were thinly-veiled encroachments upon their rights and (American) liberty by a bureaucratic, covertly eugenic, and socialistic government coordinated through Agenda 21, a clause of a document from the 1992 UN Conference on Environment and Development aimed at population planning and “sustainability.”

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104 This was, I’ll argue in the dissertation’s conclusion, a key turning point in California away from its punitive governing logic, as major reforms in the prison, policing, and drug laws and institutions, such as the demotion of marijuana to an infraction from a misdemeanor in 2010 and the realignment and depopulation of state prisons, would make clear. It was also a moment for the development of national politics as would be evidenced by reforms in forfeiture laws (2014), the reform of crack-cocaine laws (2010), the first reduction in federal prison populations (2011), executive orders for leniency in low-level drug offenses (2013), the investigation and reform of municipal police departments nationwide, the legalization of marijuana in four states and Washington, DC and the decriminalization of medical marijuana in eight more states since 2008.

105 Their concern is that government will ultimately supplant individual property owners’ rights, not only destroying the system of free enterprise and American democracy, but also coralling the world’s populations into select population zones. The fear is of a corrupted government becoming totalitarian, the only bulwark against which is individual property owners fighting for their rights. Opposition to Agenda 21 became part of the Republican Party’s platform in 2012, suggesting how important this critique has become to party adherents. In this light, all environmental, sustainability, and planning measures become part of a global plot to implement Agenda 21 (see Zeller 2012). In 2012, the Taxpayers Association issued a booklet detailing how it was that county groups had been suckered into or actively conspired with pro-Agenda 21 groups to “subvert freedom, self-rule and property rights.” This list extended to all of the environmental and planning groups mentioned above, extending to even more benign groups involved in the Calaveras Planning Coalition (see Nichols M. 2012. Nefarious One-World Plot Afoot in Lode? Stockton Record. May 20. http://myvalleysprings.com/pdfs/2012/Nefarious%20One-world%20plot%20afoot%20in%20Lode_SR_05_20_12.pdf). The connection among the Tea Party and Taxpayers Association is not one that is historically surprising, as Mike Davis (1992) argued in relation to the revanchist
While this politics appeared paranoid to some, it was nonetheless a powerful reaction to an insecure period of rapid change and crisis concentrated in the mortgage crisis. The county’s General Plan Update (GPU), which had been last conducted in 1996 with few hitches and wide agreement over its mission to “protect individual property rights,” became an impossible process as this right-libertarian core rejected not only the specific proposals advanced, but the planning process in general (a conflict that is common throughout the Sierras [Beebe & Wheeler 2012; Hurley & Walker 2004; Walker & Fortmann 2003]). Moving toward an anti-tax, pro-property rights agenda, the Tea Party and Taxpayers Association’s political energy shifted attention from law enforcement to fiscal policy and threw its weight behind electing County Auditor Rebecca Callen and County Assessor Leslie Davis, among others.

The property-rightist right and planning-conservationist left made for a new political paradigm and a restructuring of county government. Chief Building Officer, Ray Waller, the county official who had cultivated a laissez-faire and potentially corrupt alliance among government and developers, was fired. Responding to calls for more transparency and accountability by new planning and environmental groups, the county reorganized the building department and the planning department under a new Community Development Agency (CDA). This was significant: the idea that building and planning should be related was insidious and wrong-headed to many on the percolating property-rightist, Tea Party Right. New CDA Director, Stephanie Moreno, however, took her marching orders to clean up, modernize, and make politics of homeowners in Los Angeles. Homeowners, particularly white, conservative ones, were the muscle behind California’s Proposition 13, which itself was the outgrowth of the property boom of 1970s California. Similar to exurbanites in Calaveras, their particular form of political mobilization was a backlash against the next wave of newcomers to their areas—an attempt to shut close the door.

Davis persistently under-assessed property, according to a grand jury investigation, leading to the loss of major amounts of county tax revenue, something she ironically, or calculatingly, blamed on lack of appropriations for her office from the Supervisors. Gold Country Patriots. 18 videos. Accessed Aug 20, 2015.
transparent the relationship between building and planning under the newly formed Community
Development Agency. She unsurprisingly became the enemy of developers who had grown
accustomed to Waller’s nepotistic, pay-to-play system. She would oust Waller, but the pressure
against her would mount until her resignation following a salacious grand jury investigation
(many regarded it as politically-motivated effort to destroy Moreno and her reformist grip on the
agency, but the grand jury findings were rejected by reformist supervisors and led to a sex
discrimination suit brought by Moreno). The CDA was dissolved shortly thereafter and the
planning and building departments separated once more. By 2013, in a sign of the turmoil over
planning and governance, the planning department accrued six new directors in seven years.
Moreno’s replacement lamented that planners “are constantly on the firing line.”

Similarly, the epic and notorious litigation over the Ridge at Trinitas—a 12-year long
battle over the unpermitted building of a golf course that would reshape public understandings of
property rights and the power of developers and government officials (Hiner 2012)—ended in a
series of court decisions that affirmed that unrestricted land use would no longer be allowed in
Calaveras. Compared with Ironstone Vineyards, which had opened in the heady days of
developer-driven 1980s with very little governmental review and a lot of political protection, the
golf club at Trinitas faced different challenges. Simple appeals to economic growth did not hold
water with the growing push toward planning (Hiner 2012). Trinitas encountered increasingly
intensive regulatory efforts leveled against it, symbolizing the struggle over the limits of property
rights and developers’ power in a county reeling from a housing crisis.

Sheriff Downum was a casualty of this transformed political environment. The revanchist exurb over which he presided was destabilized, and developers and *laissez-faire* government officials were in disarray. Downum’s revanchist, anti-marijuana, public safety appeal was an anachronism, failing to resonate among the rising anti-government conservatives. In the political space opened up by the conservationist-planner bloc, those who had been excluded from governance (marijuana advocates chief among them) found a platform to voice their discontent and rob Downum of his moral grounding. His vision of executive, authoritarian power was anathema to the beliefs in consensus, planning, participation and regulation on the left, and his construction of a strong, sprawling law-and-order governmental bloc did not register with a new libertarian-led, anti-government right. Their debate was not over “moral” values and law enforcement but over taxes, government, and growth. In this new ideology, the sheriff was simply another big-government agent, along with the planning commission. Even the anti-gay, confederate secessionist founder of the Taxpayers Association would end up opposing Downum and his chosen successor based on the massive institutional build-up he had effected. At its broadest level, the mortgage crisis signaled a crisis in the terms of property and governance. A new politics of property was needed, and was generated in the Tea Party reaction after law-and-order politics had reached its limit.

Nowhere was this limit so apparent as with marijuana. The polarization Downum had established around marijuana lost its valence: planning-conservationists wanted more rational, transparent use of resources and libertarians sought less governmental power. Because of this depolarization, marijuana became a dynamic realm of political contention as these new forces formulated their disposition toward it. No opposition to the sheriff would do as much to bring
him down as that brought by a resurgent, savvy, and determined core of medical marijuana advocates.

*Marijuana and the New Law Enforcement*

The year 2010 was rough for Sheriff Downum and his legacy—thanks to the growing tide of marijuana activism. After Downum ran Dave Jack out of the county and autocratically vetoed Kim Cue’s dispensary, he assumed he had subdued medical marijuana advocates. Yet Downum’s shrill defense of marijuana prohibition in county hearings, his marijuana-fueled play for Coroner Raggio’s position, as well as his politically-expensive fight for a new county jail and his adamant refusal to accept budget cuts left him not only generally weakened, but particularly vulnerable around marijuana. Four days into 2010, this vulnerability became apparent.

Jay Smith, of K Care Collective, had done diligence in verifying that Robert Shaffer, the new delivery service’s second patient, was a medical marijuana patient. Smith was familiar with the stringent attitude of law enforcement in Calaveras. Yet when Smith came to a Subway parking lot to finalize paperwork and transact marijuana, there was one problem: Robert Shaffer had been arrested in November. The man buying marijuana was Deputy Robert Huffman. Using Shaffer’s medical marijuana ID card, Deputy Huffman quickly flashed his driver’s license, reportedly obscuring the last name. When Jay didn’t notice the mismatched names, deputies stormed, arresting Smith and serving warrants on several people involved with K Care. With no irony, Downum defended these actions, saying that dispensaries needed to be based on “a relationship” and that delivery services were ruses for “just selling drugs.” The catch, of course, was that Downum made sure no dispensaries could open in order to build those relationships.109


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By the end of the February, as public furor over the K Care case mounted (leading eventually to a grand jury investigation into the sheriff’s department),\textsuperscript{110} Downum announced he would resign later that year, an announcement followed shortly after by his undersheriff Mike Walker.\textsuperscript{111} Exhausted from battling the Supervisors over budget allocations—something that had been assured to them in boom times—the K Care case was the last straw for Downum and Walker, who, in their words, refused to watch the “dismantling of an organization [they] helped build.”

In April, a new controversy struck the town of Angels Camp. A man known as Frank was pulled over for an expired registration. As a Latino, this wasn’t his first time getting attention from police in this nearly all-white county. The officer discovered marijuana in his car, which was covered under a medical recommendation. After a non-consensual search, the officer arrested him, repeating a procedure that had been perfected and deployed since the early days of Prop 215 in California’s Eastern District: 1) arrest first and let the legal system determine the grounds for “medical defense,” and 2) confiscate and destroy the marijuana. Numerous legal decisions and a six year old state bill contradicted both of these practices yet they continued apace, all the while building the county network of informers and parolees under the thumb of the county’s law enforcement system.

When the county sheriff’s Detective Avila, who had conducted the K Care bust a few months prior, crossed jurisdictional boundaries to interrogate Frank, Frank called Tom Liberty of Collective Patient Resources to advocate on his behalf. Tom, who had just formed CPR, would demand not only that the case be dropped but that the marijuana be returned to Frank, sending


the DA citations for the relevant court cases. When the DA for Angels Camp agreed, Frank’s marijuana was returned. Together with the K Care case, these two episodes marked a revolution in Calaveras policing both in terms of policy and public acceptability, the silent but powerful arbiter of police practice. Not all were happy about this: a few days after the marijuana was returned, Angel’s Camp Police Chief Mendenhall, a migrant from conservative Kern County, was quoted saying he would never do that again unless ordered by the court. Mendenhall was relieved from duty within the week.

Downum’s foresight in stepping down was affirmed that summer when he met his match in the figure of a modern-day cowboy: Guy Meyers. As much a product of “The New West” as the sheriff, Meyers was a cantankerous property developer who had successfully sued the county multiple times over the years. With little fanfare, Meyers opened a dispensary at the edge of a strip mall on the county’s Stockton-facing edge after he had obtained a county-issued business permit through a vaguely worded application. Slipping through a loophole in state law that differentiated between “collectives” and “cooperatives,” the county was unable to close the dispensary. Supervisors and the planning department became tight-lipped, fearing a lawsuit, while Downum repeatedly sent in undercover officers to catch Meyers making a mistake.

No mistake came. With its feet to the fire, the county turned to a regulatory solution: they would update their 2005 dispensary ordinance in order to shut down Meyers’ rogue operation. The legislation advanced, but at the last minute CPR get word that an addendum was added that would ban outdoor growing. Twenty CPR members showed up at the county meeting to dispute this addendum and the bill was defeated, inadvertently saving Meyers from closure. It soon

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emerged that, despite the bill’s drafting by the planning department, the sheriff had revised and added to it (on request from a sponsoring supervisor), inserting the outdoor ban language himself. This enraged other supervisors: the sheriff had crossed the line from executive and enforcement powers to legislative powers. Foiled at the county and municipal level, the anti-marijuana forces of Downum were buckling as the 2010 election approached.

Downum could muster only tepid support for his chosen candidate, Ed Ballard, a veteran grantwriter, avid supporter of the county’s new jail project, and the officer who had made the pivotal arrest of medical marijuana patient Robert Galambos in 1998, which had been the sheriff’s first major anti-marijuana victory. Running against Ballard was Gary Kuntz, a spurned deputy who had been forcibly retired in 2009 by Downum when the supervisors demanded budget cuts. Kuntz and Downum had been at loggerheads since the mid 1990s when Kuntz testified (at supervisor hearings held by anti-drug war Supervisor Tryon) that department morale was low after Downum assumed power. Kuntz’s version of law enforcement included community-based policing, resident deputy program, re-building relations with other departments, rehabilitating inmates, working more collaboratively with employees, and even prioritizing other county functions, such as the public libraries, in budget discussions. Naturally, this was anathema to Downum. Supervisor Wilensky sensed this and threw his full weight behind Kuntz, understanding that a downshift in the sheriff’s department’s institutional growth would mean less budget competition for other county programs and a check on the sprawling power held by the sheriff over the supervisor’s decisions. Downum’s candidate, Ballard, also lacked support among conservatives, who were swept up in anti-government, anti-tax politics of the Tea Party (the coordinator endorsed Kuntz and “regime change,” and opposed government spending).
CPR quietly supported the reformist Kuntz as its first electoral gambit—the same election cycle of Proposition 19, 2010’s legalization ballot. At the state level, the period from 2006-2012 signified a reversal of the law-and-order revanchism of 1994: the three-strikes law was repealed, the state was ordered to move prisoners out of overcrowded prisons, drug court diversion from jails became firmly implanted, and the state moved to “realign” the state prison system by devolving prisoners from the state to the county level. Governor Brown, opposed by law enforcement associations and prison guards’ unions, decommissioned the regional drug task forces and CAMP, the 30-year old marijuana eradication program. In this new environment, where marijuana seemed to be on the verge of legalization, CPR succeeded and medical marijuana entered the mainstream of county politics, ushered in as part of the broad coalition of conservationists, smart-growth planners, and disaffected exurbanites. Within a month of Sheriff Kuntz’s ascension, Blue Mountain Collective opened, two years after it started the application process and 14 years after Proposition 215 had become state law. Located a few hundred yards from the county administration building in a building shared with the public defender, the symbolism of the new arrangement was not lost on anybody, least of all ex-Sheriff Downum. A new era for medical marijuana had dawned.

Fortress Breached: Revanchist Exurbanism and Rural Restructuring

In the summer of 2013, Tom and I took the 45-minute drive to Dave Jack’s house. As we neared his house, Tom sighed: “The hardest part of all this, of being an activist, is the death. I was not prepared for it and it found me immediately. I am not ready for Dave Jack to die. That is going to be a real hard one.”
While Dave’s brain cancer was stable, a new cancer had spread through his body. His diagnosis was grim; doctors put his chance of survival at 15%. But his chances had always been slim. Dave should have been dead long ago, yet at each step, he survived: the navy, nuclear testing, cancer, a federal investigation, a sheriff with a vendetta. When we arrived, Tom and I braced for the worst. Dave was three weeks into a 6-week round of chemotherapy, a process that either destroys the cancer or destroys the person. His weekdays were spent at the Vets’ hospital and the weekends, like this one, were spent recuperating at home, a time that Tom came to visit him and drop off free marijuana, part of CPR’s Patient Provider Program for dying and chronically disabled locals—a legacy, in some ways, of the political space Dave Jack forged.

Neither Tom nor I were expecting the man who answered the door. Dave was slightly pale and surely putting on a face for us but he was surprisingly jubilant, energetic and garrulous.

Once we sat down, Tom, never one to mince words, came out with it: “Man, I came here thinking I’d see death’s shadow, a Dave Jack I used to know but I have to say, that’s not what I see. You actually look good, man.” Dave agrees and says, “It’s all because of marijuana.” He shows his new “dabbing” paraphernalia, an ingestion innovation that heats concentrated marijuana waxes and oils to deliver more marijuana faster to the body. When he feels nauseous, he “dabs” and his body moves back from the edge, allowing him to continue the chemo rounds on schedule and giving him the best chance for survival. “Marijuana is literally saving my life,” he says, “and I feel good. I’m going to beat this thing.”

During a fraught period of political-economic transformation, it is this same fighting spirit that united a lineage of people living at the edges of a rural public, despite persecution by a domineering sheriff, to make demands and create a new system of governance. As the county exurbanized, they fought against its narrow revanchist definition. Through a politics of
delimitation that re-valued rights in the face of moral compulsion, advocates pulled the rug from under a sheriff whose power smoothed over the destructive contradictions of declining extraction, a rising low-wage service economy, a crisis-prone housing explosion, and *laissez-faire* governance.

The War on Drugs needs to be understood not simply as an anti-urban form of domestic warfare but also as a rural-disciplinary form of politics that protected conservative strongholds from liberal-urban intrusion. The drug war shored up these rural places for the political dominance not only of anti-drug law enforcement but also of developers and the waning extractionists they shielded. It was under Reagan that the War on Drugs rolled out and it was in the suburbs and exurbs that it galvanized support for him. Politically securing these spaces for conservative rule was of critical importance. When this spatial formation of the white-flight exurb was threatened in the early 1990s recession, the political rule of these territories needed to be secured (and the crisis of property resolved) as claims against it were increasingly made by environmentalists, underwater property owners, and waves of unemployed and underemployed workers. The War on Drugs buttressed the exurbs from these political rumblings as it siphoned money from the federal level down to cash-strapped counties throughout the country, essentially tilting the balance of local political economies toward ascendant law enforcement institutions and their revanchist policing of the discontented and maladjusted. This political solution deferred the crisis of the exurbs until 2006, when prices plummeted and poverty in the exurbs became the fastest-growing of all places in the US (Berube 2006). By 2008, as conservatives sought to explain the mortgage crisis in a way that wouldn’t threaten property rights and capitalist order, law-and-order solutions were seen as ineffective and part of the problem of government-as-solution. Indeed, as the Tea Party Right focused on government and regulation as the problem,
heralding new libertarian times, law enforcement fell by the wayside. From both the right and the left, the exurban political bloc crumbled and a new dynamic emerged, as I’ll explore in the next chapter.

However, the pall of prohibitionism hung over Calaveras class and racial dynamics well after Downum’s departure. Not everyone was able to step fearlessly forward into civil society. Trauma, fear, and suspicion affected some—particularly people of color, formerly incarcerated people, and poor people—more than others. The routine of anti-drug repression continued to mark bodies of color and poor (white) people in ways that morphed into new forms of suspicion and discrediting. Further, while marijuana repression helped to maintain a stratified class structure, a licit marijuana brought its own pressures in the form of rising property prices and increased competition for those who sought to make a living through marijuana, which was one of the better options for poor people in a service-based exurban economy.

Medical marijuana advocates threatened a political-economic order that fortified the exurbs against its ongoing ecological, economic and social crisis. Marijuana, which had been at the core of rural prohibition in California, ironically marked the transition from a revanchist exurbanism to a regulatory exurbanism; from the fortification to the regulation of the exurb. The “crabgrass frontier” (Jackson 1985) was closed, and a new exurban urbanism signaled new terms of property and governance that would not abide the shrill anti-marijuana moralism of yore. In this environment, the defeat of Sheriff Downum marked a shift from a wish for morally homogenous rurality to a deliberation over how the transition to a full exurban county would proceed.114 The walls of the exurban fortress became more porous and the axis of governance shifted from inclusion/exclusion to the terms of governance amidst difference.

114 This chapter follows the urging of recent sociological-geographical exchanges (Cadieux & Hurley 2011; Gosnell & Abrams 2010; Lichter & Brown 2011) in peering beyond the definitional struggles over “the exurbs” and “the
No incident illustrates this transition better than a call Tom received while I lived with him in 2012. It was a request from the former police chief of Angel’s Camp, who had been ousted after the controversial confiscation of Frank’s medical marijuana. The former chief was rapidly dying from an aggressive cancer. Tom quietly arranged a trip to the chief’s house as soon as possible. It was an awkward trip, considering Tom had been instrumental in the firing of this police chief in 2010 in an episode that was a key moment in the dissolution of county law enforcement power. “I made sure I brought the most top shelf product we have from the Patient Provider Program, called my best supplier to get it,” Tom explains. “I came in and put it down along with the Volcano [a marijuana vaporizer], silently, and when it was all there, I said, ‘Good to meet you.’ He said, ‘We’ve met before.’” Indeed, they had, under much different circumstances.

rural” to understanding the broader process of “rural restructuring.” This shift means not only understanding the specificity of exurban spaces but also their imbrication within a complex fabric of forces that extend through and beyond the exurb. While it is important to understand what defines “the exurb”—what its analytical contours are—it is important to not become stuck on definitional parameters that occlude the relation of dynamic exurbanizing processes to other spatial and discursive forms. The danger in drawing too sharp a line is to oppose exurban to urban America in a manner reminiscent of ideological attempts to separate “the real America” from a cosmopolitan urban America—the same opposition that fuels much of the drug war and its effects across urban, suburban, exurban, and rural places. By understanding exurbanization as an expression of other restructuring forces—and vice versa—we see how the War on Drugs and marijuana prohibitionism are just as important to exurbs as land use politics.
VII. Atmospheric Politics: Marijuana Goes Public

Lauren was in the back seat of the pick-up, lighting up a joint, a careless foot shoved against the open door. It was a hot July day in Calaveras and, like many of the skinny hardscrabble mountain women of the foothills, Lauren was sporting tight jeans and a tank top. Her rheumatoid arthritis wasn’t too bad today—some days she’d lie in bed for hours, smoking joints until she had found enough distance from the pain to get up and move. Lauren, a white woman in her late 40s, had two speeds: incapacitated stillness or haphazard whirlwind. We were waiting for Lauren’s husband, Tom, to lock up the house with its ample stash of dried marijuana (as well as an indoor nursery for marijuana starts and mothers).

The sun beat down and the thin air carried the smell of roasting pine needles. Rich and I stood in the dusty driveway making small talk, his face hidden behind aviator sunglasses and a trucker hat. A member of Collective Patient Resources (CPR), Rich was surprisingly cheery, a demeanor that fit oddly with his squat, mustachioed, rough-edged presentation. Rich had stopped by to survey Lauren’s and Tom’s plants when they mentioned they were traveling to Mike’s house. Rich jumped at the opportunity. Mike was dying of emphysema. As a member of CPR’s Patient-Provider Program, he was receiving free marijuana from several local marijuana growers. The program was originally meant for terminally ill people but it had become so popular with growers eager to donate that they had expanded their criteria for distribution to include to chronic and disabling conditions, too. As the coordinator of the program, Tom could easily spend one day a week driving long distances across Gold Country delivering medicine to dying and disabled people. Today was no different, but we were in somewhat of a time crunch: Tom,
Lauren and I had to be at a campaign meeting for supervisor candidate, Chris Wright, who Steve Wilensky (see previous chapter) had endorsed as his successor in 2012.

We climbed into the monstrous F250 pick-up and headed out for the 45 minute drive. Tom whipped around white-knuckle curves only possible in the foothills. Tom hadn’t always traveled this fast. With a trunk full of marijuana clones, the first trip to Mike’s had taken forever as Tom rounded each blind curve well below the speed limit, heart in his throat, as he peered forward, scanning the road for law enforcement. The medical recommendations he carried felt more like a talisman than legal documents. Rich had tagged along with Tom that day to deliver medicine and to help set up a garden for Mike. The garden wouldn’t produce serious marijuana but it would occupy Mike as he wiled away his hours connected to his oxygen tank. He spent a lot of time alone, since his wife worked the early morning shift at the casino in the next county over. Tom was in a foul mood that day until he looked over at Rich, forearm deep in dirt, who exclaimed, “This is just so cool!” “He was having such a great time,” Tom said, “and I realized this is what I’m here for, man. This is why I started CPR.”

As we settled into the trip, joints passing (but not to Tom, who was driving and a scarce smoker besides), I got Rich talking. At the age of 16, in 1967, he had moved to California with a broken heart. Two days later, he was tripping on acid given to him by Timothy Leary’s friend Augustus Owsley Stanley III, who was the acid-making engine behind San Francisco’s Summer of Love. As the hippies settled into the 1970s, Rich found work in a Bay Area can factory. In episodic fashion over the ensuing decades he would acquire a heroin habit. When medical marijuana went legal, he and his wife grew marijuana for two years, but without a recommendation. His wife was convinced the recommendation would somehow backfire and land them in jail. The pressure of illegality got to Rich, and he signed over the deed to their
property to his wife as she ramped up her growing operations and her speed habit. Renting out a house with his “straight job” wages, he laid low as his wife went deeper into addiction, selling weed to buy heroin. When his wife died of an overdose, Rich took a hard look at his life. He had two friends left, both of them users. He spent most of his time alone. Then he read about CPR in the paper and asked to meet with Tom. Despite being unimpressed by Tom’s marijuana-leaf shirt and long scraggly hair, Rich was impressed by Tom’s conviction. His friend told him Tom and CPR were nothing but trouble, the same line Rich’s wife held. “You either pick me or you pick CPR,” Rich remembered him saying. His response: “I pick CPR.” “Since I became part of CPR I’ve been getting a lot more open about things,” Rich said when we neared Mike’s house. “People are surprised I would ever put plants so close to my house, and I tell ‘em I just don’t want to be secretive. That’s right.”

When we arrived at Mike’s and fought our way through the customary rural greeting—several dogs running full barrel toward us—Tom, Rich, and Lauren headed for the garden after a wave hello. Mike brought me into the house, making a beeline to his oxygen tank, which he wheeled out to the porch overlooking his backyard garden. He stared down in wonder, remarking how great it was to see the crew and receive the bag of pot now on his counter. Later, his wife would cook it into butter and bake it into edibles. As a bronchodilator, Mike explains, “pot lets my body just dial it down, breath easier and absorb oxygen so everything isn’t so much work—standing up, going to the kitchen, washing a dish, it all takes oxygen.” At the moment, Mike was debating a double lung transplant. He had decided he wouldn’t have it, but his wife was not at peace with that decision “yet.” He reasoned: why have a transplant that had a low success rate in the short term, would only extend his life a few years in the best case, and, in the long term, would leave his wife with no savings? “That would eat up all the rest of the money and for what?
My wife, she might live another 20 years and I don’t want to take all our savings from her just to live with nothing.” Looking at the plants, the muffled fussing noises of the three growers reaching our ears, he said, “I’m so happy about these plants. I hope I get another harvest before I die. I won’t see another round after, on account of my lungs.”

For Rich, Mike, Tom, and Lauren, as for many others in the county, 2012 was a new day. Downum was two years gone and people were crawling out of their bunkers, reorienting themselves to a brave new world where one could (more or less) openly grow medicine, purchase it at one of the new dispensaries, and participate in a government that was once far beyond the reach of outlaws and sick people. The freedom of coming unburdened, of coming out into the open, was a sentiment expressed to me by many in Calaveras throughout my fieldwork. It was encapsulated by one marijuana activist and entrepreneur, Steve D’Angelo of Oakland’s Harborside dispensary, in the phrase: “out of the shadows, into the light.”

To follow the metaphor through, one has to understand what kind of light one is stepping into—a police spotlight, a public limelight, the light of day—and what quality of darkness existed—a closet, the shade of an oasis, the gloom of dawn or dusk. Who is able or unable to make this transition out of darkness, into light, and why? Sparked by a history of advocates, Collective Patient Resources (CPR) shed a new light, opening a door onto a transformed county. Yet the shadow of the sheriff was long: people would still tell Tom three years later that they wouldn’t join CPR because of fear of a return to law-and-order days.

Coming Out: From Duality to Ambience, or Shadow and Light to Atmosphere

In one of our many runs to distribute medicine to patients, Tom would reflect on the dichotomy between private and public that was being broached through this process of county-
wide reformation of social governance. People often stopped Tom to thank him for stepping up to be a voice for patients, he says.

'Thanks for doing this,’ one guy told me. ‘I really respect what you’re doing.’ Those are the best moments because here’s this old dude, a ticket collector at the theater in Angels Camp, and now I’m part of his ‘us.’ Barb, the old lady from the grocery market, too. One day I saw her—and I’ve known her 15 years, she used to work at the gas station convenience store and then moved here, a real step up—one day she pulled me aside when a lot of stuff was going on and said, ‘I really appreciate everything you’re doing for us.’ Man, it’s moments like those when you begin to think that this is something, kind of like homosexuality used to be—it’s everywhere, everyone does it, but no one talks about it. When you start to put a voice to it, people are just so relieved and are so thankful that it’s finally out in the open.

For Eve Kosofsky Sedgwick (1990) “coming out” into the open is not just a metaphor for gay liberation. Rather, it is a post-Enlightenment political trope wherein the knowledge of a “true,” and formerly repressed, identity emerges into a public, becoming productive for the apportionment of rights, responsibilities, and recognition. The trope of the “epistemology of the closet” comprises a kind of collective social experience of gayness, repression, truth, and identity. Gay people—and society at large—come to experience, organize into constituencies, and understand sexuality through the notion of the closet, which itself is rooted in other socially produced epistemes that differentiate public/private, pure/polluted, open/hidden, known/repressed, white/black, and light/shadow. Coming out is not so much a radical act as it is a confirmation of dominant rubrics of knowledge and social life. Since the coming out narrative resonates through identity politics, affinity politics (like marijuana) can also be structured in
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terms of a hidden closet, a process of emergence, and a metamorphic transformation into being “out” (e.g. Allison 2013; Freedman 2001; Seif 2014; Valle et al 2014).

Coming out, however, is not only an emergence into but an exiting from. For Tom, marijuana’s growing normality was a melancholy experience. On a delivery drive in the summer of 2013 when recognition for gay marriage seemed to be sweeping the nation, Tom, who identified as straight, explained: “I loved queers because they were outlaws. I was listening to Bowie in the ‘70s and so were they and there was a value put on being weird. I loved queer people because, in a way, I was queer. I was an outlaw.” Marriage, just like the coming out narrative, is a way of coordinating and organizing queer sexualities. It reins in the weird, the radical, and the excess and fits it into a social form amenable to the broader dualities sketched out by Sedgwick: public/private, responsible/irresponsible, known/hidden, evolved/repressed. Now, he’d reflect, being gay is just normal and “being queer isn’t outlaw anymore.” The same, it seems, for pot.

In Calaveras, marijuana had been consigned to and consonant with “the private,” which was also a repressed (or oppressed, more accurately) space, much like the closet. Yet “the private” was also a space of liberty, as many libertarians in the county claimed. To be a marijuana user or producer was to be private. In California’s foothills, the private has been consonant with the figure of “the outlaw” and the right to resist laws, a tradition that resounds throughout Calaveras’ history. The “outlaw,” in California and the US West, connotes a kind of unofficial folk hero status, that blurs the line between villainy and heroism (Slotkin 1992). For “outlaw” activity to become legal or “lawful,” however, the entire infrastructure that supports the law—moralities, customs, common sense, governing practices, discourses—all have to shift, thus exposing the society-wide infrastructure that supports law. It is notable that in California,
following Prop 215, the law had changed but many of the social relationships—and norms—hadn’t “caught up,” as evidenced by the continuing policing of medical marijuana. In the dialectic of substantive norms and formal law, places like Calaveras underwent a long period of adjustment to a new legal reality, which it is still undergoing.

When the regulatory and social environment began to transform, people moved from this private-repressed space to a public-liberated space, from a criminalized to a civic space. Marijuana was no longer what “the civic” was defined against but was what the civic was defined as. As the folkloric character of “the outlaw” suggests, however, marijuana was already a lived social space prior to becoming “civic.” The “private” within which the outlaw lived was only private in certain state optics and to certain people. For others, outlaw society was a shadow world, a kind of parallel-public, that accompanied and lurked along with the formal public at all stages. The public and private, outlaw and law-abiding, are not a threshold one crosses but are always already fused in the everyday co-existence of “light” and “shadow.” The important piece about coming out is that the composition of this light/shadow is shifting—new things are being hidden, just as others are revealed. The challenge I set out in this chapter is to grasp this new light-dappled terrain.

One of the key modes of this transformation was in the regulation of marijuana. Where once marijuana (and its outlaw) was only politicized via the univocality of law enforcement, now it was engaged in a polyvocal public. As CPR “put a voice” to marijuana, this voice joined a chorus of voices that comprised county political life. Those still in the illegalized/outlaw realm found themselves engaging with and moving through public and legal spaces in different ways, their own practices and discourses acclimating to transforming contours of the private and the outlaw. Both medicalized and illegalized marijuana shifted, just as did the broader local society.
This new political voice originated from the informal and illegal world—something that anthropologists have found to be more frequent in the postindustrial global division of labor (Comaroff & Comaroff 2006; Elyachar 2005; Ghertner 2011; Millar 2008; Roitman 2006; Van Schendel & Abraham 2005). In fact, as neoliberal marketization erodes the basis of the social contract and the state’s regulatory and enforcement capacities (Robotham 2009), it is increasingly common to see political organization happening despite illegal status.

CPR’s aim, as Tom explained it to me, was to “create a new atmosphere around marijuana” in the Tri-County region (Calaveras, Amador, and Tuolumne counties) that would protect patients’ rights and make it safe to grow and consume cannabis. I want to examine this notion of “atmosphere” for the contrast it poses to coming out narratives. Atmospheric politics, rather than heralding a revelatory conversion, is a cumulative politics comprised of subtle shifts in (to follow the metaphor) temperature, pressure, air quality, feel, ambience. Instead of looking for light versus shadow, it attunes itself to shades of grey and qualities of light and dark. It is a politics to make substantive social reality out of what was formal law. It exists in everyday shifts, not moments of drastic policy change. With atmospheric politics, history isn’t left behind, liberation isn’t absolute, and power isn’t erased. These two frames together—revelatory and atmospheric politics—are productive in their contrast, as each describes different dimensions of social reality.

This chapter will explore atmospheric politics as a political strategy of institutional and social change that not only alters social relations but also people’s conceptions of themselves, their “political beliefs,” and the milieu subjects inhabit. The literature on “atmospheric politics” has emphasized the latter aspect, conceptualizing the atmospheric as the realm of the immanent—that which is potential, yet-to-be-realized, or evanescently emergent, sketching
futures before they materialize (Stewart 2011). This a politics of materiality prior to the point of materialization, or what Lauren Berlant (2011) and Noelle Molé (2010) refer to as an anticipatory politics. The atmospheric has a kind of environment and spatiality that is rooted in material effects and affects, but exists as the potential of this arrangement. An atmospheric or anticipatory politics is one that relies upon sense, emotion, and intuition as bodies feel through spaces of political potential (Thrift 2008). For Thrift (2008), this form of politics is a “fugitive” politics because it looks outside of political-scientific understandings of politics to that which is normally considered inconsequential, excessive, unutterable, or incidental.

I am invoking atmospheric politics in a different (but complementary) way than these authors, all of whom grapple with and at times further the notion that atmospheres are indeterminate, vague, and comprised of absence (see Anderson 2009). Over the course of several years in Calaveras, marijuana transitioned from being publicly unutterable, hidden, and stigmatized to being open, debated, and part of public-civic rhythms of everyday life. An atmospheric transition occurred. It accelerated in the late 2000s and early 2010s as something in the air seemed to shift. Rather than only understanding atmospheric politics as something beyond cognition or action, it is also a politics that can be deployed in ways that range from public protest to policy change to conversations among neighbors to one’s horticultural practices. Atmospheres can be acted upon and within, albeit not always with the same purposiveness as what is normally considered “political” activity. While it is important to understand the irrational and non-positivist aspects of political life, it is equally important to frame the realms of positivist rational politics in terms of its effects on the broader atmosphere. All actions, great and small, weigh upon this atmosphere. This atmosphere becomes actual through its effects—through
policy changes, through changes of mind, through articulations about “the atmosphere,” what “everybody knows,” or what one anticipates (Ranciere 2013).

For a politics that is waged not only from organized, formal political realms of civic involvement but also emerges from illegalized realms of a shadowed sociality, marijuana politics was necessarily an atmospheric politics—a political realm known through direct and indirect, overt and covert actions, where action and causality do not have the supposed predictability they do in formally political realms. Pine (2008) has theorized this “contact zone” between illegal-informal and legal-formal spaces as being one that is both immanent in society and deterritorialized in an official, public sense (202-203). The contact zone is where Rancière’s (2013) police divide reality into that which can be sensed and that which is made unsensible—although it is only unsensible to those not attuned (Stewart 2011) to the vibrations of the atmosphere. I understand and analyze marijuana politics as a politics that is emergent, ethereal, and materializing. It is hidden and covert, illegal and legal, actual and atmospheric. In fact, as Rancière (2001) asserts, the political is defined as that which crosses the line between the permitted and the unpermitted, which forces what has been made inaudible into audibility, which makes present and precipitates what has been immaterial and dispersed. Unlike the light/shadow metaphor, which renders illegal spaces unknowable, invisible, and beyond the public, this notion of political atmospherics attends to the mutual constitution of legalized and illegalized realms. This legal-illegal politics and the dappled atmospherics it posits are thus “fugitive” politics but in a different sense than Thrift (2008) may have intended.

The emphasis here on a diffused, rhizomatic politics (Deleuze & Guattari 1987) is meant to amplify the analysis of Merry (2000) in her treatment of governmentality, in all its emphasis on responsibilization, self-governance, and flexibilization, as opening up a space for activism
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(see also Cattelino 2004; Holston 2008; Mahmood 2001; Weinbaum 2004). As Calaveras’ marijuana system transitions from one based on sovereign, executive, hierarchical hard power to a regulated, legislative, lateral soft power, the mode of politics that engages this system also shifts from one that strives to delimit to one that operates through a milieu (Foucault 2007). In focusing on activism within governmentality, I first aim to de-emphasize treatments that only understand governmentality as a top-down force against which one can only “resist,” or minutely alter (e.g. Rose & Novas 2004; Scott 1985). “Resistance,” in this light, is always already the mark of defeat, a doomed politics that simply exceeds the overwhelming rationality of governance (or governmentality). Second, I aim to re-frame issues of governing (Clarke 2008) from simply a matter of edicts issued from on high to a process and practice engaged by people throughout a social field, the totality of which forms what we understand to be the governance of society. Atmospheric politics emphasizes the formation of governance across boundaries, from the most hidden spaces to the most public of actions. Finally, the focus on activism is meant to re-orient the minimalist rendering of politics as simply the access to bare life (Agamben 1998), emphasizing, rather, the proactive claim on public life, rights, and social transformation (Habermas 1988). While the liberal content of these claims has been rightly criticized (e.g. Chatterjee 1986) for its cultural universalism, the enunciation of these claims in a context of a multifaceted, diffused social governance is different from the modernist, colonizing fantasies of liberal universalism. As Merry (2000), Maskovsky (2006) and Cattelino (2004) emphasize, the claiming of rights amidst governmentality is a practice that has a particular power to alter the composition of the public and social life in ways that undo our understanding of scale and political power. Indeed, while power does reside in hierarchical systems, social life and the
public is enacted and reproduced in ways that cannot be captured in ideas of micro-/macro-politics, resistance/power, scales, or hierarchies (Katz 2001; Marston, Jones & Woodward 2005).

This chapter’s first half shows the effects of coming out on institutions, daily life, subjectivity, and political belief. The following sections attempt to complicate this notion of the illuminated public in two ways: 1) how and who this light excluded, or who was not able to “come out”; and 2) how the illegalized outlaw covertly constituted “the public” from which exclusions were made. The concluding section draws out the relations and growing contradictions between medical vs. commercial marijuana, concluding that not only has there been a tight relationship between the two in practice but that the growing tendency toward commercialization threatens the cohesion of Calaveras’s marijuana activism and heralds a new political economy of harm and health. Throughout this chapter, I tack between the starkness of light and shadow and the discernment of atmosphere across illuminated and darkened spaces. In this dappled light, we begin to see an atmosphere in formation, social and political possibilities blooming, and a new social constitution organically growing in Calaveras.

*Changing the Atmosphere: Institutions, Jurisdictions, Politics*

As the sheriff’s influence dissipated, county political winds changed. Two years after Downum’s departure, his main opposition—anti-drug war libertarian Tom Tryon and pro-medical marijuana conservationist Wilensky—both stepped down from the supervisors. Their departures were indicative of two stages of opposition to marijuana prohibitionism: a libertarian politics of delimitation that held individual rights and privacy above law enforcement power, and a regulationist politics that sought to affirm the rule of (California) law, the legislative process, and more widespread participation in government. Political actors now struck poses for a newly-
politicized marijuana. Tea Party candidates split between libertarian philosophy and the morally conservative tendencies of their constituents. Progressives, conversely, were able to stake out a clear stance regarding medical marijuana, personified in the candidacy and victory of Chris Wright, Wilensky’s successor, who defeated his Tea Party opponent with express CPR support.

The receptiveness of rule-of-law regulationists to medical marijuana was not simply a matter of political responsiveness and timing. Rather, it goes to the difference between conservative politics, encapsulated in the sheriff-developer-extractionist-exurbanite bloc, and a liberal, pluralist politics represented by Wilensky and Wright. Progressive liberals are (ostensibly) morally agnostic in regards to law. The rule of law is the “moral” basis of social life—morality is not eternal but rather what law and the democratic system say it is. This “progressive” quality believes in the development and transformation of the legal system, in relation to the adaptation of society. Since medical marijuana became law in 1996, progressives have more consistently rallied toward medical marijuana. From a progressive liberal standpoint, prohibition’s end was not a decline of morality but an achievement of the evolving rule of law. Conversely, conservative power, from the days of Edmund Burke (White 2002) and Carl Schmitt (1996) (but also expressed by many liberals of the 19th and 20th centuries [Lasch 1991; Losurdo 2011]), is predicated upon a timeless moral cohesion and unity—the idea of defeat or compromise, the costs of involvement in liberal political systems, is unacceptable as it affirms a fallen world, bereft of morality (Bennett 1996; Hunter 1992; Huntington 1996; Lasch 1991, Wilson 2012 [1987], 1996). A characteristic of moral conservatives is the belief that laws should reflect morality. When they don’t, society is lost. A second quality is that laws defend established orders, hence their “conservative” quality. Since the countercultural movement, conservative philosophy has clung to a moral notion of American superiority and normalcy.
perfected during the Cold War. Drugs, the symbol of countercultural revolt, were amoral and should be dealt with through the law. Compromise on this indicated a deep moral collapse.

Law enforcement, which capped the conservative ruling bloc in Calaveras, positioned marijuana of any sort outside the bounds of the moral-ethical community in a revanchist buttressing of the exurb. Rule by moral conservatives de-politicized marijuana as it expelled it from the body politic and the very notion of community that undergirded the county’s “law and order.” When this fortress was breached by medical marijuana advocates and the rising demands of a conservationist-exurbanite bloc, marijuana became part of civic life and overt politics. To the extent that activists and patients were now able to make demands, the entire social field of Calaveras was opened to advocates. The new question was: what place would marijuana have in recalibrating a post-prohibition, post-revanchist county?

Formal “politics” (elections, policy advocacy, hearings, and so on) was only one expression of CPR’s more pervasive political strategy to alter the political-social atmosphere in Calaveras. Prohibition was still ingrained and ambient, something that suffused county life and required a thorough dismantling through the politicization and unsettling of a routinized prohibition society, first through county institutions.

Chief among these institutions was the county’s sole hospital, run by Catholic Charities West. Many CPR members were elderly (reflecting broad exurban trends), disabled, and/or dealing with chronic pain, requiring service from the hospital. In 2011, Dr. Rafael Rosado was hired to direct the county’s five clinics. Rosado did not waste time in implementing a Patient

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115 Indeed, “the illegal” often constitutes a realm of de-politicization (Hobsbawm 1959) or supra-politicization (Schneider & Schneider 1973), as discussed in the dissertation’s introduction. As with most things, this likely depends on relative social power of those identified as “illegal”—they can either support or be in opposition to entrenched social orders (Gallant 1999). Either way, the point remains that to be illegal is to be thrust out of the normative realm of law and community and to exist in an exceptional space of “justice” and its varied forms of illiberal punishment.
Responsibility Agreement (PRA) that required patients to affirm they did not and would not use marijuana (of any sort) while they received pain medications. Rosado required all clinic doctors to use the PRA, causing conflict with some who were prescribing medical marijuana. Over the course of several months, reports came in that patients were denied care, refused referrals to medical marijuana prescribers, had medications terminated, and were required to sign the form before they could receive treatment. One doctor allegedly advised a patient he could very well die if he mixed Valium with marijuana, something unfounded in any medical literature. The document itself, though, referred to the federal scheduling system as its justification. One patient who was denied care would report that his doctor cited federal law as the justification. However, the private hospital had a contract with the county to administer health services, presumably under local and state law. Unlike Downum’s cross-deputization, this time the jump of jurisdiction and authority did not work. When reports of this surfaced, the hospital denied the form’s existence, refused to comment on the policy, and then quietly amended the policy. Not so quietly, Rosado was dismissed; so was his close friend and superior, Feliciano Jiron, the hospital’s CEO and president.

CPR also worked laterally to insinuate itself into other community organizations, such as through the Izzy B. Community Improvement Project, a yearly donation program to local organizations, the aim of which was “to lift the stigma associated with medical marijuana cultivation and use by helping other community organizations who are also trying to improve the [community’s] quality of life.” The project was named after Izzy, a 21-year old Pacific Islander who passed away of tongue cancer. Tom had met Izzy at the juvenile home he worked at and continued to play a role in his life after Izzy left, especially when he was thrown out by his evangelical parents for being gay and had to navigate adult life with little support. Izzy was one
of the first terminally ill patients in CPR’s Patient Provider Program. Tom lost touch with Izzy in the last weeks of his life as his parents took over his care, disallowing his marijuana use. Izzy passed away; Tom and Izzy’s friends held an informal wake at a bar following a sternly religious ceremony held by Izzy’s parents. “They just wanted to deny who he was and cover him in religion,” Tom explains, speaking of both his sexuality and his medical marijuana use. In this way, the Community Improvement Project emerged from turmoil over private shame, public behavior, and coming out. Its establishment sought to create a publicly pro-marijuana institutional atmosphere among community organizations, at the same time highlighting pride and gratitude, not shame and secrecy, in the non-profit institutional layer of Calaveras.

The challenge was to find local organizations that would accept money from a medical marijuana organization (especially one largely funded with marijuana proceeds). Recipients would have to publicly acknowledge CPR as a donor and participate in an awards ceremony to acknowledge their work. This put many organizations in a difficult situation where they had to choose whether to be funded and tacitly support marijuana or seek funding elsewhere. The program started small, with many organizations turning down CPR. By its second year, though, CPR donated to a first responders program, an after school program, an historic restoration project, and a senior center. By its third year, CPR was receiving requests from organizations for funding, including a community food bank.

CPR members also altered “the public” in their own institutional itineraries. CPR’s atmospheric politics is a grassroots politics borne by collectivized individual agents, floating among and across institutions. Ed, a white, retired Teamster and small-business Republican, had never been an activist. He had been involved with marijuana in his younger years: he had grown up in marijuana-filled Napa County of the ‘60s, trafficked marijuana on a private plane from
Mexico for several years after serving in the Navy, continued smoking as a truck driver but gave it up when his company (like many others) started drug testing in the Reagan years. When he got disability benefits after a kidney was removed, he began smoking—and growing—for his arthritic wife and to manage his own neuropathy-induced pain. When K Care delivery service was busted in 2010 (contributing to the downfall of Downum’s law enforcement empire), Ed attended the trial every day, heading up a latter day “walker patrol.” At court, he ran into friends from his Rock & Jewel Club and Antique Car Club, many of whom were surprised to find him an advocate. This initiated a process for Ed in which he explicitly invited acquaintances to his house, with the intention of showing them his marijuana garden. Going from Cliff’s Diner (run by a county supervisor) to the Veterans Administration hospital, he would educate all those around him, making these sites part of his activist itineraries, which also included marijuana competitions, panel discussions, rallies, and trade shows throughout northern California. Ed’s activism extended well beyond the simple reach of government regulations as he carried it into varied realms of civic and social life. “Politics” and “civics” were never far apart—the deflation of prohibition had an everyday texture that pervaded county life but only to the degree that individuals, acting on a collective impulse cultivated by CPR, carried it out in capillary-like formation (Foucault 1980).

No vector of this individual political drift was more affecting than those who participated in CPR’s Patient Provider Program, the program supplying free marijuana to Calaverans, like Mike at the beginning of the chapter and Police Chief Mendenhall in the end of the last. As commercial-illegal growers saw their product having powerful impacts on dying patients, they became medically politicized and drawn into CPR involvement. Further, as painkillers were discarded and lucidity was regained in the months before death, the dying and their communities
also became medically politicized in a profound way. The effects rippled through Calaveras and beyond, politicizing social life at its most granular.

CPR also challenged property and homeowners associations to ensure the ability to grow and provision marijuana for one’s self and others. Tray, a native Missourian turned California surfer, had begun growing in Calaveras in 2010. He had migrated from Monterrey Bay where he put himself through school as a pot dealer. After he was robbed at gunpoint, one of his marijuana suppliers offered to set him up on a rental unit in Calaveras. Well into the growing season, his property management company unexpectedly arrived at his home, having heard of his grow “through the grapevine.” Citing federal law, they promised to kick him out. Initially Tray thought it was a fait accompli—a deputy had made a visit to the property a few days prior, after spotting the garden during a flyover. After affirming the medical paperwork was in order, the deputy uneventfully left. Tray, waiting for the other shoe to drop, convinced himself “the grapevine” was, in fact, the deputy. With nothing to lose, he called the deputy and got a surprising answer: the deputy had not told the property management company. Moreover, he said neither the company nor the police had the right or jurisdiction to destroy the plants or evict him. With this information, the conflict moved from a criminal to a civic and political matter.

Emboldened, Tray contacted Tom for help (they had just met at the board of supervisors meeting where the sheriff’s proposal to ban outdoor growing was defeated). Tom drafted a pamphlet for the company, outlining the illegality of their threats, which led to a compromise agreement allowing Tray to finish the season but agreeing to terminate his lease the following year. “CPR saved my ass,” Tray remembers. “There were no other options. Since then I’ve been the biggest supporter [of CPR], doing whatever I can.”
Tray’s property problems did not end there. Partnering with a Monterrey investor, he bought a property in a residential community to grow the following year. Unfortunately, the lot faced several other properties and a main road, displaying his garden—and his tent and camper—for all to see. Tray explains, “First time I talked to the president of the HOA [homeowners association], he’s on the side of the road talking, waves me down, doesn’t say welcome, congratulations on your property purchase, none of that. ‘I need to see your medical marijuana recommendation.’ I’m like you gotta be kidding me dude, thanks for making me feel so welcome. I showed him a photocopy of my county card but I never gave him anything. From there on out” it was a battle for him to grow. Overcoming his nerves, Tray introduced himself at the next HOA meeting—he was shunned and not-so-obliquely attacked for his growing. At the second meeting, he addressed the older all-white HOA head-on, explaining his medical grow and intention to live and build on the property. He explains, “I did not feel comfortable in my own community, it was fucking terrible.”

While some neighbors warmed eventually, it wasn’t until Chris Wright’s election that Tray was seen as a legitimate member of the community. “We pull up to this fundraiser,” he explains.

And I fuckin’ see three Priuses and here’s my Jeep Liberty. All my neighbors drive Priuses. I walked in, they didn’t say it but they were like, ‘what are you doing here?’ Thought I was in the wrong place, thought it was a bar. I was just there. ‘Hey guys. What’s going on?’ Nervous as fuck. I donated like 300 or 400 bucks or some shit through CPR and the buy-in was x amount of dollars and I threw in $25 more dollars and they were like, ‘Oh my god, thank you so much for your contributions.’ Like I was some piece
of shit that couldn’t possibly be community oriented and want the same things they want.

Definitely a positive PR event for the old T’ster here.

Tray’s efforts with the HOA would open the door for other marijuana growers who moved into the community for the 2013 season.

Tray’s narrative illustrates how an atmospheric politics connects a social milieu to formal political life. In their decision to take an overt role in the 2012 campaign of Chris Wright, the CPR board took an active and public role in the election process, including participation in activities such as phone banking and drives to get out the vote. This was important in terms of the people they reached, the political debt they acquired, and the lateral bonds they made with others from the community (like Tray’s neighbors). Their participation in formal campaign meetings and private fundraising events cemented ties to Chris Wright, ensuring that medical marijuana was part of his platform and a habitual refrain in speeches. CPR’s “single issue” organization linked itself to a candidate-centered coalition as it did the everyday work of changing relations and discourses within the community. It was not long before outgoing Supervisor Wilensky suggested that CPR participate in political patronage measures. He asked them to make a donation to a non-CPR member who had been arrested in South Dakota carrying marijuana. She was from the Miwok tribe and a community leader, and was an important power broker for her community, a key constituency in the 2nd District. When Tom hesitated over this request for helping a woman who had no CPR involvement, another member reminded him that this was paying forward—favors are debt and debt is politics.

CPR aimed to create a new “public” atmosphere, where the public is understood to be the totality of civic and political life through which marijuana resonated, from private property relations to hospital policy to election platforms. Each realm of intervention had its own
jurisdiction within which it could deploy certain rationales, rules, discourses, and practices. These jurisdictions could be over bodies, territories, or affinities and each comprised another dimension of social life. CPR’s work was far from a simple social elaboration of existing law and it went well beyond policy, which was only one moment in a broader transformation of social relations. It re-politicized jurisdictions that had been formed under prohibition and created a new political topography.

Growing New Gardens: Politics, Property, and Humanist Libertarianism

It was another hot summer day in 2013 Calaveras when Tom, his wife Lauren and I went to May’s garden—to take a dip in her cooling pool, eat fresh grapes, and down hibiscus-infused iced tea. It was over a ridge from Tray’s gated community, an independent lot of 50-plus acres. A widow in her 50s from the Bay Area, May had bought the property in Calaveras to live a less encumbered life. Her garden boasted watermelon, okra, cantaloupes, and more. In the shadows of her shed, she had a mushroom colony, which fortunately didn’t attract attention from the hefty cats that shared the shaded coolness when they weren’t lumbering into the sun. Her porch overlooked several rows of hills, disappearing into the horizon of the high Sierras, where snow and clouds became indistinguishable. Behind her house was a natural water source that once traveled several miles to power Calaveras’ first gold mill. Now it came down to grow her garden, the newest addition of which were a few reedy stalks of marijuana dispersed throughout.

May was the director of a local after-school program. She met Tom in the year I had been gone, after Tom offered to make a donation to her program. May demurred and Tom figured it was due to nervousness about the marijuana association. She called a few months later after a grant had fallen through, asking Tom for a donation. Tom raised the money from members who
hadn’t contributed that year, some of whom would become quite close with May. He was happy for the connection but surprised when he received another call from May. This time, in a hushed and cautious voice, she skirted around the subject, but finally asked Tom whether it might be possible for him to come help her make an addition to her garden. Her mother had a degenerative neurological disorder. May had heard marijuana might help, but her mother lived in Pennsylvania where growing was too risky. May decided she would grow the marijuana and send it to her mother, but she had to make sure it was good enough quality to provide relief and justify the risk of inter-state shipping. Tom coached May on gardening techniques as she plied him with tomatoes and the more traditional bounty of her garden.

This was not the first time I had been to a garden where advice was being given or gotten. Though mundane and full of technical details about strains, pruning techniques, watering tips, nutrients, pest management, and harvest timing, the trips were either the first or last activity during interviews. Not being a farmer, it took me a while to grasp the importance of these exchanges. Gardens were the common threads tying together a myriad of people spanning generations, races, lifestyles, aptitudes, and political persuasions. They were a space where people confronted the evidence of their relation to their rights and their beliefs. Whether in the garden or relaxing over beers or joints (or hibiscus tea at May’s), the garden was a constant reference point of one’s “skin in the game” and the key to their politicization.

Via gardens, property came to have a political, legal, and social content that belied a hermetic, libertarian understanding of its “privacy” and absolute ownership. Outlawry depended upon privacy and freedom from state incursion, as did earlier waves of privacy-based marijuana activism. The garden was where notions of privacy, property, outlawry, liberty, and rights mixed. The atmospheric politics now blooming was a deeply subjective process that changed people’s
relationship to land and property, rights and collectivity, and their relation to the public in the most private horticultural spaces. The garden, as Blomley (2005) has pointed out, is both public and private, though in this case its publicity is a more fraught affair. It promises household wealth, bodily health, and self-medication and risks destruction and loss through robbery and raids. The garden is not just a place, a skill, or a practice; it is also a referent and a basis for the “horti-politics” that propelled CPR members and growers into public life through supposedly private space. As conversations roamed over soil type, retainer walls, and gopher prevention, there was a simultaneous but unspoken language of collectivization and politicization spoken in each garden, no matter how isolated or hidden. This politics led CPR to a staunch defense of the right to garden, to self-provision medicine, and (for those unable to garden) to obtain plants through communal provisioning circuits. It helped to overtly collectivize responses to raids and robberies, thereby transforming these events from individual episodes of landowner strife to collective, public episodes of defense, support, and community. Support could now be quasi-public instead of dependent on one’s tight inner circle. The garden—now visible through helicopter flyovers or energy bills—was a claim to a transformed notion of civic life that straddled the line between public and private, transforming both in the process.

Below, I explore Tom’s own relation to his garden, as he went from covert to overt. No political neophyte, he went through a transformation that speaks to the process of collectivization and civics. As he engaged a community connected through gardens and plants, his own presuppositions transformed—libertarian principle became useful insofar as it was pragmatic. Though he periodically and consistently expressed libertarian beliefs, he continually recognized and commented on their transformation and limitation in the face of CPR’s developing politics. In highlighting Tom’s personal struggle with politics, property, and social connections, I show
that while atmospheric politics is a space-making move in relation to institutions and social spheres, it also transforms conceptions of self and “the private.” Politics becomes not simply something one has an opinion or belief about but is rooted in practices and social relations. It is not so much the acquisition of a political subjectivity but the politicization of subjectivity itself. By this I mean that politicization is not a process that is separable from other realms of life (e.g. having a political subjectivity) but is something that suffuses everyday life by reorienting and altering the rhythms, minutiae, daily practices, and discourses and relations through which the everyday is lived. This politicization of subjectivity is the mirror of the institutional insinuation explored in the previous section.

Tom was not eager to wade into drugs again. His ex-wife had been addicted to speed. When she went off the deep end, disassembling and reassembling television sets in her cabin convinced she was working for the CIA, he nearly drank himself to death “Leaving Las Vegas style.” His second and current wife, Lauren, had a history with addiction as well, which she kicked at the same time Tom retreated from his eventual alcohol-induced suicide attempt. Tom had been asked to grow medical marijuana in the mid-2000s by a brain cancer hospice patient who Lauren was caring for at the time. A bit of online research on marijuana stunned Tom—medical marijuana was not only useful, it was apparently legal. “At that point I hadn’t smoked in 15 years and Lauren didn’t smoke at all,” he says. “There was a law that said I could grow this stuff for a patient. So I did my research…figured it all out and started growing.” Having just moved onto a new property in Wilensky’s 2nd District, he cleared a small area of bushes on his property accessible only by crawling through a thicket of brambles, overgrowth, madrones and pines, not an easy task for Tom’s large frame. “I hid it way back there because I was paranoid as
fuck,” he explains. “I’d sneak back there, looking for helicopters, convinced [Sheriff] Downum was gonna show up that moment. Feeding the plants and looking over my shoulder.”

The hospice patient died but soon other “patients” contacted Tom and he decided to start his own Granddaddy Delivery Service, which was technically legal but not tolerated in Calaveras by Sheriff Downum. “I got lots of calls saying they were patients but they were fully expecting it was just a cover for scoring drugs,” he recalls. “I had to get serious with people on the phone, letting them know I wouldn’t do anything without a recommendation.” His garden was a site of social healing but it was also a potential threat to his freedom. When several high profile busts occurred, one of them involving a friend, Tom decided he was “too fat to go to jail. I just couldn’t take it.” So he quit the marijuana trade and entered marijuana politics.

Three things became clear to Tom. First, medical marijuana could never fully emerge while Downum was in power. This was quite literal in Tom’s case. Because of his fear of being flown over by a police helicopter, his garden suffered, he couldn’t clear a spot to expose his plants to the sun, his watering system was makeshift, he couldn’t ask many people’s advice on gardening, and he had to drive hours for amendments and garden supplies so he wouldn’t be identified locally as a pot grower. Second, the new regulatory impulse represented by Wilensky would always be a stunted and fragile solution, especially without a political cadre to craft and sustain governmental action and a social milieu where people could “come out”—a precondition and mechanism for politicization. The garden and its horticultural practice was the unifying factor of this cadre—which consisted of self-provisioning cultivator-patients, cultivators for others, and patients who depended on these others in the gardening network. The garden became a kind of political technology through which the cadre formed and the atmosphere, or milieu, was built.
Third, if medical marijuana was going to be perceived as legitimate and move out from under the thumb of law enforcement, it could not be a “cover” for people trying to “score [drugs].” Parsing out medical from commercial forms of circulation required a transformation of Tom’s libertarian, privacy-based rights politics to a politics of transparency, regulation, and government engagement. The insistence on one’s right to privacy could be a sign (to the police, the non-growing public, and regulation-oriented progressives) of criminality and commercial intent. So as long as medical patient-providers hid behind an opaque shield of privacy claims and refused government involvement and surveillance, they would continue to be looked on as criminals. While some marijuana advocates envisioned multiple layers of regulation as the solution (land use, zoning, environmental compliance, garden parameters, inspections, etc.), Tom was only supportive of regulations where community and individual practices failed and where lack of legal clarity threatened the safety, access, and rights of medical marijuana patients. At base this meant protection from arbitrary police intervention, but it also meant regularizing medical marijuana enough to avoid legal jeopardy. Regulation didn’t just emanate from government, it was assured and practiced in communities and by people in informal ways. The aim was not to regulate and control; it was to ensure patient interests (and by extension to ensure that all cultivators were at least quasi-medical) through whatever regulatory mode served best. Tom’s libertarian beliefs were modified in relation to his notion of individualism and property rights. He adjusted his libertarianism to encompass collectivity and the larger community.

The engagement of libertarianism with regulation was an odd position for Tom. This was a story common among many of the anti-drug war libertarians who had formed a core of the legalization movement. By 2010, they were confronted with the pragmatic demands of integration into existing social-governmental systems. Having pegged me as a “liberal,” Tom
would argue against entitlements and global warming but his views weren’t quite what I expected. It wasn’t that he thought helping people out was wrong or that global warming was a hoax but, rather, that bureaucratic efforts at the societal level were doomed to failure. For the same reason, he disparaged the Tea Party’s notion of the UN Agenda 21 as a plot (despite having attended the California’s founding Tea Party convention). No government could coordinate global population control without it being a disaster. “You ever tried to get anything done in a group of more than three? Now imagine a group of hundreds of millions,” he’d taunt. This notion was partly why he moved to this rural area nearly 20 years ago—knowing he couldn’t solve the macro-problems, he switched focus. “I may be tuning out the world but I’m…starting with what’s right in front of me. That’s where community is and where I can make my impact.”

Tom’s libertarianism is pragmatic in respect to his community engagement. If government could further community impact—the rights, safety, and access of patients—that was ok. “The free market,” he’d note, “isn’t going to take care of the environment.”

The government is just one among many institutions and modalities of regulation he sought to influence. The ideological flexibility over government’s role and property right’s defense was motivated by Tom’s bearing witness to how authoritarian state capacities, in this case around marijuana and drugs, can arise in the absence of a regulatory state. Whether regarding medical marijuana or protecting watersheds, a lack of regulations does not necessarily equal more freedom but, rather, can invite more arbitrary, authoritarian forms of power, be they the sheriff, developers, or the original lawless inception of life and property in Gold Country.

CPR became supportive and allied with liberal-progressive candidates such as Wilensky and his successor, Wright. Similar to issues of environmental protection, governmental transparency, and public service provision that were at the core of their platforms, medical
marijuana benefitted from a local government that regulated social affairs, inciting participation of a different sort than the *laissez-faire* system described previously. Most importantly, despite Tom’s libertarian attitudes (and similar to other conservative-libertarian members) CPR’s unity with liberal-progressives indicated the necessity of marijuana becoming socialized, inducted into a public and formal sphere of social regulation, within government and throughout society. This alliance was not simply a matter of coalition building; it was a deeply personal matter felt at the level of personal belief and inside the garden—two interior, private, and proprietary realms.

Thus, Tom described himself as a humanist libertarian—where belief in the basics of rights, freedom, and inalienability were rooted not in legalistic, ideological consistency but were self-consciously communitarian and rooted in beliefs around well-being. His commitment to community self-determination was not dependent upon rejecting government or accepting it wholesale but in navigating governance in a way that reflected community needs. Tom explained, “What [Ayn Rand] doesn’t say is that there is community. And that’s where I come in. Not to brag, but I’m a nice guy. I’m not cold and heartless.”

There is perhaps no clearer example of Tom’s community orientation and altered libertarian, free market principles than the patient collective he organized and provisioned. As the Patient Provider Program (PPP) rapidly grew, a debate emerged over whether and which chronically disabling conditions should qualify and if income levels should be considered. After a while, CPR added conditions like neuropathy (following a revealing discussion of what qualified as a proper ailment and one worthy of free marijuana). Tom, though, resisted adding income to the PPP criteria. Instead, he steered people to informally organized collectives, one of which was run by him and Lauren. The collective was a conglomeration of patients, who each provided their recommendations to Tom and Lauren, allowing them to grow a certain number of
plants per patient. In this respect, the garden was a social formation, connecting plants on private property to individuals in need. Recommendations, not market mechanisms, were the link. This collective transacted marijuana for 50-75% less than dispensary prices, which covered Tom’s direct costs and compensated him for his time. For $100 an ounce ($12.50 an eighth; $1600 a pound), members could “reimburse” Tom for the expenditure of time and inputs in growing. Many weren’t good growers, didn’t own property (and couldn’t grow on their rental), or were just too poor to afford the front-end costs and bear the risks of growing. At a time when price per pound was dropping to $1000 for some, Tom’s income was sustainable for him (speaking volumes about the capture of prohibition rents by dispensaries). Tom explains: “It’s like this: I think about it like I think about medical marijuana. Here’s this medical substance that treats all kinds of things and it has this one side effect of making you high….It’s the same thing with profit, you can really help people and grow for people and do what we do but there’s this other thing, this profit thing, that you can just focus on and get caught up in, but it’s just a side effect of what this is really about, which is providing medicine for sick people.” Tom’s collective offered a public assistance program to those who didn’t have the means to purchase at a dispensary, where prices for a pound could reach up to $6400 (not the low $1600 he sought, a price he often fudged for those in most need). While his wife at times criticized Tom for this do-gooder attitude and rejection of market principles, Tom’s collective—which was not related to CPR—was an important pedagogical tool for others as they came to understand the importance of marijuana as a (non-profit) medicine, not simply a source of revenue. Marijuana transactions were acts of social and collective responsibility, community, medicine, and care.

At the core of this transformation in libertarian political beliefs around government, collectivity and property was a reorganization of the notions of public and private, and the
Through the Gateway

Michael Polson

discourses that structure them. A once criminal-private activity in a prohibition society was changing the makeup and operations of institutions; people’s beliefs and senses of property were altering as the public, political, and social aspects of marijuana became substantively practiced; “coming out” was not simply to move from one space to another but was to transform the space itself. This was not an amorphous, agentless politics. It was mobilized by people through gardens, documents, policies, and organizations. Atmospheric politics is a connective politics that bridges gaps between the most personal belief system and the most public of policies.

Not all people, however, were able to cross this public/private divide. The history of drugs, criminalization, and race created barriers as to who could “come out” “into the light,” who could lay claims on institutions and social relations in a transforming public. Yet, social change is not something restricted to formal, political, institutional, and public spheres. Even those living in illegalized shadows were transformed by and transformed Calaveras’ social atmosphere.

Structured Shadows: Exclusion and Social Protections

Nico hailed from Stockton. He attended an elite Catholic school peopled by Stockton’s “Families,” which controlled the levers of this nepotistic Central Valley city. His Italian family was deeply engaged in Stockton’s graft-ridden business community and was no stranger to illegal markets. Nico’s grandfather had immigrated from Northern Italy, sharing a room with his sister, mother, and grandmother and become a “self-made man,” going into business with a Central Valley trafficker who moved “hella coke.” Nico’s father continued the family line, collaborating with the manager of a large company at the Port of Stockton. One of his biggest deals derived from a pipeline he had established from Afghanistan to South America to Stockton,
which was still being talked about in some circles. Nico explains that thanks to his father: “There was like ten years where there was fucking crazy hash in Stockton.”

Nico’s earliest memory was at age five. He was woken up at the barrel of a gun, held by a SWAT team. His father would go to jail for three years for growing marijuana in his backyard and his mother would die soon after from a heart attack before her 40th birthday. Despite his elite schooling and the care of his grandparents, Nico dropped out of college, opting instead for the lucre of marijuana. Most of his product would move through his father and the extensive trafficking network he had established in the Central Valley.

“Once you’ve had a machine gun pointed at your face you can lay as low as you want,” Tom said, reflecting on Nico’s lack of overt involvement in CPR. “That’s what post-traumatic stress is.” Nico, a short, wiry 20-something who was most comfortable pacing, scratching, and indulging his nervous tics, would nevertheless directly benefit from the work CPR was doing in general at the county level (and very specifically when he moved into Tray’s gated community, for which CPR had fought). In return, Nico consistently donated to CPR—but there would be no receipts, email sign-ups, or donor listing on the website. Stepping too far into the public light not only meant re-igniting traumatic episodes from his childhood, it also opened a door to prosecution of his family. All an intrepid prosecutor needed was one pressure point in a family like Nico’s before the dominos would begin to fall. Nico’s exposure would mean ratting out his loved ones or taking a hard fall. Publicity, coming out, and “the light” were not options for Nico.

Coming into the light was also not an option for Samuel. A tall, heavily-tattooed Latino 26-year old from a much different part of Stockton than Nico (no elite Catholic school upbringing here), Samuel had been transitioning to Calaveras for several years, working his way up from a trimmer to a garden hand and manager, to running his own operation on a property in
the gated community to which Tray had won access. Samuel had watched many of his Stockton friends go to jail or worse. The last straw was when a good friend was swept up in a 30-person sting operation. Samuel had almost worked with this group as they bought up 26 foreclosed properties, using straw buyers and falsified loan applications, and “blew them up” with marijuana. “Floor to ceiling, plants just stacked throughout the houses,” Samuel explained.

Their fatal flaw was diverting energy from the electricity grid to the tune of $4,000 a month per house. An investigation by the energy company (which is otherwise happy to collect payments on gargantuan, non-diverted electricity bills) led to the multi-agency wiretap and sting.

Samuel, seeking an alternative to the criminalized world he knew, did not have an easy transition to Calaveras. As a Latino—and, as many of his friends noted, a Latino who was dating a white woman—he stood out in this 85% white county, particularly in the gated community where he resided by 2013. While the loud gatherings he held at the community’s lake didn’t facilitate neighborly relations, it was suspicious when, of the several marijuana grows in full swing in the gated neighborhood, his was the only one robbed in 2013. Perhaps the heightened surveillance of his activities as a racially-marked person increased the likelihood of him getting targeted. Tellingly, many of the people close to him attributed the robbery to his race, indicating that even if it didn’t cause this particular robbery, it very well could have—it would have fit within the perception of racial tension within the county, a perception that came out in neighbors’ cold shoulders and mysteriously targeted robberies.

At the grocery store nearest my fieldwork home, there was another robbery. This time the culprits, who appeared to be African American, were caught on surveillance cameras. Their photos were posted on a bulletin board in the front of the store, along with an outraged message and a plea to the community to offer information and help. It was during this episode that I heard
the phrase “Stockton in the hills” (I would spend time later at another foothills field site that worried about becoming “Sacramento in the hills”). Stockton, a large city west of Calaveras, was only 22% white and had experienced a murder and crime wave in the wake of its economic implosion following the mortgage crisis of 2008.\textsuperscript{116} Given Calaveras’ rapid exurban transition in the previous decades—which had nearly quadrupled the population—the loss of rurality was expressed through this discourse of fear and urban sprawl. As such, it was ineluctably linked through urban-ness to race, something one was reminded of every time one walked into the grocery store and was confronted by photographic evidence of this racial-criminal intrusion.

The link between racial difference, urban-ness, and marijuana had begun to crumble, but it still held purchase and was articulated in new ways. To illustrate: I spent time with many growers who were from Stockton, some of whom were people of color and most of whom were relative newcomers (past 5-10 years). The notion of “Stockton in the hills,” which relied upon conceptions of race, locality, and urban emigration (and mingled with fears about development, population booms, livelihoods, and land use changes discussed in the previous chapter), was replaced by another discourse—of Calaveras becoming overrun by even-newer-comers than themselves. In 2012, a group of “internationals,” a multi-racial group of young people from Jamaica, Florida, England, and Haiti, moved to Calaveras. During their first year, a spurned partner robbed them at gunpoint, taking all their plants, and the second year their entire crop was vandalized by someone who was not pleased with their presence. If indeed they had been robbed, an economic motivation could be credited but the fact of vandalism (cutting down plants but not taking them, tearing up water lines, etc.) suggested a rejection of their very presence. Other growers, particularly those I knew from Stockton, perceived these events as due to the

clumsiness of the internationals at best and dangerous to the broader interests of growers in the community at worst. One murder or violent episode could set the work of advocates back by years. The Stockton emigrants had worked hard to sail under the radar of county officials, not create waves in the community, and create social change via CPR and other levers of involvement. While the Stockton emigrants and the internationals found a truce in their work with CPR, the Stocktonians referred to the newcomers as “carpetbaggers,” coming to cash in on a growing political-communal-horticultural atmosphere they had created. Tensions climaxed one day in a local diner when a fight nearly broke out between the groups after the Stocktonians called one of the Jamaicans, who was white, “Ja-fakin’.” In this instance, while race, locality, residency tenure, and discretion were unmoored from traditional invocations (against all newcomers, marijuana growers, people of color), they still recapitulated a politics of exclusion. This was the same tradition of exclusion that had made people of color and pot growers and users scapegoats of broader social ills. As one informant reflected, “it’s like the Irish spitting on the Italians.”

There is a chain of exclusions and publics here: from a formal-legal public that Nico could not enter on account of his relation to the drug war, to a racial-communal public that marked and excluded Samuel, to a “local” public exclusive of newcomers or carpetbaggers, depending on one’s disposition. This chain of exclusive publics was borne out in terms of who could make what kinds of claims for social protection. As Jessica Cattelino (2004) pointed out in a response to Michael Walzer (1998), such claims are not simply “passive” on the part of citizens, but are quite active for those that have been denied social protections in the past. For example, none of the robberies and vandalism cases described were reported to police. Though CPR had managed to oust the former sheriff, many still had reservations about asking for
protection (rather than simply tolerance). This was especially a concern for newcomers who had little relationship with the police or community life or who were people of color (like all of the robbery victims). Even those who were comfortable with police and were not people of color were hesitant to call police because of possible perception problems. For instance, when a white grower—Tray, who lived in the gated community and had friendly experiences with the police—was robbed, he didn’t report it because the matter would become part of the police record, foment reactions from neighbors whose anti-marijuana worries would be confirmed, and generally support perceptions that marijuana intrinsically attracted crime. Marijuana growers of all stripes had a tenuous and variable relationship with police, but this phenomenon could be extended to other types of claims for social protection (e.g. reporting domestic violence, land disputes with neighbors, upstream water pollution). Exclusion was not simply a sense of belonging but was linked to recourse to public rights, privileges, and protections.

If there is a general process of “coming out into the light,” this process is particular to the types of people who are allowed to come into the light—distinct from those who are compelled to remain in the shadows. Bravery and personal will are involved in “coming out”—and this shouldn’t be minimized in light of the many activists who have risked their livelihoods to make this move—but these actions hardly undo the more difficult aspects of racialization and the criminalizing and traumatizing history of the drug war.

*Edgy Laws: Violence, Economy, and Mutual Support*

Legal inconsistencies generated insecurity and anxiety over engaging in and being visible to the public. Even for those growers (like Tray) who sold to medical marijuana dispensaries, and brokers who supplied them, there were no consistent regulations, nor consistent case law
about the validity and wisdom of contracts in relation to marijuana. Some courts considered marijuana contracts invalid since they concerned a prohibited substance. Some growers and dispensaries (especially in the more anti-marijuana localities) considered them unwise since they created a paper trail connecting the more legally protected distribution end to the legally fuzzy production end of the marijuana industry. This led to several grower strategies, such as selling to brokers, that separated growers from the end buyer. If one went through a broker, which most growers did, brokers possessed consistent and loyal contacts within dispensaries and could also protect farmers’ anonymity by saving them from having to interact directly with the dispensaries. The grower generally had no idea where the product would go—either to medical or illegalized-recreational markets. If growers didn’t know the chain of custody of their product, it would be difficult to prove whether their sales were medical. At that point, the determination of “illegality” depends on what kind of cash, assets, patient recommendations, etc. are on hand during a raid. Legal-medical status can be a difficult thing for growers to prove.

Given the vagaries of law and lack of social protection, particularly in relation to police and the jurisprudential system, growers had to figure out how to handle violence and dispossession among themselves. It may be surprising that there was not more retaliatory violence within the marijuana industry. Several times, growers in the foothills (and elsewhere) confirmed that they would not use violence to retaliate after a robbery. Since most growers didn’t have the investigatory power of police or organized crime outfits, the option to be violent was mostly constrained to the moment of robbery. However, growers viewed theft primarily as an actuarial risk calculation that could be prevented by precautions (security cameras, good neighbor relations, discretion in public, locked gates, etc). Prohibition price mechanisms accounted for these risks and their cost was rolled into the general price of marijuana. Notably,
the profit potential of marijuana—the ability to charge and reap high prices—was a protective factor in preventing violence. Shootouts over marijuana were less likely to happen because people understood robberies as part of business and marijuana’s price structure. With no state monopoly on violence, violence is managed in economic ways, diffusing direct encounters through the peacemaking power of the proceeds of prohibition. Put differently, the overall violence implicit within marijuana prohibition (the ability of the state to violently sequester wealth and arrest individuals) ironically has the effect of creating a price that discourages violence at another level. There is always more pot to grow and sell if one can make it to the next cycle. This observation offers an alternative to the conventional theory that profit potential begets violence by attracting “criminal” types. Second, it suggests that illegalized realms have their own practices, discourses, and order and that, while non-public and highly variable, have their own ethics (e.g. Bourgois 1995; Humphrey 1999; Roitman 2005). Finally, it points to economic rationality as a compelling sort of cultural-social logic that organizes behavior, violence, and social relations.

After events of violence or dispossession, local actors initiated non-economic rationalities of mutual support and solidarity. When the internationals were robbed, CPR members donated plants so they could finish out their growing season and not have to leave the county or live in penury. After Samuel’s robbery, because his garden was partially financed by another grower, they collectivized the loss of this farm with the other network of farms that were contributing to the same production outfit. When Tray was robbed by a broker (who had just been busted by the federal police and lost all his possessions and savings), he had amassed marijuana from several different growers. Understanding that risk is taken in every deal and that Tray was not culpable

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117 One could hypothesize that as prices fell for farmers, more violence would break out, since they not only had less earning potential but didn’t have full recourse to police and other social protections. If true, this could suggest a case for price supports or police outreach as violence mitigation in times of falling price.)
in a traditional, contractual liability sense, each grower “ate” the loss. The act damaged Tray’s trustworthiness but also underscored the support he had from other growers who appreciated the risks he assumed. While economic rationality mitigated responses to violence, the effects of violence were responded to with non-economic communal systems of support.

*Dappled Light and the Relation of Legal and Illegal Spaces*

These situations suggest the forms and consequences of exclusion in relation to the growing inclusion of marijuana. Yet, those who were excluded were not completely disenfranchised from the political process or social life. For instance, the owner of one local farm and gardening supply store in Mountain Ranch wasn’t accustomed to doing business with a growing number of marijuana growers. After he casually “outed” a grower in public, word spread quickly among other growers, who took their business over to the town’s grocery store. Within two years, where this store had been scarcely selling a few bags of perlite (a soil amendment) per year, by the time of my fieldwork, one individual would walk out with a whole pallet of the product. Despite this increase, the store’s owner was still not ordering the supplies needed so one woman became a sort of grower emissary, a conduit of information from the illegalized market to the formal market, to request a certain ordering strategy (of soils, amendments, and farming supplies). This thinly-veiled conversation would have been impossible in years past, where any suggestion of pot-growing was taboo and growers traveled hundreds of miles to acquire garden supplies while avoiding local attention.

CPR also acted as a conduit of public participation for illegalized patient-cultivators. CPR’s “meet and greet” gatherings with political candidates functioned as fundraisers, but also served as moments for illegalized patient-cultivators to access politicians in private, discreet
environments. CPR donations (of marijuana for the Patient Provider Program, or cash for the
Izzy B. Memorial Fund) were a way of impacting and contributing to the public while retaining
anonymity. CPR had actually incorporated as a 501(c)(4) membership-based social welfare
organization rather than a 501(c)(3) non-profit in order to protect anonymity: non-profits had to
disclose sources of funding. In this way, they were protected by their organizational tax
incorporation (not dissimilar from the Super PAC’s that also share this tax designation).

If legalized marijuana growers could affect “the public,” it was also true that the
growing public acceptance of marijuana affected growers. “The illegal” was constrained and
formed in relation to “the legal” in multiple ways. The clearest example of this was the impact of
“the 99-plant rule.” More than 99 plants on any one garden triggers an automatic jump in felony
mandatory sentencing. As far as California courts were concerned, any regulation on the number
of plants was unconstitutional under Proposition 215.\textsuperscript{118} The 99 number, regardless of its
applicability under state law, had made its way into various regulatory systems: Mendocino’s
farmer certification program permitted 99 plants; some doctors would recommend 99 plants for
an extra fee; and, in legislative deliberations, 99 was understood as the ceiling under which
county regulations applied, hopefully avoiding federal attention. While the federal government
could technically still prosecute anybody who grew even one plant (see \textit{Raich v Gonzalez}) there
was general consensus that they wouldn’t. An internal Department of Justice memo circulated
advising field officers to only pursue and prosecute gardens above 1000 plants.

Because the state had ruled that limits on plant numbers violated Prop 215 but an
allowance of 99 plants per patients seemed excessive to many, including patients and growers
seeking legitimation, a new standard came into force: the amount grown had to be appropriate

\textsuperscript{118} Localities could regulate plant numbers under their police powers (zoning, land use, etc). Calaveras, which did
not pass such regulations, was required to allow the state minimum (6 mature or 12 immature plants).
for an individual’s or collective’s needs and had to be covered by recommendations. In effect, this designated state police as the arbiters of “appropriate” or “necessary” amounts of medicine and pushed the determination of “appropriate” marijuana-to-recommendation ratios onto patient-cultivators. For example, 6 recommendations for 12 plants each would permit a grower to cultivate 72 plants. Yet many, if not most, recommendations didn’t specify an exact plant number, meaning that growers would have to determine the proportion of recommendations to plants. One recommendation for 99 plants would be hard to defend, six was safe (since six per recommendation is the guaranteed state minimum), but 20 plants would be conceivable depending on the horticultural prowess of a grower, the expected yield, the type of strain, the method of production, the medium of consumption, the ailment of the patient on the recommendation, etc. Growers had to not only cover themselves with medical recommendations to protect their gardens but were also asked to engage with a nebulous process of determining the relation of plants to medical claims, regardless of whether the plants ended up being consumed medically.

In Calaveras, which had a much more discreet growing “scene” in 2012, plants became a self-regulating limit. While there were a few growers who went for broke and grew in the hundreds, all Calaveras growers I encountered (except one who had been growing for over 30 years and was not involved in CPR or many public activities at all) hovered at 99 or below, only exceeding the limit early in the season when they were breeding clones to pick the healthiest plants to put in the soil (a time when busts were less likely to occur since small plants yielded much less weight in seizures, an important measure of the “success” of busts). Most growers I encountered in the Sierra Foothills who grew under 99 plants considered themselves “medical” growers, even if a share of their marijuana went to underground markets. Regardless of whether
they were covert or overt, producing for patients or for out-of-state underground markets, growers employed practices that rendered their gardens—and often their self-presentation and even identity—as “medical.”

“Medicalized” gardens extended to a panoply of horti-medical activities such as organic growing techniques, donating to patients, operating a patient collective, and selling part or all of one’s harvest to dispensaries. This medical orientation of gardens translated into discounted marijuana for the patients in Tom’s collective (described above) and in Tray’s collective, which was comprised mostly of the people who worked the farm. Even for commercial non-medical gardens, possession of medical recommendations became a requisite of growing. These “patients” received marijuana as recompense, thereby keeping safely within medical bounds and avoiding the more treacherous terrain of monetary wages (as well as allowing Tray to displace the burden of converting marijuana into cash onto his employee-members). Production, within the limits set by federal criminal law (the 99 rule), became a socially regulated—if legally inexact—activity through its medicalization. Production became public.

Medico-legal status, as opposed to illegal-commercial status, shifted depending on where in the circulatory process marijuana was—production, transport, or distribution. Growers were constantly attempting to “legalize” as many aspects of their production operation as possible. Conversely, matters of distribution (contacts, brokers, prices, meeting places, etc.) were highly secretive and inaccessible compared to the wide-open garden production tours for which growers would often invite me over. Growers re-engaged illegalized practices, relations, and codes of conduct that governed these interactions—handshakes, code words, price haggling, protection of contacts, etc. The legal and illegal co-existed, often within the same person, who themselves would move between illegal and legal practices and zones.
One of the major effects of this legal-illegal interplay was that “medical” growers, while adhering to plant counts, ramped up the size and yield of the plants to maximize the amount of marketable marijuana which remained after they distributed medicine to patients. For instance, while a grower might possess a patient’s recommendation and use it to justify growing 12 plants, they might only give 2 pounds of marijuana, or the bounty of, say, 2 plants, to a patient throughout the year. The rest of the product could then go to market. There was a slippage between plant numbers and the weight of harvested marijuana (e.g. 12 plants reduced to 2lbs instead of 24lbs)—between legal and illegal, medical and commercial. As the productivity of plants (weight per plant) increased, the community of cultivators became more fixated on horticultural improvement techniques. These techniques were often medical and commercial as they aimed to produce the best, most potent, product (whether as medicine or as recreational commodity) and maximize plant yields. Though these conversations concerned overt, medical production activities, they had a commercial-illegalized subtext: maximize yield, produce marketable marijuana. In this way, many aspects of illegalized distribution were smuggled into medically-protected discussions about production. In short, the illegal-commercial insinuated itself throughout the legal-medical.

While profits motivated many growers to keep their distribution activities shaded, we must remember that there were no clear ways to distribute in a completely legal manner. The temptation to distribute to illegalized markets over quasi-legal medical markets was not simply based on the greed of growers but was structured by a prohibition policy that expressly aimed to raise prices and, thus, provide tempting profit levels in the illegalized market. Marijuana production, like any illegalized industry, was a magnet for those disqualified or shut out from formal job markets. These legal-illegal dynamics constantly put growers on a precarious edge, at
once conforming to and standing to be prosecuted by the public. While one can focus on the moral terms of “greed,” this personalization effaces the structural pulls on growers to distribute illegally and the difficulties growers encounter in navigating legal markets.

From the number of plants to the discussion of growing techniques, marijuana’s new existence was neither legal nor illegal but both. “Coming out” wasn’t a straight-forward matter; it was provisional and partial. By altering our perspective from one based on dark/light, hidden/seen, oppressed/liberated, criminal/compliant, to one based on an understanding of “the atmospheric,” reality takes on a different hue. Instead of the illuminated and the shadowed, shades of grey appear, and the quality of air and light matters. We see places where light gains intensity or is refracted and places where darkness becomes more absolute or where shapes begin to emerge once eyes adjust. Similarly, just as an atmosphere is something ethereal but real, “the atmospheric” is a space with a charge and a feeling that one knows but can’t fully say why—a space Jason Pine (2008) has described as a “contact zone” where intuition and informal codes rule instead of overt agreements and public understandings. The atmosphere is something that traverses illegal and legal spaces and relations, that sees and senses beyond the “rational” and “enlightened” known world.

Medicine and Commerce and Emerging Contradictions

By way of conclusion, I will argue that medical marijuana created a drive toward the emergence of a fully legal marijuana economy and that a split is emerging between “medical” and “recreational” that threatens to subsume medical marijuana and its alternative economic modalities—self-provisioning, collectives, cooperatives, no profit—into dominant business and capitalist practices. Statewide, the creep of business (as opposed to collective or cooperative)
organizational models was quite real. The 2008 attorney general’s guidelines defined criteria for collectives and cooperatives, arguing that the most secure way of being compliant was to operate under a non-profit business model. This model has been furthered by the United Food and Commercial Workers (UFCW) to make marijuana businesses comparable to other businesses and has insinuated itself into the legal-administrative practices of social protection (e.g. business licenses, zoning permits, incorporation papers) for dispensaries (see next chapter). It is simplistic to argue, as many marijuana opponents have, that medical marijuana is simply a ruse for a broader legalization agenda. It is more accurate to note that within the medical marijuana realm, a new marijuana economy is developing. In the space between “medical” and “commercial” marijuana, which are bound together in complex ways as registered above, there is a contradiction developing within each that is pushing toward some kind of resolution.

No one captures these developing contradictions more amply than Rand, a white 20-something grower who was at the center of a robust and skilled group of young growers. He had moved from Stockton to the hills of Calaveras after operating his own indoor grow and dealing marijuana for years as a teenager. With solid connections in Stockton to dealers and brokers (and, as a graduate of Stockton’s elite private school along with Nico, to other parts of society as well), he located himself at the end of a long, potholed dirt road, populated mostly by “tweakers.” After the father of an acquaintance was murdered in a robbery, he moved to avoid the violence and insecurity of urban marijuana growing. At the entrance to his new country road, a brazen pot grower’s budding plant tops (colas) peeked over the fence during harvest times, daring law enforcement or burglars to jump his property line. Rand figured his two gardens, one directly behind his house and another at the top of his mountain, were somewhat safe in light of such low-hanging fruit.
As one of the first members of CPR, Rand has a tight relationship with the group. He serves on the board, donates high quality marijuana to dying patients, contributes to the Izzy B Community Improvement program and local elections, attends political events at every opportunity, and even held a BBQ in 2013 to thank the community and “give back” for a day. Admired for his horticultural knowledge, Rand’s practices became a model of ethics and community for many growers in his orbit. Community respectability was key to Rand, who was at the center of the disapprobation of “the internationals” described above. To his credit, it was because of his belief in CPR’s social politics that Rand came to a working truce with them. His large monetary and medicinal donations to CPR were meaningful and powerful for him. Unlike his history in Stockton, where dealing and growing were all business, he considered himself a bona fide medical grower, who used organic products, grew powerful medicine, fought for medical rights, and supported dying and sick people.

Among his friends Rand was a model grower, constantly updating his growing techniques, experimenting with new fertilizer mixes, testing out the latest pest deterrents. All of his plants were covered by medical recommendation and he made sure to keep under the 99-plant customary limit. His plants were consistently the largest in his circle, suggesting destinations for his product beyond the allotment for the patients whose recommendations he held. We never talked about where his product was destined, except “to the Valley.” He likely had no idea where his product would end up—the less he knew, the less criminally liable and able to snitch he was.

One afternoon in the summer of 2013, I arrived at Rand’s house, and we entered into a discussion over his new trimming machine. This machine, which he bought from a distributor in Sacramento who had it imported from Canada, did the work of an entire team of trimmers. It ate
electricity, not food; it trimmed uniformly, not unpredictably; it ran 24 hours a day, not a 10-hour working day; it didn’t get in fights, get too stoned, or ask for gas money or a bed. These machines were the topic of the first conversation I had with Rand the night I arrived in Calaveras. At the time he was wondering what people in the Emerald Triangle thought of trim machines. After I talked about the pros and cons of their trimming abilities, I added that many people resisted them because they spelled the rationalization and elimination of trimming labor, around which decades of tradition and social life had been built. He responded with comments about “lazy workers” and cutting costs, half joking—one of his workers was sitting in the room. But a year later, he had acquired a trim machine. With only himself, his best friend, and their girlfriends, they prepped (“bucked”) the marijuana and fed it to the machine. From a workforce of a dozen, he went down to four.

In the midst of this medical-commercial activity Rand was also building a powerful political-economic position. He financed Samuel’s grow, often brokered marijuana for his growing circle of friends, threw his growing buying power to stores that supported marijuana, and contributed to political campaigns. While he was not planning on running for office, like any businessman, he was building political clout through medical and commercial routes.

Rand, then, is a model activist as well as a model businessman, mirroring in some ways his dual commitments to medical and commercial marijuana and public production and private distribution described above. The medical fight was also a fight for business. CPR’s advocacy for a new political and social atmosphere furthered his ability to operate without arrests and setbacks. In Rand’s view, CPR’s atmospheric politics also became a struggle for a good business environment. What was good for patients’ rights was good for business. For the moment, Rand’s commercial aims are bound by marijuana’s medical appellation. Yet within that circle a
different, leveling, rationalizing economic force grows, much like the behemoth marijuana
“trees” that populate Rand’s ever-more impressive garden. This economic rationality, in the
hindsight of success, forcefully explains away the meaningful medical-social content as
conniving self-interest. That Rand’s “interest” was many things besides economic becomes
rationalized, rightly or wrongly, as fluff in need of economic rationalization (much like his old
workers). Increasingly, the interests of patient-consumers diverged from, though did not yet
oppose, that of patient-cultivators like Rand. This tension took shape in Rand’s proposal to
establish a grower’s association in 2013, the year following Washington’s and Colorado’s
landmark legalization of commercial marijuana.

Tray and Tom supported this move. Tray was doing well with his neighbors, though Nico
and Samuel, who had moved to the opposite side of the community, weren’t faring so well. CPR
was wonderful at fighting for patients’ rights, Tom reasoned, but it wasn’t adequate for the
interests of growers. Technically, nearly every grower was a patient but the substantive reality
was that—except for smaller, self-cultivating, and collective patient-cultivators—the patient role
in public debates was increasingly subordinated to the role of cultivators. In theory, a grower’s
association would act on behalf of an economic interest, like any trade or professional
organization, corralling larger social concerns into a stricter rubric of occupational/business
advancement. This association and the “interests” it needed to serve were techniques through
which select elements of a broader social field were “economized” and made into a self-evident
force. As basic patient rights were increasingly secured, Rand and Tray’s operations (like others)
came to resemble capitalist businesses, in the division of labor, availability of capital for
reinvestment and expansion, and incorporation of technology. What this economization and
emerging capitalization occluded, however, was an earlier expression of “interest” forged by
activists who fought for a much more transformative vision of society than profit and economic rationality. (A similar change occurred with the Humboldt Grower’s Association.) In the process, economics, in its own terms of inevitability and rationality, erased this history as utopian or excessive, discarding it in its efficiency-maximizing logic. The social-political atmosphere CPR intervened in would, in other words, be shrunk to the constrictive frame of “the business environment.” This is a historical dispossession of activist life energies and the mobilization of these energies into new commercial forms of power.

At stake in economization was the organization of marijuana provisioning itself. The push by patient advocates for self-provisioning—the right to be able to cultivate one’s own medicine either individually, as a caregiver, or as a collective—is at odds with a business-oriented model that necessitates producers, capitalists, and consumers. Consumers appear as revenue streams and non-profit collectives as threats to market share. After Prohibition’s repeal, alcohol as a cottage industry was outlawed, even though some provisions for personal consumption were retained. By and large, to be an alcohol producer after Prohibition ended, one had to be capitalized and reach certain regulatory and licensing standards, a bar that was reflected in the massive consolidation of the alcohol industry after Prohibition to essentially five corporations (Blocker 1979). Similarly, self-provisioning now finds itself in a tense prelude with a commercial provisioning that is temporarily constrained legally but gaining steam. The collective, non-profit, non-market form of provisioning, so central to the new forms of sociality and political activism that developed in California and ignited the spread of medical marijuana throughout the United States, now finds itself endangered and criticized by commercial and regulatory quarters alike as being too messy and uncontrolled.
Here we come full circle in the story of marijuana’s development in Calaveras. As it grew from a shadow industry to a political fight, the libertarian anti-drug war politics found an alliance with progressive liberals. Marijuana became more legitimized, protected, regulated, and economized. Libertarians are easily trending back toward conservatism, this time around a new marijuana industry. As the dominant political-economic script goes, regulations are becoming opposed to the free market, Democrats to Republicans, liberals to conservatives. The social-political qualities of property, privacy, individualism, and liberty stands to be forgotten as the “laws” of economic rationality and competition once again exert their force, atomizing and individualizing the forms of solidarity built in the economy’s formation.

This is an old story of individualism, liberty, economic freedom, and freedom from government regulation. These are the tenets Calaveras, in all its extractive devastation and faded glory, has trafficked in since its Gold Rush inception. Regulation—of water sources, land alterations, taxes and accounting, environmental compliance, labor safety, and health—will assume its old, derided status in county economic life. The liberal progressives who push regulation will come to appear not as those who helped to disable Calaveras’ recent prohibition but as those who intend to block economic freedom. A new marijuana reality, divided between workers and employers, industry and community, producers and regulators, assumes an old antagonism. Marijuana consumers will rally around regulationist liberals while commercial growers will rally toward libertarian conservatives, splitting the political unity in place today. Marijuana will become just another form of property, another expression of liberty, another source of inequality, another enemy of government, another dollar, another extraction industry. Until, as agricultural history goes, subsidies and land easements are needed as prices dip, sway, boom, and crash.
None of these developments are foreordained; capitalism is not a unilateral, inevitable, and crushing force (Gibson-Graham 2006; Gidwani 2007; Weinbaum 2004), but it exists in a political-social world that constantly decides how it is reproduced, altered, or foreclosed (Aglietta 1979; Meillassoux 1972; Sahlins 1972). The space between “movement” and “industry” may be ruled by powerful logics, but it is yet undetermined. The liberating force of “coming out” may here again be useful—what motives and rationales inspired this movement from “the dark” into “the light” and how are those motives and rationales served under different economic models? With this flipped script, it is incumbent upon regulators and commercial actors to justify themselves—not for the ill, the criminalized, the poor, and people of color to try to fit into dominant state and economic forms. The future depends upon the history that is understood or reinvented, the solidarities that are fought for or disparaged, the actions people take on all sides, throughout the shared atmosphere, and what people make visible or invisible in the conceptualization of social life and economics (Hiner 2012).

Tom believes it is possible to have both CPR and the grower’s association, because many of the personnel of the grower’s association would come from the ranks of CPR. The differences would not reach antagonism; at this juncture, there is unity and a prioritization of patients’ rights. Social bonds, however, would have to be quite strong to overrule the pressing temptation of profit and economic rationality. The future alliance would have to embrace collective organization; the collapse of the privatism that rules property; the rejection of policing and government intervention for community self-organization; care for land, the sick, the working; and the political on a rationale of social—not simply economic—values. These opportunities are present and tangible today, soaking up sun in the gardens of Calaverans. Seizing the possibilities—even seeing them—is critical for charting a way out of the same
liberal-conservative structure that characterizes American politics and community life. Without this recognition, activist histories will fade from view, and shaded forms of social life will be forgotten in a new regulated light. Medicine will be constricted into its narrow, commoditized confines and adhere to dominant economic form. We will know the future, even if something else is in the air.

*Out of the Darkness*

As marijuana becomes a matter of everyday civic publicity, of government regulation, of formal markets, this chapter has shown how new atmospheres of political engagement emerge. I have presented the different political actions—from horticultural practices to public policy struggles—that all affect and are affected by this shifting atmosphere. Broadly speaking, I attempted to ground the large political shift that has characterized the transformation of marijuana politics in the past decade. Many commentators have marveled how, along with gay marriage, marijuana has catapulted to the front of public discourse in a slow but determined state-by-state march eastward. Instead of referring to either a kind of pre-cognitive atmospheric shift or a positivist view of politics that is limited to a certain set of “political” actions and results, this chapter has charted a course between the two by showing how we might think about more ethereal, cumulative social shifts in atmosphere through a range of practices, discourses, networks, and relational dynamics. In CPR’s terms, “the atmosphere” shifted by 2012 and it is important that this atmosphere not be mystified as simply an irrational emergence or reduced to the simple terms of policy and protest. Rather, it can be understood as the space between the two, connected as they are by a rich, thick social world.
A focus on this atmospheric politics enables a different understanding of political life. Marijuana’s “normalization” might be seen as a moment of liberation, an endpoint of sorts of a political teleology beginning with repression and ending with marijuana freedom. This is true in one light but, as I’ve argued above, it brings a whole new set of privileges and repressions, legalities and illegalities, moralities and immoralities. Whether in the new construction of “sustainability” and polluters, the disdain for growing on public lands (whether tribal or federal), or the criminalization of Mexican “cartels” as the specter against which legal growers distinguish themselves, the new marijuana presents a new landscape of struggle, normality, queerness, and outlawry. Old narratives of domination—such as the repression of the drug war—now stand to be incorporated into narratives of progress as the past that was overcome. Yet, to memorialize this overcoming is to occlude the continuities of this past with the present. After marijuana’s formalization, the War on Drugs will continue against other drugs and it will serve similar purposes of social control in a new historical context. Similarly, struggles critical of marijuana’s industrial consolidation, like those of farmers or patient advocates or dispensary workers, will find it challenging to demand redress or equity amidst a unifying narrative of marijuana liberation. Liberation ideologies conceal difference and inequality in the present by memorializing the past and uplifting the progressiveness of the present.

The emergence of the formal “marijuana economy” in its own right shaped understandings of the past, present, and future, yet, as I’ve argued, the form of its dawning was not—is not—inevitable. Instead, it seeped into social life through many mechanisms as people struggled with the form marijuana should take. This struggle was most powerfully evident in the formation of the state’s new police powers to govern and regulate marijuana. The next chapter focuses on the panoply of civil and criminal interventions made into marijuana, with the key
effect of maintaining the social and exclusionary order marijuana had established through other means. As we will see, criminalization was never far from the surface, even as the state moved unevenly toward regulation.
VIII. From Outlaw to Citizen: Police Power, Property, and the Territorial Politics of Medical Marijuana in California’s Exurbs

Marijuana’s new publicity presented a challenge to a political order molded under prohibition. As marijuana’s civic reality dawned, legislators had to deliberate how marijuana would be integrated into public life. This process was not simply a matter of incorporating marijuana into pre-existing regulatory structures. Rather, it required a new definition of political community, a new justification and authority for state intervention, and a reckoning over the terms of citizenship. While marijuana policy had been made through prohibition in the absence of those who were criminalized—a one-sided debate—the new policy process around marijuana was open to marijuana patients, producers, and advocates. In line with the previous chapters’ argument on politics across the illegal/legal line, the publicly contentious political process was both informed by and had effects on underground, illegalized social formations.

This chapter deals with divergent cases from two counties that border Calaveras County, and then focuses on the fumbling formation of regulatory responses to marijuana. The case from Amador shows how marijuana was integrated into the government’s land use authorities and the political-economic order it policed. The second case looks at the failure of civic incorporation in Tuolumne County, in an episode in which marijuana dispensaries were torpedoed by the county’s law enforcement and judicial branch as they resisted state law. The cases show how the bounds of each political community were defined, mobilized, and enforced through two differing governing capacities. The cases also show the role that moralizing notions of “community” play in both criminalizing and regulatory modes of governance. While regulating marijuana as a land use (as opposed to banning it as an illegal substance and activity) connotes different rights and
concepts of citizenship, they both illuminate a fundamental contradiction within liberalism: it appeals to the universality of law but is premised upon particularistic notions of belonging.

Three Trips to the County Building: Criminality, Compliance, Advocacy

“I opened the door of the county building and said, ‘Oh fuck, it’s over now. [The cops] are going to be at my home waiting for me,’” Sammy said, rubbing more cannabis tincture onto his disabled knee. “We were growing weed in the front yard!” he marvels. Sammy, a white man in his 50s, is sitting in his electric recliner, his voice rising above the fan and the TV on this hot California day. He is recounting the day in 2009 he asked permission from the county to set up a trailer to grow medical marijuana. “I can’t lie…I just don’t want to lie no more. Gets me in trouble.” A two-time felon in a three-strike state, with approximately 70 arrests, lying could mean 25 to life. He had to get it right. “I told them, I told the truth,” Sammy explains. “I walk out [thinking…] I just shot myself in the stomach. I’m leaving a blood trail all the way home. I got home. I’m all weirded out in the brain. A blood trail from the cop shop to my front door.” As one of the first people to request permission from the county to grow, Sammy’s anxiety over his future was understandable. Jake, a grey-bearded biker helping with the garden for the season, was nonplussed. He shakes his head, repeating one of the basic rules of “being an old school outlaw.” Don’t give the government your address.

The last time Sammy went to the county administration building, in the 1990s, he entered for a probation check-in and left in cuffs, remanded into custody for 3 years on assault charges. It was a long road back: he was released “in a paper suit with only $200” and found himself living in a “tweaker” friend’s chicken coop. He eventually quit dealing and using meth, helped his girlfriend quit, got a job, bought a property, and helped his stepson get to college—a family
first. Then he was injured at work, suffered a botched surgery, and found himself disabled, with a doctor’s prescription for 240mg of morphine a day, a dose that would’ve turned this recovering addict into “a sitting bugger.” Given his addiction history, the doctor recommended marijuana, landing Sammy back in a “drug” economy he thought he’d left.

His more recent trip to the county building (to request permission to grow marijuana) not only jeopardized his new life but it also signaled a new relationship to government. “It took three days to get right before I’d let anyone come around. Shit’s gonna go down. I thought I should rip up those plants.” The liminal 3-day period of isolation and anxiety was a transformative time for Sammy. Was he an outlaw or a property-owning citizen? Should he get rid of “the evidence” or wait for code enforcement to inspect for “compliance”?

In 2011, the planning department summoned Sammy, still a free man, to participate in a workshop to gather input for an outdoor marijuana cultivation policy. This led to Sammy’s third trip to the county building in the foothills of California’s Sierra Mountains. First trip, a criminal; second, a property-owning patient-cultivator; third, a community leader. On each trip, from a town on the county’s geographic and socioeconomic edge to the county seat, Sammy traversed a rapidly shifting political geography of criminality, citizenship, governance, and medicine.

*Territorializing Law: Police Power, the Public, and Property*

As Amador County grappled with integrating marijuana into its system of civil regulation, marijuana took its place in a politically-defined moral-aesthetic order. This order was defined not only by the particular political economy of Amador but by a general system of legally-supported property ownership and the propriety it carries. Territory (via land use regulations) became a kind of triangulated coordinate through which the political process of
moral ordering—and its exclusionary and aesthetic terms—occurred. Though liberal legal philosophy posits a separation of normative community particularism and legal universalism, the covert traffic between the two is evident in the state’s “fuzzy” and “capacious” (Valverde 2009: 292) land use powers and police powers more broadly. In the case of medical marijuana, territorial regulations (and the production of moral-legal territory) mediated the tensions implicit within federal prohibition and local licensure as well as the tensions of a county in the process of political-economic redefinition. As governments throughout the world justify the transformation of marijuana governance from police power (law enforcement) to other policing disciplines (e.g. public health, land use regulations), it is important to ask not only whether to legalize but what the stakes of different regimes of legalization entail. Through a substantive understanding of formal law, we see how universal rights and law come to exist in an unequal society, across an uneven territory—a territory that even law’s universalizing gaze cannot fully envision.

“Police power,” as explored by Foucault (2007), is a governing strategy aimed at controlling commerce and mediating circulation within urbanizing areas. Instead of strategies based on rigid control (e.g. the quarantine or the city wall), police powers emerged along with efforts to “intervene” in a more permissive “milieu” (27). The function of police power, according to Rancière (2001) is to serve as a “partition of the sensible,” or to divide reality into what can be sensed, understood, and articulated and what is made inaudible or unsensible. Sensibility can mean both that which can be sensed and that which is acceptable for broader society, thus implying both a material-political and a social-affective valence. Police are an organizational force meant to order things and prevent this order from being disturbed—they are a milieu-ordering force. While contemporary vernacular equates police power to law enforcement, it is technically a wide array of governing strategies—public health, economic
policy, land use regulations—that developed in the 19th and early 20th centuries in industrializing, class-riven societies. This dispersed, sublimated police power was crucial to the governance of a commercial, permeable liberal society (Joyce 2003) and served as “the mix of administrative and coercive measures to order space and regulate conduct” (Valverde 2009: 139).

In marijuana’s shift of police power, territory transforms from absolute, bounded, protected, and controlled to a materially-discursive configuration, one among many “things” through which populations are governed (Elden 2007). Territory is produced through knowledge-power regimes within a governmentalizing society, chiefly through an “infrastructural power” (Agnew 2005; Joyce 2003) that serves to technicize and administrate freedom.

Planning, zoning, and general land use regulations are a form of infrastructural-police powers, which configure land as a milieu within which the state makes interventions. These regulations do not just govern land—they govern social relations through land. Yet, territory (not people) is the object of regulations, a displacement that occurs through the mediating technologies of documentation, plans, zoning designations, compliance stipulations, complaint protocols, and nuisance criteria. As territory replaces people, land use regulations obscure the political content of their actions and “fix” political problems through administrative territorial governance (Chiodelli 2012). Walby and Lippert (2011) argue that territorial police powers are fuzzily discretionary, normative, and more invasive than even law enforcement. Further, as studies of prostitution legalization exhibit (Crofts et al 2013; Kelly 2008), they can carry a coercive force rooted in moral-aesthetic rubrics and punitive logics. This nebulous coerciveness is evident in the originating authority for local police powers in the United States: to promote and protect the “public health, safety and welfare” (e.g. Amador County Code 2014) of an undefined community. Who defines the interest of that community in what ways is thoroughly political.
Valverde (2009) argues that “the community” is both the subject and object of police power—that which authorizes it and that which the authorized power seeks to represent and protect. As such, police power draws upon exclusionary notions of community, which include aesthetic judgments, such as “offensiveness,” that delineate ethical-aesthetic definitions. These definitions predicate a communal subjectivity that is offended, protected, and promoted. This implicit subjectivity betrays the presence of particularity—the seamy underside of a legal system that seems predicated on universal, even space (Mieville 2005; Smith 1990). Territorial police powers facilitate a slippage between law’s universality and community particularism through which rights and law are written into the political, moral, and aesthetic context of jurisdictions. At the core of land use regulation, unsurprisingly, is a “capacious” and “fuzzy” (Valverde 2009: 292) capability that is typified through the exception, such as “nonconforming” land use, or the “conditional use permit,” which continuously suspends the rules it has established as it calibrates the relation of community to law through territory.

Nowhere is the particularity of community more evident than in nuisance laws (Ghertner 2012), which historically took the place of the private lawsuit and came to administratively adjudicate the relations of property owners to each other and to non-owners (Howarth 1999; Valverde 2011). This created a governmental command to recognize and protect private property relations. The government effectively becomes the property-owning “collective neighbor” as it responds to “complaints” over the “enjoyment” of property by those impacted, decides “fault” (not guilt), and demands and judges “compliance” to the degree it deems “reasonable.” Valverde’s implied communal subjectivity (and object of protection) is the property owner whose notions of impropriety, aesthetics, and civility come to stand in for “the community.” Property has dual implications that straddle the line between law and community: it is both a
recognition of a universal proprietary right and a moral-aesthetic system of propriety. Property’s propriety is imported into formal systems of law and rights through territorial police powers (Freyfogle 2010; Ghertner 2012). Other rights claims must counter not only the rights of property but a dissimilating system of moral-aesthetic order rooted in property as the community authorizing governmental action. In a systemic sense, land use regulation displaces, obscures, and thus protects unequal social relations that structure private property systems, becoming what Anderson calls “the coercive arm of property rights” (1992 in Ghertner 2012: 1178).

While the particular dynamics of property and propriety vary across the United States, private property can be considered a general feature of territorial governance under liberalism. Indeed, the original “community” of liberalism was property owners (Habermas 1988; Losurdo 2011) against which were defined criminals of all sorts (Hill 1996). However, liberalism does not depend upon property owners, per se, but upon a private property system. The Jacksonian reforms of the franchise in the US did not mark the end of property’s relation to politics but, rather, property’s sublimation into territorial governance and the structure of law itself (Abraham 1996). The political community defined in land use regulations (given its fundamental relation to private property) is not exceptional to liberalism but constitutive of a tense dialectic between the liberal rule of law and private property (Macpherson 1964; Habermas 1988).

Understanding struggles over land use regulation necessitates analysis of how certain definitions of property, rights, and propriety are made, with what assumptions about the contours of political community, and with what effects over the policing and production of territory (cf. Verdery 2003; Blomley 2005). In the case of regulations in Amador County, the question becomes: on whose terms and with what definitions of property and propriety would medical marijuana gain ethical-moral and legal inclusion into “the community?”
This question is complicated by the history of prohibition. On the one hand, prohibition consolidated a fierce moralism and stigma that qualified marijuana land use as an illegitimate and untenable form of property. On the other hand, a sprawling system of informal social regulation (ethics, practices, relations, discourses) developed around marijuana in the shadows of prohibition. These two sides of prohibition comprise a singular governmental regime cleaved into two (ostensibly separate) ethical entities: prohibited and prohibitionist. Both systems are challenged as medical marijuana “legalizes.” Those excluded from public morality lay claim to definitions of “the community” even as they encounter legal, community, and property systems premised in the exclusion of these improper activities. Marijuana’s political rectification process, begun under Proposition 215, has been an 18-year process of calibration, conflict, and social change that has been located in many venues but none more litigious and sprawling than land use committees. It is here that the conflict of rights, freedoms, and laws are given substance—and here that Amador County struggled over its identity, economy, and social order.

A Murder and a Nuisance: Exurban Anxieties

In 2011, the neighbors reported hearing shots in the middle of the night to Amador’s sheriff’s department. Upon arrival, officers found He Ting Fu, a local Vietnamese man, murdered. He was grasping an empty shotgun, his 779 marijuana plants unadulterated. Suspecting a botched robbery, it took two days for deputies to apprehend five young men found with semiautomatic pistols, a flak jacket marked SWAT, plastic handcuffs, a flashing police light—and pruning shears and bags for plants. Presumably, they were to pass themselves off as raiding police and confiscate the marijuana, when the heist turned sour. The five were ultimately shown in court to be Vietnamese “gang members” from Sacramento. “These gang members,” the
sheriff advised, “would not have been in our county had it not been for the lucrative financial opportunity” (Hecht 2011).

Here, marijuana connoted a wrong type of economic development—one that generates crime (criminogenic) and attracts crime (crimino-magnetic). Even the victim, Fu, was encompassed by these criminal valences: the number of plants, which exceeded his doctor recommended amounts, suggested commercial-criminal, not medical sales. The problem, according to a California Police Chiefs Association representative was not simply marijuana’s illegality but its location among law-abiding, residential communities “on farms, in backyards, or indoors” (Hecht 2011). The conclusion was clear: marijuana’s overt presence on properties endangered residents and caused social and economic disorder.

This anxiety ran deep. Typical of other counties in the Sierra foothills (Walker & Fortmann 2003; Beebe & Wheeler 2012; Hiner 2012), Amador was undergoing a decades-long “exurbanization” process, underwritten by a massive population boom that was restructuring sociopolitical discourses, imaginaries of land and its use, and regional political economy.

Between 1970 and 1990, the county population skyrocketed by over 150%, making it as one of the fastest growing counties in a state noted for its property boom (Comparative Economic Indicators 2014). By 2006, the population had grown another 20%. A study in 2007, on the cusp of the national mortgage crisis (which had already surfaced in California property markets), showed a rural industrial-extractive economy transformed into a service-based, amenity exurb. Retail edged out manufacturing in 1990 as the largest employer; healthcare and social assistance now ranked second; the new low-wage service economy reduced real income; and poverty was now concentrated among working age people, not among the service-consuming elderly in-

119 The “criminogenic” effect of marijuana has become an object of contention in scientific and less formal studies (Kepple & Friesthler [2012]; California Police Chiefs Association [2009]), which were often selectively cited in policy deliberations, depending on the policy aim of the citers.
migrants who were better off. Controversy was typically exurban: land use battles among flagging extraction-oriented industries, residential developers, conservationists, and recent “amenity” or “lifestyle” émigrés (Gosnell & Abrams 2011).

These tensions heightened after the mortgage crisis. Amadorans owned homes at one the state’s highest rates (76% versus 56% statewide) and home values were climbing steeply up through 2006 (Amador County 2007). Between 2006 and 2011, housing values declined more than 60% and new residential construction permits by 85%. Dependent industries—construction and retail—went into a tailspin, resulting in a crisis for local government, the largest county employer, which was triply-impacted by declining property taxes, taxable sales, and income taxes as unemployment almost tripled (California DOT 2013). An insurgent libertarian-fueled Tea Party polarized the county’s assessment, planning, and land use capacities as distressed property owners turned against a government it held responsible for economic decline.

Amidst these anxieties over property, development, and government, He Ting Fu was murdered, stoking fears of the wrong type of neighbors, bad types of land use and economic activity, and criminal—and ineluctably racialized—migration from urban areas. In this 91% white, heavily right-wing county, the rejection of “the urban” was precisely what had motivated moves to the ex-urbs in the first place. This was neatly expressed in a territorialized fear of becoming “Sacramento in the hills”—where the racial criminality (particularly decades-old worry over Vietnamese gangs120) was seen to spill out from its urban container. Fittingly, Fu’s fatal drama unfolded near Ione, the county’s largest exurbanizing city on its western edge, closest to and impacted most by its proximity to Sacramento. Despite these anxieties, murder, crime, and illegal activity could not be properly regulated.

Meanwhile, in Amador’s burgeoning wine country, a locus of the new service-based “lifestyle,” fragile and stratified as it was, another situation emerged. A Fiddletown resident had filed a nuisance complaint against his neighbor. The neighbor had allowed his brother to grow 96 marijuana plants on his property for 19 medical marijuana patients, forming a “collective” grow (approximately five plants a person). The property owner passed away during the season but his brother remained, harvested, and vacated shortly after. The deserted house soon became a meth “funhouse” and fell into disrepair. The local paper ran a photograph of the meth-run property, not the marijuana grow, but the “blight” was attributed to growers. The photo would come to represent the disorder marijuana posed. (The truth, according to several informants and public testimony, was otherwise: the growers, while not perfect, had done “the county a service” by cleaning up the property before “the tweaks” destroyed it.)

Subsequent coverage and public hearings connected Fiddletown blight to violence in Ione—both threatened property values and the enjoyment and safety of neighbors, and burdened taxpayers who had to fund criminal trials. Despite the different nature of the cases—one was a modest, collective grow fully accounted for by medical recommendations while the other was in violation of legal-medical practice—each came to represent the danger of “large,” “commercial,” and criminogenic/criminomagentic grows, thereby linking the county’s white poor to the specter of the racialized urban criminal, despite the fact that marijuana growing was a thoroughly cross-class phenomenon. This inter-signifying “communicable cartography” (Briggs 2005) charted a narrative that drew upon anxieties over property, established (poor people’s) collective medical marijuana as the problem requiring resolution, and produced the intervention to resolve the issue (Li 2007): regulate and control legal collective cultivation through land use regulation.
By 2011, the land use regulatory powers of California’s counties had become the major lever of engagement with medical marijuana. After 1996’s Proposition 215 decriminalized medical marijuana, the state neglected to pass clarifying legislation, thereby ceding authority to localities. In an uneven patchwork, localities took varying tacks (Heddleston 2012), drawing upon their “police power” to authorize everything from unreformed enforcement (Lee 2012; McCartney unpublished) to detailed zoning laws (Salkin & Kansler 2011). In the Sierra foothills—and throughout the federally-designated Eastern District of California—the initial answer was to arrest first and let the prosecution sort it out, a tactic that was one prong of a larger federal-state law enforcement strategy to quash medical marijuana (Lee 2012). While law enforcement has significant discretion, it is subject to legal metrics and public judgment; across California, juries ruled in favor medical marijuana patients. When statewide legislation passed in 2003 to affirm the protection of these patients from arrest and prosecution and allow for “collective, cooperative cultivation projects,” the struggle over medical marijuana rights shifted from law enforcement to land use regulations—a police power that has caused years of litigation over its application and extent. Though the state’s attorney general issued regulatory guidelines, they were non-binding and eventually jettisoned in 2011 when the incoming attorney general decided they were rendered ineffective by resurgent federal intervention.

The shift in the mode of the state’s police power (law enforcement to territorial governance) altered the relations comprising marijuana’s governance. No longer hidden or prohibited from public order, it was made visible and regulated. A legitimizing marijuana now aligned with regulatory aims to promote “public health, safety, and welfare.” This subjective power enabled counties to decide how laws and rights would be substantively and territorially
implemented. In 58 counties across California, medical marijuana articulated with 58 different definitions of what constituted the interest of their residents.

Spatial regulations thus became the “territorial fix” required by localities to address the vagaries of medical marijuana at state and federal levels—a de facto solution to a fraught relation among conflicting jurisdictional laws. In the broadest frame, the political problem of marijuana prohibition and its crumbling legitimacy in California was “solved” through administrative governance of land use and its particular production of territory.

Uncovering the Community, Producing Policy

In late 2011, Amador County passed an “urgency ordinance” banning outdoor marijuana cultivation until supervisors could decide on a permanent ordinance. Over five months, this permanent ordinance developed in meetings of the five-member board of supervisors (BOS), the BOS-appointed planning commission, and workshops by the BOS’s land use committee. I attended several of these meetings, interviewed involved patient-cultivators, conducted ethnography with the patient’s rights organization that organized efforts (Collective Patient Resources), and obtained and analyzed recordings and documents of meetings I could not attend. During the meetings I followed to the establishment, techniques, and discourses of authority, expertise, and credibility by those involved (officials, property owners, and patient-cultivators). Through this process, I was able to assess how definitions of community, private property, and propriety were imported into law through territorial police power.

Switching Police Modes: From Delimiting the Legal to Governing the Territorial
Emergency moratoria on medical marijuana were not uncommon in late 2011. “Urgency ordinances”—essentially a legislative version of an injunction—were sweeping California’s counties in the fall and winter of 2011 for two reasons (explored in Chapter 4): first, the Pack v Long Beach ruling that challenged the ability of localities to regulate marijuana; and second, a renewed federal offensive against marijuana. One aspect of this multi-pronged offensive was the threat made by the US Attorneys office suggesting that government officials and bureaucrats who regulate marijuana “are not immune” from federal prosecution. This threat froze policy processes as counties implemented moratoria out of fear of prosecution.

Amador had avoided cultivation policies altogether for 16 years and banned dispensaries. Paradoxically, it allowed possession, use, and “depositories” where marijuana bought from other places could be stored. As a lawyer one county over said, they legalized the milk but not the cow, effectively establishing a don’t-ask-don’t-tell policy in regards to cultivation and acquisition. This selective regulation implicitly acknowledged that these federally-illegal activities occurred but the county would not be implicated in them.

The cultivation moratorium provided the county with time to study policy options as federal and state judicial processes developed. The first step was assessing what levers of control the county had to police cultivation. Supervisors summoned the undersheriff to advise on the status of remediation capacities available to deal with multi-patient, collective grows like the one that caused the Fiddletown complaint. After being asked if he could shut it down unilaterally, the undersheriff testified he could not without violating state law. Law enforcement has “discretion” to determine what amount of marijuana is “reasonable” for a patient to have, putting them in the unenviable position of discerning medical need, but it was unlikely prosecution would succeed. Given the legal protections in place, collectives and cultivation were a matter not best dealt with
through law enforcement but rather through other regulatory powers. Indeed, the sheriff’s powers to search and seize had been curtailed in a 2006 ruling (*People v. Russell*) that simply growing medical marijuana was not sufficient cause for a general search and seizure warrant.

The undersheriff then expressed his belief that some collectives were providing cover for “cartels” to produce commercial-illegalized marijuana. This framing cast a criminalizing shadow on collective gardens, marking them as inherently suspicious. The supervisors theorized that if regulations—and restrictive ones—weren’t passed, criminal collectives from around the state would flood Amador. “What I don’t want,” one supervisor said, “is people to get the message that Amador County is an easy mark. ‘Let’s set our co-op out there and I’ll grow whatever the hell I want.’ I want to send a message to those folks that it’s not going to happen here.”

Regulatory action, then, would carry a message to illegalized undesirables that their presence (and peculiar brand of economic development) would not be tolerated. In the shuffle, supervisors noted regretfully, the “legitimate needs of patients…to get their medicine” would have to be subordinated.

The response from advocates was pointed. According to one advocate: “You’re trying to address criminal activity by looking at further regulating a legal activity to suppress a criminal activity. It’s my contention that the kind of people you’re dealing with [criminals] don’t give a crap about your resolutions and your county code. The people that are going to worry about what you do and who’s most affected are the people that are trying to follow the law.” Restrictive regulations, another advocate argued, would “make a whole class of outlaws” out of people exercising their rights. The undersheriff agreed, cautioning against criminalizing the population for the actions of a “haphazard” few. “There are a lot who are doing this right, who are in compliance,” he said.
The supervisors decided on land use regulation. Unlike law enforcement—which served as a kind of negative limit, a regulatory agent of last resort—land use regulation could positively structure conduct *within* the limits policed by law enforcement (e.g. plant counts, garden locations). As the planning director stated, regulations don’t determine legality but do regulate “the manner, the method, with which [outdoor cultivation] would be conducted.”

Some medical marijuana advocates worried about the invasive power of code enforcement inspection and the nebulosity of their discretionary power (e.g. no jury review, inability to face accusers, expansive powers of inspectors exceeding even that of law enforcement). For this reason, one advocate suggested that law enforcement retain discretionary control over cultivation—at least they had to abide by legally-entrenched protocols, unlike county code enforcers who had latitude to assess “nuisance,” “offensiveness” or other subjective criteria, often without a warrant (which the sheriff couldn’t easily acquire after the 2006 ruling). Actually-existing medical marijuana cultivation rights were broader under limited law enforcement than under inevitably more interventionist land use regulations.

Unmoved, supervisors nonetheless had to justify regulatory action in terms of the promotion and protection of the “public health, safety, and welfare” of the community. The planning department director, in language that would be directly included in the urgency ordinance, cited “complaints” at “several locations,” about problems including drifting odors, poor sanitary conditions, unauthorized camping, increased traffic, and concerns for safety—all posing a threat to public health, welfare, and safety. Next, the threats were shown to be “current and immediate” through the testimony of the Fiddletown complainant and a second resident concerned about the adverse effects of private marijuana growing on a local park. Having established governmental interest and presumed benefit, regulatory action was argued to be the
remediation required. This series—interest-benefit-remediation—is the frame of the private lawsuit, thus structuring policy development in terms of property rights. Unlike a private lawsuit, however, the county’s interest was open to dispute by a yet-undefined community, the author and object of territorial police power.

Defining Community: Whose Public Health, Safety, and Welfare?

The county now had to decide on the content of outdoor cultivation policy. Following the example of neighboring El Dorado County, supervisors decided on a model of a general ban, with an exception carved out for limited cultivation. They authorized input-gathering workshops by the land use committee with three primary constituencies: the Fiddletown complainant who came to represent property owners, government officials, and medical marijuana advocates. The latter formed as a patient-cultivator rights network under the name Collective Patient Resources (CPR)–Amador. In the weeks leading up to and during the county deliberations, the new CPR chapter grew as patients accepted the county’s call for “input” into its policy machine.

During the meetings, patient-cultivators tapped their expertise and suggested a flexible regulatory policy to meet the needs of patients. Supervisors instead instructed staff to draft a relatively conservative policy that would effectively ban collective gardens and require county residence or permission from property owners to grow. Rebuffed, patient-cultivators next discovered that the board had reauthorized the urgency moratorium without notifying the public (as legally required). Many were irate when they discovered the Fiddletown complainant had been notified, giving him the opportunity for an extensive deliberation with supervisors about what regulations should be implemented—many of which the supervisors seconded. When
patient-cultivators filed a complaint with the county’s grand jury, supervisors back-stepped as they encountered a strengthening patient’s rights advocacy.

This newfound voice came to its zenith at a planning commission meeting, where the contours of an alternative definition of “community” emerged as patients lined up to testify for the public record. Patient-cultivators derailed the restrictive outdoor cultivation policy recommended by the supervisors—a policy seen as a fait accompli prior to the meeting. In halting words and bedraggled clothes, many took to the microphone for their first time to record their names as marijuana users and growers, to speak of their illnesses and pains, and to educate on the exigencies of poverty, self-provisioned medicine, and collective growing.

This politicized, alternative community—a far cry from the public of offended property owners—mustered their expertise on marijuana in a pedagogical episode teaching both the commissioners and themselves about political power. Their aim was two-fold: to increase the plant allowance (12) and patients per parcel (2) proposed by supervisors. As they argued for higher plant numbers and for collective growing, they defined public health, safety, and welfare in ways that spoke of poverty, illness, and criminality as perspectives that also had a claim to political voice. Testifiers rejected class-based understandings of the two-person household, arguing instead that extended family and group households were required by those in poverty (thus making two patients per parcel untenable). They pointed out the importance of collectives to the sick, unskilled, and poor who weren’t able to self-provision physically or because of housing insecurity. They refused the association of blight with collective economic organization; collectives could improve land. They argued for the right to self-provision instead of the requirement to enter a costly and remote retail economy (which required a car, gas, and time many didn’t have). They pointed to the importance of an alternative modality of medicine and
self-provisioned healthcare that diverged from a professional-driven, commercial, and prescription-based system that, for the many testifiers dealing with chronic pain conditions, only provided life-numbing painkillers. Testifiers situated themselves as legitimate medical citizens who may be criminalized but were not criminals or a community blight.

In response, the planning commission moved to create a draft policy that increased the amount of plants excepted from the ban from 12 plants to 72, from two patients per parcel to six, and from six plants per patient to twelve. After the meeting, ebullient patients gathered in the hall.

The battle, however, was not over. The supervisors had yet to review and approve the recommendations. The meeting for this, a month later, began civilly, with patient-cultivators thanking supervisors for hearing them and urging them to pass the draft policy. Then the “public hearing” section closed. In what would become a humiliating parade of revisions, the planning commission’s recommendations were dismantled, revised, and a new document formulated. First, one supervisor cited the original Fiddletown complainant as foundational—this “non-growers concern about how growing affected them” had been lost and they’d now “crafted an ordinance…that is addressing the concerns of the growing public and not the concerns of the non-growing public.” The complainant’s claims were thus placed over the dozens who had participated in the earlier meetings. Another supervisor, channeling his subjective power as a representative, agreed that the “people we don’t see here are who we should be concerned about,” thereby referencing what one advocate would call an “invisible constituency.”

Having privileged the claims of non-growers above growers, the original crime-blight narrative resurfaced as supervisors indexed an impacted and endangered community interest that superseded patient-cultivators’ claims (and their claims to comprising a community interest). The
capstone came when a supervisor muttered a comment about medical marijuana cultivation being another form of cash-cropping. To patient-cultivators, this represented a blatant repudiation of their participation over several months: once again the pall of criminality was being cast over them in order to abrogate their medical marijuana rights as defined in Proposition 215.

Deflecting charges of arbitrariness, supervisors and staff deployed precedential policy citations to triangulate their actions with patient-cultivator claims and with a third, presumably objective coordinate. Precedential citations had been key at various points (El Dorado’s moratorium and exception model; Kern County’s 12-plant/2-patient limit per parcel). Now, staff pivoted again by citing Mendocino County’s failed farmer permitting program, which had just been shut down by federal authorities. The Mendocino citation was significant. First, it illustrated supervisors’ fear of federal intervention. Second, it was not from the conservative Central Valley or Sierra foothills (like El Dorado or Kern) but, rather, from the heart of the marijuana-producing “Emerald Triangle.” This political geography suggested that, even if Amador wanted to be more permissive, and accept demands by patient-cultivators, their hands were tied. Thus, county staff and supervisors, following Mendocino, affirmed their original proposal: a low limit on plant numbers under which strict and extensive regulations would be activated. Supervisors directed staff to cut and paste Mendocino provisions into the final policy. In this cross-jurisdiction citational traffic, medical marijuana rights were consistently framed as in need of conservative and restrictive regulation.

Following this meeting, an angry patient-cultivator voiced his outrage in the local paper, claimed his right to participate, and scolded supervisors for misunderstanding their role as servants of the public, not the other way around. A second editorial would denounce the “dog and pony show” of gathering public input and subsequently ignoring it. For advocates, the rift
with officials toppled the fragile political unity patients had provisionally built, eventually leading CPR-Amador to become an organizational shell as people either accepted compliance or dropped from public view. If efforts by medical marijuana advocates to define and become the authorizing community of the state’s police power were unsuccessful, then what understanding of community stood in its place? The answer lies in the final county policy: a two-dimensional document that belied a contoured, particular definition of community.

*Documenting Community: Property, Policy, and Plants*

The policy was filed within Section 19 of county code concerning zoning, designating it as a matter of territory (as opposed to “health and safety” or “public peace, morals, and welfare”). It established zoning power through Assembly Bill 2650, which read that medical marijuana facilities could not be within 600 feet of a school. AB 2650, however, only authorizes restrictions on retail outlets (not collective or personal gardens), something that Amador banned years earlier. Regardless of this spurious state code citation, the Amador policy then cited its general authority in the Health and Safety code to “protect the public health, safety and welfare of Amador County residents.” The protection of these interests was justified in now familiar terms: “risk of criminal activity” and threats “to the safety and property of nearby land owners.” With an incorrect citation and nebulous justification, the county claimed power to abrogate what it termed the “limited right” of patient-cultivators, who may “create or maintain a public nuisance.” This rendering of marijuana posited an unspoken subject against whom a nuisance is committed.

The document banned outdoor cultivation but provided an exception for a 24-plant limit per parcel (not the supervisors’ original 12 or the planning commission’s 72), an action that still
is unsettled in case law. The policy limited patients per parcel to two, thereby eliminating collective grows and their putative criminomagnetic, disorderly, and blight-producing effects. It substantively dismissed the testimony of patient-cultivators on the need for collective grows. Next, the policy detailed garden location: not within 600-feet of a “youth-oriented facility, a school, a park, or any church or residential treatment facility” and not in the line of sight of public roads. This action had two implications. First, the distance of marijuana to these sensitive sites implies a moral protection. In the supervisors’ terms (and language in policy documents), marijuana threatens the public’s moral comportment (they might be offended) and it tempts the public into moral corruption (they might steal, relapse, or experiment). Distance requirements position the county as moral arbiter and marijuana as corrupting. Second, by regulating marijuana’s visibility, the county also becomes the ultimate arbiter of landscape; marijuana is not—and cannot be seen as—part of the community’s aesthetic sensibility. These arbitrations establish county space as a particular aesthetic-moral space protected by distances and visibility shields. The county presumably found its authority for these action in its citation of AB 2650, which concerns distances of retail outlets (which did not exist in Amador) from schools (although not from other sites such as churches and rehab facilities, as the policy read). Surprisingly, the policy did not cite AB 1300, which would have at least authorized zoning regulations for collective cultivation. Even this citation, however, would not have applied to self-provisioning patients or patients’ caregivers, thus disqualifying many of the spatial regulations supervisors applied to patients. Three of the remaining code stipulations concern the relation of medical marijuana to neighbors: distance from neighboring residential structures, screens to impede visibility, and control of lights and smells. Each stipulation is based on concern for protecting neighbors’
enjoyment of their property and can be traced to the quantified and recorded impacts the Fiddletown garden had on one neighbor (excluding the light regulation, which likely came from another complainant with a history of harassing his marijuana-growing neighbor).

While these stipulations are common for nuisance laws generally, the point is that they require the judgment of what is offensive and acceptable, in this case positing a particular, non-growing property owner as the judge. The state must tautologically protect the community it constitutes as requiring protection. This circularity is hidden not only legislatively but administratively: if a complaint is made under nuisance laws, the county assumes the role of complainant in addition to its role as legislator, judge, and inspector-enforcer—roles that are dispersed through several agencies in the juridical process.

More than any other item, the final element clearly orders the rights of landowners over and above the rights of medical patients and those without property. It requires renters or lessees to acquire “written permission from the landowner…prior to planning” and provide it “to the county upon request.” Patients must not only disclose medical status to landlords (cuing potential discrimination suits), the code also privileges the bargaining power of landlords over tenants.

Notably, the call for landlord protections emerged during the un-publicized supervisor meeting attended only by the Fiddletown complainant, who worried about federal threats to seize a landlord’s property due to a tenant’s medical marijuana-related activity. Although this threat was being applied almost exclusively to retail outlets and landlords were generally able to retain control of properties regardless of their tenants’ activities, the ominous and evolving federal offensive justified a concern for landlords at the expense of patient-cultivators in general, and the poorest and most ill in particular.
In this way, medical marijuana came to be governed through territory according to particular definitions of community that were portrayed as general in nature and application. Via the depoliticizing administrative rubric of territorial regulation, the government gave shape to formal rights according to a disciplinary logic of private property and community propriety. Territory was not merely a flat space through which universal rights spread; territory defined how, where, and by whom these rights could be exercised. In actually-existing liberalism, rights are an achievement and a process, not an inherent or abstract possession (Losurdo 2011). Similarly, territorial policies are only realized in territorial practice, which leads us back to Sammy, his permitted garden, and the outlaw community in which he resided.

Ordering Marijuana: Code Enforcement, Informal Policing, and Illegal Territories

Sammy’s house hadn’t been empty in the five years since he began growing marijuana. When there weren’t plants in danger of being stolen, there were stashes of bud ready to be made into salve or stacks of cash buried in his yard. He wasn’t simply attached to the house out of fear or because of the pain walking caused. Sammy’s house, which he owned, was a crowning accomplishment of his life. He had occupied other domiciles—jail cells, a chicken coop, meth “fun houses”—but this house had come to represent the newfound stability of his post-meth, post-criminal life. Sammy was determined to not end up in jail or addicted, again.

Over decades of meth production and poverty, Sammy’s town, Waterston, (with a per capita income of $14,000 in 2010) had developed an “outlaw” sense of community, with its own understandings of territory, police powers, propriety, and social order. Waterston had initially developed as a resort area in the 1920s, but hadn’t seen a new house built since the 1960s. In the 1970s, Sammy and his uncle had grown low-grade Colombian cannabis indica, switching to
sativa in 1976 as it swept California’s market. Despite some successful runs, meth was more lucrative. By the late 1970s, meth became the town’s core industry and pastime, thus gaining the town a reputation as a rough place that, in terms of meth production, “made Oakland look small.” By the early 2000s, Sammy explained, all “the tweaks” had died, except for Sammy, his wife, and a few others.

“Now it’s pot growers here,” Sammy says, listing only two of his neighbors as non-growers—“probably.” Property values were still low but the neighborhood had “gotten better” with more property owners and almost two thirds of residents having moved into their house in the past decade (with nearly the entire remainder having moved in during the 1970s, leaving the 1980s and 1990s as lost decades). Despite this, the outlaw traditions of community self-policing had carried over from meth days. Sammy explains

Twenty miles to the cops this way, 20 miles to the cops that way… They’ve physically moved people from this community because they call the police. You don’t call the police here, never in the history of this town. Just like in the old West. When I was younger they’d call me rather than the sheriff. I’m just right around the corner, I’d call another friend and we’d handle business.” Calling the police instigated a domino effect:

“If the cops come, they’ll pick up Glen because he’s got a broken taillight. He’ll go to jail ‘cause he’s got a warrant. It’s a cascade effect. Don’t bring the police out.

This informal policing governed conflicts and protected community interests within an insular and protected territory. Sammy recalls a deployment sent to evict a marijuana grow on nearby public lands: “It was a Mexican grow up there. We went up there, said you all gotta stop, pack your shit up, and go…get the fuck out of [the] county because it ruins it for us. They get caught, we get the press. Six hillbillies with shotguns, they want to be badass but what are they
going to do? They had hoses pumping from the creek, thought they were out in God’s Country. But the cops are going to find it—we found it on a deer hunt. We told them to get out and that the next visit wouldn’t be so friendly. They said, ‘who the fuck are you?’ ‘We’re the hillbillies and you better get the fuck out of here’… We all had guns. They had guns. We were all on our toes and we told them, ‘not tonight, not tomorrow, now.’”

As marijuana became medical and regulated, the local community became less subject to law enforcement. “Used to be I knew every cop by name. Now I don’t know a one except the undersheriff. I’ve stopped and helped him; he’d do the same for me,” Sammy explains. A year before, when a domestic dispute resulted in the police being called (a move unimaginable during the meth era), the officer poked his head over Sammy’s fence. “You’re growing weed!” the cop said, but to Sammy’s amazement he subsequently left.

Code enforcement, however, did show up and a new cascade effect began. After the officer gave him compliance notices on his junk-strewn front-yard garden and ordered him to build a screened fence, she took a walk “over the hill and there was a kid growing 100-plus. A knucklehead. They got after him, pulled some of his plants.”

The outdoor cultivation policy was presumably a passive, complaint-driven ordinance but after its passage, code enforcement sent out letters to Sammy and many of the growers in Waterston who had attended the public meetings—and entered their name in public record. The letters instructed them to come into compliance or stop growing. Along with his neighbors, Sammy began to get proactive visits from the code enforcer, who passed his house every day on her way to and from work. “Compliance” for many of his neighbors was impossible, because their properties were too close to sensitive sites (a park, a school bus stop). Since they were barred by county regulations from growing collectively on other properties, some left or turned
to illegalized markets. Sammy hosted the code enforcer episodically as she compounded her demands: abate the junk car; clean up the yard; install locks; build an opaque fence in the front; build another fence around back. During a visit in summer 2013, Sammy was waiting for her to take pictures of his lot from a neighbor’s property and judge whether his garden was adequately shielded. Accustomed to the justice system, Sammy once replied to her sundry orders that he wanted a trial—to confront his accuser. She replied that when a complaint is made, the county becomes the complainant—the collective neighbor—and that’s all he needed to know. In the impoverished town of Waterston, the effort to regulate medical marijuana began to appear more like a roving effort to clean up “disorderly” forms of property occupation. This was not surprising given the town’s location at the edge of a burgeoning wine country ruled over by five, politically powerful “muckety-muck” families who had “been fucking with [Sammy’s] family since the ‘30s.” Despite occasional property purchases by investors, Waterston had not “flipped,” to the chagrin of many in the county. Sammy explains, “They want us out of here for sure. We used to be the asshole [of the county] and now we’re just the armpit.”

Waterston, which was unincorporated and therefore under county jurisdiction, adjusted to these new pressures through new territorial and informal policing practices. When Sammy started his county-approved garden he went to the house of the known local thieves and, he explains, “I told them: ‘Look, I’m going to grow this year. If I get ripped off I’m going to come kill you, beat you down, regardless of whether you did it or not. I’m going to beat you up.’ Never had a problem.” After growers met to discuss and agree on intra-community rules, one grower cultivated over the agreed limit and built two conspicuous 16-foot high fences. The community shut down the grow, lest they “ruin it for everyone else” when “the whole neighborhood gets in shit… We told him, you’re creating heat right here in your home town, so
now he’s in [another county] doing his thing.” Many of the town’s youth had either left to grow elsewhere or stayed but established grows on lands far from the regularizing medical marijuana garden system of the town. Of the remaining larger grows, the old codes stood: don’t let government go their way. In this respect, the town’s informal zoning, abatement, and adjudication process shifted along with extra-local pressures.

While one might imagine a growing divide between “medical” and “commercial” growers, this was not the case. It was common practice among the town’s “compliant” medical growers to sell excess marijuana on the commercial market. Similarly, one of Sammy’s neighbors would broker marijuana to out-of-state buyers for a small town “up the hill.” “They’re doing big things,” Sammy’s neighbor explains. “They’ve got crops. It’s invisible, not on the radar yet. They’re all pot growers, even the old people, they’re all hip.” For years now, Sammy’s neighbors had served as sentinels for the town, calling its residents when police turned onto the nearby 17-mile road. “They’ll fall six trees, right across the highway, gives people time to move. If they find out the Tinker’s are going to get busted [on the police radio] they move it to Ms. Smith’s house. They show up at Tinker’s and he’s doing nothing, sitting on the porch.” Now the police are “smart enough to bring chainsaws” when they travel to the town.

The porous connections between medical-regulated and commercial-outlaw growers suggests an underlying and alternative agreement on community interests that is informed by a common history of impoverishment and outlawry. “Public health” was both physical and economic. One neighbor lived on $700 of disability with his wife earning an equal amount in her service job. Medical marijuana reduced their intake of pharmaceutical, addictive painkillers, a major concern for ex-addicts. Self-provisioning marijuana saved them hundreds of dollars a month since they didn’t shop at dispensaries. Further, the husband sells some of his marijuana to
out-of-state buyers in order “to get along.” They consider this extra money a lifeline. They don’t have to choose among basic necessities and, more importantly, they’re able to stabilize their lives and not slide into old addictions. Marijuana is not just “medical” in a strict sense of its bodily effects; its illegal sales are critical to well-being for this couple living in the economic situation they do. This sets Sammy’s community apart from even other medical marijuana advocates, he explains, who dislike that people in his community commercially sell their “medical.” But, as Sammy’s friend explains, “Money will get you through times with no weed better than weed will get you through times with no money.”

The consonance between “commercial” and “medical” growers illuminates a definition of community that conceives of poverty and law-breaking as matters of health and safety. The informal policing and territorial practices that emerge manage the type of precariousness implicit in these conditions. While becoming compliant affords some level of security within governmental strictures, informal policing maintains security from government—and from dispossession or dislocation through seizure, arrest, code enforcement harassment, or gentrification. The “public health, safety, and welfare” of this quasi-legal community, then, is rooted in a particular class position, notion of well-being, and form of belonging that establishes its own police power and territoriality. This alternative jurisdiction exists through and beyond the “legal” and “compliant” jurisdictions of dominant political and class power. Perhaps more clearly in outlaw communities than in reified state governance, the link between community and police power is evident.

*The Fight for Moral Law: Prosecutorial Power and Healthcare*
This chapter has thus far shown how the contours of political community are contentiously reestablished as medical marijuana moves from a matter of criminal to civil regulation. That process was far from a uniform imposition of an impartial, objective law but was rooted in local political economy, appeals to non-local jurisdictions and discourses, and fundamental presumptions and contradictions of a legal system based upon private property. This section shows how one county’s coercive arm—law enforcement, prosecution, and the courts—usurped the process of civil incorporation by unilaterally shutting down medical marijuana dispensaries in the county of Tuolumne. By understanding government as an agglomeration of “deviated pieces of the state” (Schneider & Schneider 1999) with varying capabilities and jurisdictions, we can see how the coercive arm was able to roadblock the diffusion of medical marijuana state law at the local level. This blockage relied on a concept of law not as a binding legalistic text intended to be followed down to its minute regulatory elements but, rather, as a moral force meant to be interpreted by its wielders to protect their understanding of the community and its sacred proprieties. This section challenges any simple or uniform idea of what “legalization” or “medicalization” means—the reality of marijuana’s substantive change is only decided in its everyday rollout. The moralizing, exclusionary, and coercive law described below does not evaporate once marijuana liberalization occurs, but rather continues as a conservative undercurrent of the liberal legal tradition. The type of punitive reaction formulated in this next section ultimately failed under the weight of its own flagrant rejection of legal precedent. While one can argue this proves that justice and law prevail, a focus on the lives caught in the changing gears of justice and law challenge the valor and unassailability of that justice and law.

When the Tuolumne Narcotics Team (TNT) stormed Heather’s house in 2011, she was traumatized. They pulled the 11 plants growing with a medical recommendation in her backyard,
broke down doors, and “tore the house apart.” Every baggie and roach was confiscated. She never dreamed that the house she lived in with her elderly mother and two sisters in their 50s would be raided—even if the dispensary she was opening ran into problems.

Tuolumne was notorious as an anti-marijuana county. One of its first patients after 215 passed was Myron Mower, a man with brain cancer. When he was hospitalized from complications due to diabetes, the police raided his house and subsequently arrested him for the 31 plants he was growing for medical use. He was found guilty at the county level and in appeals court but the state Supreme Court overturned the verdict in 2002. The victory for marijuana advocates in People v. Mower was large: it meant that, while police could still arrest medical marijuana patients, patients were entitled to a pre-trial hearing to determine medical status, they had qualified immunity from prosecution, and, if it advanced to court, the state had to prove “beyond a reasonable doubt” (not simply a “preponderance of evidence”) that the patient’s relation to marijuana was not medical. The opinion, which stated that properly documented medical marijuana should be considered no different than any prescription drug, served as precedent in a key employment discrimination case (Raging Wire) and allowed for the assertion of due process rights by patients. Most importantly, the case was critical in that it challenged prosecutorial arguments that medical marijuana was not a right but was only a “medical defense.” This decision was key in challenging the arrest-first, ask-questions-later approach of law enforcement on which much of the Eastern District police forces had relied.

Years later, Heather became acquainted with another man who had discovered he had a brain tumor after he fell off a roof while working. He had begun growing for personal use and went through the county to get it approved. The next year, this man was robbed—his marijuana, guns, car, money, and wallet. When he called 911 the police came and arrested him for the plants
the robbers had left. Before he went into court he was told that he wouldn’t receive medications
in jail, trying to force him into a plea. He pled out before the case went to trial. During six
months in jail and five years on probation—for the rest of his short life—he was barred from
entering a dispensary at the risk of being jailed again.

“We decided that this is wrong,” said Heather. “People dying from diseases like cancer or
leukemia should have a right to use marijuana.” With experience as a hospice nurse, Heather had
hatched a plan to open a dispensary. With no such places in Tuolumne and a conservative county
government, she knew this would be a battle that would not only be against the county
government but against the healthcare delivery system—one of the county’s prime employers.
Heather had worked as a hospice nurse through a medical center that later merged with the
county hospital. The county hospital in turn merged with a private hospital, as many county
hospitals did in successive waves of fiscal crises. The Sonora Regional Medical Center (SRMC),
run through Adventist Health of the Seventh-Day Adventist Church, became the sole source of
healthcare delivery after budget problems stemming from late 1990s Medicare and Medicaid cuts
and declining reimbursement rates. The opening of Sonora Regional Medical Center in 2004
pitched itself toward insured, paying patients, further undermining the public hospital. The
county’s hospital reformed and kept some of its capacities, particularly a psychiatric unit that
accepts patients from 32 other counties that do not have this facility. The psychiatric unit was
eventually closed in 2009, leading to a cascade of problems in the county. For a county that
tallies 2.5 times the amount of prescription drug overdoses as the state, nearly 50% of them over

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50 years of age, the closure of the hospital and psychiatric services was major. When Heather’s own hospice program was charged with financial insolvency and threatened with closure, she charged that the crisis was manufactured: her program had been prohibited from collecting Medicare payments and was starved of funds. Once she brought this up as an employee of the county hospital, however, her staff position was reorganized under new bosses. The new environment was inhospitable and she left, after becoming sick from the controversy and stress, and refusing to work with her new employer: the religiously-oriented SRMC. She had had numerous problems with SMRC’s president over offloading indigent patients into her program, which necessitated her diversion of people out of county when her program was at capacity.

Heather and her family took stock: Heather was jobless, her sister Dara was retired, and the husband of her sister, Janice, was dying of cancer. Buoyed by an inheritance from a grandmother who had just died, they had options to consider. Not able to re-enter the healthcare system, as it was now consolidated under SRMC, Heather became a “nurse navigator,” assisting people through their experience with cancer, a job that put her back in touch with SRMC as a patient advocate. She desired another base of operations and, having been a pot smoker since age 14, she decided to train herself at Oaksterdam University in Oakland. Heather saw a marijuana dispensary as a way to build a hospice house for dying people through the not-for-profit proceeds. Hospice was a common need in this elderly county, where people sought alternatives to the painkillers being offered by doctors, leading to a local prescription drug problem. Though Heather didn’t consider marijuana a replacement for morphine in hospice care, she did think it

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123 Later she’d face off with Oaksterdam’s owner, Richard Lee, at a public event during the build-up to Proposition 19, when she called him out for shutting down the ability of patients to cultivate their own marijuana and denying minors the ability to use marijuana.
had applications for pain that were generally being treated with painkillers (“I absolutely think it
can help you get off of addictive prescription drugs”). While going through a four-month
orientation to marijuana at Oaksterdam, she began to explore the process of setting up a
dispensary and hospice. Heather still had connections to the healthcare system through the only
remaining remnant of the general hospital: the adult daycare center she used to run.

Heather and her sisters first consulted the Tuolumne County Counsel. Dispensaries were
not expressly zoned or banned, but they either needed to obtain an ordinance to cover themselves
or do nothing, in which case, counsel believed, they could open anywhere in unincorporated
lands. If Heather received a complaint about the dispensary, it would become a zoning issue and
they may be required to move if the county determined they were improperly located (even
though there was at that time no zoning ordinance to provide guidance). For this reason, they
went to the county’s planning agency, whose officials stated that dispensaries were either
allowed because there was no ordinance or they were disallowed because there was no
ordinance.

While they debated among themselves, with the county counsel and the planning staff,
Heather went to her supervisor, asking for her support. The supervisor said she would do so, but
wanted Heather’s to be the only dispensary in the county. Next, Heather met with the public
health director, who, like another public health director I spent time with, urged Heather to
eliminate smokeable products from the dispensary, which Heather agreed to do. Heather
continued to talk to “all the different county people that would talk to us.” The one person she
could not reach was the district attorney. She finally scored an appointment through her
connection with his secretary. The meeting was tense: he entered with the state’s 2004 law
allowing collectives and said he would prosecute Heather and her sisters if they failed to follow
the letter of the law. His interpretation of the law’s not-for-profit requirements was that neither Heather nor her sisters should earn a salary. She agreed she wouldn’t, though her understanding of not-for-profit diverged sharply. When he demanded they not admit people under 18, she said he should consult with the public health director: she didn’t have decision-making power over doctor-patient decisions. “We knew we had problems” at that point, she says, because the DA’s medical opinion was that only hospice patients and other seriously afflicted people should be using medical marijuana, a belief not supported in state law. In the end, she agreed not to take a salary and he agreed not to call the federal government.

The first site they found for the dispensary was in the city of Sonora (the county counsel had changed his mind, now advising them not to open in unincorporated areas but to open in the city) and they devised a plan for a comprehensive health facility that would not only dispense marijuana but would offer alternative health services, horticulture classes, pain management advising, and end-of-life counseling. They began talks with the National Institute of Pain located in the county to track marijuana patients’ use of painkillers. They worked through the city administrator to attain the requisite paperwork for the city (they, too, had no ordinance on dispensaries). At this time, another group decided they would also open a dispensary in Sonora, which they described in their paperwork as “a botanical herb store.” Because one of this group was just out of jail and the other was “a known meth-head” Heather tried to distance herself. Tensions rose between the applicants and the city council—one council member alleged that she had been threatened by one of the applicant’s primary members. When one collective opened without city permission, inciting the city to pass a moratorium, Heather and her sisters decided to abandon the dispensary within city bounds idea. They found a second site, which they screened
to ensure it wasn’t within 600 feet of a school, church, or other gathering place for children, and was owned by a landlord who didn’t like the county government in any case.

It was at this point that SMRC made a policy change: any hospice nurses recommending marijuana to patients would be fired. Like Calaveras’ Catholic hospital, the Adventist hospital received federal funding. Perhaps the hospital was worried that Heather would urge her former co-workers, now at SMRC, to recommend their patients seek her out, she opined. Heather, for her part, was urging doctors to begin recommending marijuana, and educating them on the process, which many of them were ignorant of.

Feeling the pressure, Heather opened her doors to the two major local news sources prior to their grand opening. After this, the DA rattled his saber: he argued he could convince a jury that prosecuting Heather and her sisters was, in fact, a charitable act, saving her from the inevitable cartel violence her dispensary would surely bring. He told her he was against her opening. The only marijuana growing he’d accept was as a strictly-defined caregiver and he wouldn’t accept collectives in the county. Heather took this news to reputed San Francisco lawyers, one of who had worked with the DA on a notorious murder case in the 1990s.

Heather received bad news from another realm: the local paper was apparently refusing to publish a pro-dispensary editorial from the family of a hospice patient Heather had cared for. The decision makers at the paper, like many key government officials, went to church—nicknamed “the government church” because of the density of politicians that attended. “You can’t run for anything in the county without going to it,” she explains.

Heather tightened her strategy. She crafted a detailed business plan and circulated it among county officials. She got personal loans from her mother and two friends. Her collective opened and she was able to run it for a time. She made plans with each incoming patient about
pain management and the types of marijuana products they had available. She had an intense intake for each patient. In the waiting room where people would wait for their intake, there was not only information on medical marijuana, laws, safety from police, and rights, but there was also a computer with links to petitions and election information. She sold products from local artisans, donated money to veterans’ services in the county, and ran a canned food drive for a member whose house had burned down, encouraging a sense of collectivity in the dispensary. Within a few weeks of operation, her membership climbed to nearly 300 members. Most of the initial members were growers looking for cover from law enforcement to grow their plants and potentially to sell to Heather, but Heather let them know that her aim was to support hospice patients for free, hoping they would contribute marijuana for dying patients. Heather also hoped her collective members would be an active membership. Each intake would involve education on what different kinds of marijuana do and what they can be used to treat. As a former nurse navigator, she helped the most ill patients create more comprehensive health plans when she could. Her products were tested by a mobile lab in Los Angeles (which was disreputable in the testing sector but presented itself as a cheap alternative to other labs) to correlate the cannabinoid make-up with the types of ailments they would likely suit (based on the available science).

The day the undercover cop arrived, the mobile lab had arrived to test and standardize her medicine. The cop had gotten his medical recommendation with a fake ID, which had been altered and provided by the DA’s office, thereby committing medical fraud. In a whirlwind of activity, Heather wasn’t able to spend time with the undercover cop for her normal intake process. She was recorded saying that she has a longer talk she would give and they should sit down together on his next visit to go over this information. In truth, she didn’t read the officer as critically ill—a lot of patients came in with ailments like a bum knee as a way to qualify for
legally-distributed weed. According to the terms of the collective, a person didn’t have to pay with money but could also volunteer and receive marijuana as recompense. When the undercover cop asked if he had to volunteer, he was told he didn’t, which would later be recorded in court that he had to pay. This became the crux of the case: did the dispensary require and take money for drugs. When the scope was narrowed to that basic question, to the exclusion of whether the collective was legal under state law, whether there was profit made, or whether there was a medical defense, the answer was, of course, yes. The jury was prohibited from hearing all other facts. A mere two weeks before the raid, officers from Tuolumne had gone to a course given in Los Angeles by the conservative candidate for California Attorney General. When this became known, Heather’s defense reviewed the curriculum of that course with them, which stated that there were legal and illegal collectives. When the officers couldn’t explain the difference, their case for claiming the collective was illegal looked shoddy. Because of the political atmosphere, Heather couldn’t ask any of her patients to testify nor could she reveal any of them to the court, something that would have potentially assisted her case.

“When we first started this we said there’s a good chance we’re going to get arrested no matter what these people say or how much we’ve done to not be arrested,” Heather told me. “We knew there was that possibility, so before we did, I went through my head, my life, everything, I said, I’m ready, I’m ready for this fight, I’m 60, it should have been legalized in the 60s, 40 years ago, 50 years ago. This is insane, I was ready for the fight. You never know how you’re going to act until it happens.” With cops surrounding the building, banging on the door, she remembers, “I became very calm. I took a deep breath, went out there.”

Heather was never read her rights, which she thought was great, but her lawyer later clarified: they didn’t read her rights because they had no intention of talking to her. When
Heather was arrested by the Tuolumne Narcotics Team (TNT), the operators of the county’s other unpermitted dispensary were already in the police van. The county shut both down on the same day. They then arrested the operator of a third dispensary that had opened after Heather’s. The founders of this dispensary had met with TNT for inspections and recommendations but were still sent to jail. Both of the other dispensary operators made deals with the prosecutors (as happens with nearly all drug charges in the US). Both of the other dispensary owners already had marks against them from the judicial system, putting them in a compromised state. While the other dispensary leaders were offered deals, Heather received no offer.

The edible baker’s house was raided, as was the accountant’s. The county denied a permit for the community to hold a fundraiser for the sisters. Heather’s son was arrested with a felony charge, her mother and sister’s bank accounts were frozen. Heather appealed to the state’s attorney general and to activists in San Francisco, but sustained attention was hard to garner. The judge ordered the only reporter in the courtroom to leave, after which another reporter arrived, arguing he didn’t have to leave.

After Heather was raided, her business plan, contracts with vendors and personal loans became evidence against her. They all were said to indicate criminal conspiracy and sketched a broad criminal network, though they had been done in the spirit of documentation and transparency. Perhaps for this reason, she couldn’t get and keep bank accounts (Wells Fargo had a policy against marijuana involvement, at least domestically and in relatively small amounts)\(^\text{124}\) or workmen’s compensation insurance. (A credit union, incorporated under state auspices, finally agreed to open an account for them.) The bank would become part of the case against the dispensary, too, when Heather deposited more than $5,000 in one day—an action that alerted the

federal government and became yet another indicator of illegal activity in the effort to build a “totality of circumstances” pointing to criminal acts. The investigation would lead to the confiscation of Heather’s personal account, too, including the inheritance from her grandmother. That $40,000 was her fund for life. She would spend two years fighting the federal government for this money after the DA had the federal government “adopt” it under forfeiture laws. In the civil case, the burden of proof was on Heather to prove it wasn’t drug money. While the federal government took the money, they refused to take the case from the DA. The irony was that much of the money at their office was marked for federal taxes. Under a decision about tax code 280E (CHAMP vs Commissioner of Internal Revenue) marijuana dispensaries were unable to deduct any business costs (except, ironically, the cost of purchasing marijuana). The IRS also brought a case against Heather, putting a lien on everything it could for the $13,000 they owed. She says: “You know what, motherfucker? There’s a guy probably right down the office [from you] who has our money. Go get it… You already have it, and [are] making interest off it.” Heather is baffled by the state’s allowance of her business—as evidenced by her state-issued business license—and the ability of local officials, subject to state law, to interpret the law in its own selective ways.

Heather’s believed her request for the state’s attorney general to approve a new location for the court case—given the DA’s previous statements, she believed she couldn’t receive a fair trial—was denied because Governor Brown was appointing Tuolumne’s anti-marijuana DA to a state judgeship. Though they brought the motion to dismiss to the court for the bias of the DA, they were told there was no bias. After one hearing, Heather and her lawyers witnessed the judge and the DA leaving together from the back entrance, of which her lawyers took pictures. Some of Heather’s friends worked an event at the DA’s house as caterers, planting marijuana roaches here
and there. During the trial, the judge refused to take evidence during the preliminary hearing, thus breaking the chain of evidence and casting a pall over the defense. In normal proceedings, the defense gets the final argument, but here the DA was given the last word. The prosecution kept stumbling, never managing to cite any supportive cases in medical marijuana law (while Heather’s defense had multiple cases). When the Mower case (from this county) was raised as one precedent, the judge and the assistant DA informed the defense they knew the case—they had heard and tried the case. Their ruling, however, was overturned by the state. Their only citation was a 1990 case before medical marijuana became law. Eventually, Heather would have seven lawyers working on her case. “I’ve lost everything,” she says. Her house was in foreclosure, she sold her car, books, and furniture to raise money, her bank accounts were frozen. All the marijuana was confiscated, her legal bills mounted to nearly $35,000 with another $6,000 looming for court costs when we last talked. Faced with bankruptcy or being railroaded into jail, Heather would break down crying in front of me. “I did everything I was supposed to do. I’m not a dope dealer. I didn’t intend to hurt people. I intended to help people that are suffering, help the county. That was my intent and [crying] I can’t get the rest of it! It’s too much when the judge stands up there and says ‘yeah you guys are basically standing on the street corners selling dope.’ It takes everything I worked for down to that, and it was so much more than that.” As Heather watched the local pipe shop operators be given two weeks to remove bath salts from the shelves, she wondered why she couldn’t have been met with an abatement charge. As she watched the county’s doctors and hospital gave out addictive and destructive painkillers, she wondered why marijuana couldn’t just have a chance to address the county’s pain.

As the case progressed, Heather estimated that the DA realized it was not likely to succeed. The new DA devolved the case to an assistant DA, taking it out of the spotlight.
Heather believed the case dragged on because once it ended, the government was sure to face a lawsuit from Heather. Heather made it a job to keep in touch with her networks, determined that any jury that heard the case would not convict in this small county.

Heather ended up acquitted, though the DA issued a statement that “this is not a ratification of the conduct of these individuals.” The DA blamed inconsistencies in state law for the acquittal. Heather, however, knew it wasn’t inconsistencies but was an entrenched antimarijuana justice and enforcement system that was inconsistent with what was becoming a solid body of state law protecting medical marijuana patients and dispensary-collectives.

The transformation in the police function was uneven across county lines, charged as they were with responding to the lack of statewide medical marijuana policies. For Tuolumne County to the south of Amador and Calaveras, the response was not guided by property owners and government planning capacities, or by activists but rather by a staunch police force and juridical system that trumped moves by other government agencies toward regulation.

Heather, understandably, has a skeptical attitude about the entrenched judicial and law enforcement system. “It’s a vendetta. It’s about people’s jobs—the big gumball machine,” she says. “It’s about the probation officers, the DAs, the TNTs, the pharmaceutical companies. That’s what it’s about. It’s not about human beings. It’s not about suffering. It’s about how many people are going to be affected by that simple change.” Nevertheless, she awaited the day the case was dismissed so she could send (marijuana-less) brownies to the sheriff. She holds on to her dream of a hospice but for the time being she simply watches.

Heather’s prosecution meant a momentary withdrawal of the autonomous police and prosecutorial power in 2013 (another patient who had been raided in November 2011 was acquitted in 2013, too, and the county was not only required to return his assets but return them
with interest). It was not long after, however, that the pivotal *Maral et al. v. City of Live Oak* decision ruled that a city could ban all medical cultivation within its limits. Within days (“you’ve never seen such efficient government,” one advocate groaned, comparing it to government’s sudden expertise in medical marijuana after the 2011 *Pack* decision), Tuolumne County moved to ban all access—there would be no storefront dispensaries and no outdoor cultivation. Heather, along with CPR-Calaveras members, attended the hearings and charged that this was a blatant power grab by law enforcement. Notably, the banning powers would be passed through the zoning and code enforcement capacities of the county government but law enforcement would be in charge, thus blurring the line between criminal and civil matters and lending an air of criminality to medical access. The sheriff (and DA) justified this action by saying that marijuana growers were dangerous, and inspections needed to be done by armed law enforcement. It had become clear, one advocate told me, that law enforcement’s old powers to criminally raid patient’s homes was now at a stopping point: they had to return seized assets and patients were getting acquitted. By claiming civil powers, however, they could continue to launch investigations against qualified patients if they were deemed to have wandered outside of medical protections. This same move had been made in Calaveras by the sheriff but had led to an uproar among supervisors when it became clear the sheriff was attempting to craft policy.

Patients turned out in droves to the planning commission to fight the proposed ban. Breaking into laughter at the DA as he presented his case for it, the commission rejected the proposal by law enforcement. No one spoke in favor of the ban and 25 people spoke against it. As with hearings in Amador, county officials (particularly the DA) were given more time to talk, privileging their opinions (which were anti-marijuana). One commissioner charged that the DA had left out “the compassion” from enforcing the 1996 Compassionate Care Act. Five more
followed suit, leading to a 6-1 majority against the proposed ban. The commission recommended the policy be rewritten from scratch with a panel that included dispensaries, cultivators, patients, and indoor and outdoor cultivation experts. Medical marijuana had landed in Tuolumne. The episode resulted in a groundswell of support that resulted in a new chapter of CPR. At the end of 2014, reports of police aggression toward patients declined, according to one advocate.

*Prohibition, Progress, and Property’s Order*

“Legalization” of marijuana, medical or otherwise, entails a massive shift in the social governance of marijuana. What is lost in most narratives of this shift is that for 77 years American jurisprudence confirmed a prohibition that, at best, seems misplaced. This is explained as “bad” or “failed” policies or institutions beyond which law needs to “progress.” Yet these postulations leave unremarked the instability and arbitrariness of the legal system itself and the substantive historical inequalities it has created. The US now encounters a problem of prohibition that has mobilized government agencies, jurisdictions, and capacities against one another. As marijuana re-enters the public realm, the political community defined in its exclusion is forced to reconcile itself to this outside force and to its own historical narrative. While it might appear that marijuana is in a liminal relationship to the legal system, it is, rather, the legal order that finds itself in ongoing limbo. Just as the non-propertied, slaves, women, and others have forced a redefinition of the liberal community as it rectifies itself in relation to its parochial-universalist dialectic, so marijuana advocates are pushing the liberal community to politically redefine, rectify, and recuperate from prohibitionism (cf. Foner 1999; Losurdo 2011).

The prohibition problem presents the legal order with a quandary that it cannot easily solve within itself, lest its veneer of progress crumble under the weight of its arbitrariness.
Instead, it must go “outside” itself for its new definition of the political community. The gateway to the “outside” exists within the state’s police power, where a fuzzy and subjective community, in all its particularity, bleeds into formal systems of universalizing law (cf. Chakrabarty 2000). The police power is a recalibrating mechanism that aligns law with community norms, abstract rights within lived territory, and objectivist universalism with aesthetic-moral particularism. In Amador County, this police power relied on notions of privatism and property, while in Tuolumne it relied upon a notion of moral law.

Given the structure of American federalism, this recalibration process—the process of de-criminalization I discussed in the introduction—is dispersed through localities’ power to regulate land use and to arrest and execute laws. Land use regulations ostensibly regulate territory but mask the underlying political work—defining political community, order, and exclusion. Similarly, juridical power has the ability to act arbitrarily insofar as it acts in accordance with moral definitions of the public good. This chapter has shown the particularity of this process in two counties, both of which underscore how particularistic definitions of community and legal order inhere in the administration and regulation of land.

Accordingly, while particular property anxieties and politics were folded into the process of Amador’s outdoor cultivation policy, the policy was also a disciplining of marijuana into the private property system and its ordered propriety. Property has always been at the core of liberalism (MacPherson 1964; Abraham 1996). It defines community, and criminalizes those who lie outside its bounds (Thompson 1975; Hill 1996). While police powers sublimated property into various governing strategies (Abraham 1996; Valverde 2009), the illegal continues to be that which property and liberalism oppose—an outside that can’t be rectified with property’s social and governmental order (Thompson 1975; Linebaugh 1991).
Property’s propriety was less overt in Tuolumne County, as rationales of legitimate medicine and moral law were more critical to the elaboration of marijuana. Tuolumne was territorialized through a rationale that understood law as rooted in local moralities and outlooks, not on outside legalistic rationales. Law was protective and conservative of local life, not a social rationale according to which local life should reorient. The power of enforcing, not enforcing, or crafting laws had limits, as shown in Heather’s case. But the hard kernel of law as a moral entity, rather than an objective rule, was critical in the maintenance of prohibitionist rationales.

During this liminal period for marijuana, the insoluble elements of poverty, criminalization, and wellness mixed with administrative efforts to foreclose, order, and imbue propriety in a yet-unsettled political future. As marijuana is purified, cleansed, and absolved of its criminalized moorings—as it is passively decriminalized—it is incumbent to understand the social world criminalization has birthed, to fully understand the total effects of cumulative process of legalization.
Gateways Breached: New Bounds and Bigger Pictures

Since California’s Proposition 215 decriminalized medical marijuana in 1996, the state has been referred to as the “Wild West” of marijuana, a moniker often invoked derisively to refer to the lack of clarity in marijuana’s regulation. Messy, hazy, disorderly, a policy nightmare—these are the ways California has been regarded by other state legislatures as medical marijuana slowly marched across the United States. California was the model of what not to be. Other states established tightly controlled and restricted medical programs that eyed “patients” with suspicion and the commodity chain as something to be monitored at all times for whiffs of crime. Since Washington State legalized marijuana, it has moved to sharply reduce personal medical cultivation limits, eliminate medical collectives, and merge the medical and commercial systems, much to the chagrin of patient advocates. When Colorado fully legalized commercial marijuana, the government touted their requirement that every plant be placed under surveillance and tight security, often provided by ex-law enforcement officers. In both states, marijuana has become a federally-tolerated, for-profit endeavor, breaking ground for a new extreme expression in Ohio’s failed 2015 ballot to legalize marijuana. The ballot sponsors proposed delivering the entire production structure to a handful of landowners who funded the legalization effort. Their properties would be geocoded into state law as the select sites for the production of the state’s entire crop. If California is the Wild West, then the speculators have spotted gold in the hills of other states, with the sheriff close behind.

As anthropologists have shown (cf. Douglas 1966), one person’s mess is another’s order. From a policy perspective, California marijuana policy is disastrous and it was perilous for anyone seeking orderliness. Yet, policy messiness provided major opportunities for marginalized
people of all stripes. In fact, these opportunities depended upon messy, unclear policy. The lack of clarity in policymaking was not due to badly written laws. Rather, it is a product of a deep indecisiveness by a government facing an intractable policy failure—a 45-year old War on Drugs and a 78-year old marijuana prohibition—and an incapacity to shift courses. On the one hand, there are mounting contradictions that militate against the War on Drugs and the broader carceral-punitive criminal justice system. On the other hand, the US government and its subsidiaries cannot simply walk away from a war it has waged on its citizens (and peoples around the world) for generations. To do so would be to admit culpability. In other times and places, war upon one’s own people requires a search for truth, reconciliation, and restitution. Accounting for the millions of lives ruined or ended and the billions of dollars squandered and confiscated would be no small task.

The political solution, which is no solution at all, is to permit and monitor marijuana’s uneven decriminalization across the nation—to decelerate the War on Drugs and allow a new social equilibrium to emerge around marijuana. This is a capillary-like process that occurs in one place differently from another, as marijuana becomes subject to various civil and governmental processes, settling toward a new normative balance. Unlike the stark contrasts of legality and illegality, marijuana enters the civic through discretionary—which is to say, political—methods, such as those I have explored around economic development projects, zoning, or prosecutorial decisions. While this civil process occurs at state and local levels, the federal government retains ultimate discretionary authority to decide which policies and civic orders are tolerated and which will be crushed through its arbitrary enforcement powers—a veto power that requires no explanation. Decriminalization is couched in an opaque discretion, uneven development, and an arbitrariness that breeds peril and possibility.
The fundamental political question—is marijuana prohibition right or wrong—is defused and diffused throughout the nation. Marijuana is disciplined into normative systems just as people exercise new agencies and carve out novel spaces in the body politic. Some changes percolate up, such as Colorado’s for-profit model, while others are blocked, like Mendocino’s farmer regulation program. By the time decriminalization reaches the point of federal reform—and the reworking of the global prohibitionist infrastructure it supports—the question will be framed as a pragmatic matter of “failed,” “outdated” policy rather than as a fundamental question about the nation’s illiberal history—and present—of waging war on its own people. People clamor for the right to free commerce, or effective medicine, or to continue farming, but the fundamental question of the state’s responsibility is sidestepped. Marijuana is plucked from the targets in the War on Drugs and made into a respectable, harmless, perhaps medical or recreational, substance while the inequalities that the drug war created and fortified are dealt with in new ways. The War on Drugs continues, but in relation to other substances. Marijuana is excepted from the logic of prohibition, an honest mistake on the long path of moral progress in an exceptional America.

In California, no historical actor embodies these dynamics more than producers. Medical marijuana technically opened a space for the consumption, provision, and production of marijuana at the state level. Yet, the federal government’s supply-side strategy prioritized upstream production activities, thus consigning production to the gloomiest of grey markets. This was a fraught contradiction: using and possessing marijuana was substantively allowed, but growing it was not. From Amsterdam to New York to Kingston, this has always been the trick of decriminalization: selectively tolerate some forms of downstream economic activities, particularly those done by politically-empowered classes, but maintain the state’s iron-fisted grip
on all matters of drug production, conducted largely by those who don’t fit into dominant political, social, and economic systems.

Following 1996, however, medical marijuana produced an unexpected result. A growing social licit ness around marijuana articulated with federal prohibition to produce a sprawling marijuana production sector. To grow too big was to get busted. So people grew a little in closets, sheds, public parks, and basements in urban, suburban, exurban, and rural places up and down the state. And marijuana production did not just expand—it became medical. An outlaw mentality of production was layered over with terms of patient support, medical subjectivity, community-building, economic collectives, and the self-provisioning of medicine outside of a for-profit pharmaceutical-dominated framework. All sorts of producers with variegated desires and motivations grew for themselves and others in individual and collective formation outside the constrictions of formal economic structures. This alternative economy became all the more important in the aftermath of the 2008 recession, as more people looked to cash in or, just like the original back-to-the-land growers, simply deduct a household cost by producing their own. Prop 19 pulled producers “into the light,” and its failure required that a now-illuminated production sector shift into a fully medical mode, thus making even the oldest of outlaw growers in the hills of Northern California now a medical grower. The federal government fought hard to regulate and regularize this producer class and the activists that charged it. “The Feds” couldn’t roll back this alternative economy, but it could disorganize it at a time when much different models of legalized marijuana were taking root in Colorado and Washington.

The medical path, fueled by determined consumer-patients, a vast army of small producers, and a sluggish and ambivalent policy response, is the path California walked. In 2015, marijuana is once again at an important crossroads. A recently passed bill established
California’s first comprehensive medical marijuana regulations. Its provisions reflect California’s unique marijuana political economy. Producers won a definition of marijuana as an agricultural product (as opposed to a vice commodity, a medical drug, etc.), thus opening up the possibility of farmer market marijuana, organic certification, growing appellations, and research monies in land grant universities. The power of small producers and petit-bourgeois interests was codified in ceilings on farm sizes and limits to vertical integration through the commodity chain. Law enforcement got research funds regarding impaired driving and a wide array of new criminal designations (e.g. all unlicensed activity will not only be subject to civil fines but to criminal prosecution). Investors got the removal of not-for-profit requirements; dispensaries and industrial forces at large won the phasing out of medical marijuana collectives and the curtailment of personal production. The state government took its officials and citizens out of the federal crosshairs by establishing a “robust” regulatory system (the requirement set by the most recent DOJ memos). From a policy perspective, California’s mess becomes a new order.

It didn’t take long for this new law to be challenged by the same activists who have been refusing regulatory discipline since Prop 215 passed. These activists defended medical marijuana for two decades and created a powerful space of rights and freedoms, they refused to give up what they have fought for and are challenging several stipulations within the bill. The un-ordered and radically democratic medical marijuana activist space is one reason why no fewer than ten full legalization bills have been proposed for 2016. This unruliness, which has been medical marijuana’s strength in carving out political spaces may prove to be its undoing. In the face of splintered activists, one legalization proposition (sponsored by a committee called Californians to Control, Regulate, and Tax Marijuana While Protecting Children) is attracting major funders, politicians, and drug reform, environmental, and law enforcement organizations. This
proposition is couched in moral concern for children, charges what amounts to a “vice” tax upon marijuana purchases, allows employers and localities to ban marijuana, taxes producers, and funnels funds to law enforcement to combat drugged driving. It attempts to acknowledge the drug war’s history (by releasing prisoners and establishing a fund for communities hit hard by the drug war) but this acknowledgment of the harms of the drug war does little to replace the sprawling economic benefits that marijuana provided to impoverished, racialized, and marginalized communities. Powerful economic and social forces are gathering around this well-funded ballot. As a state that holds together contradictions—prisons and progressivism, organics and munitions, individual liberty and lumbering capital—California’s path forward is uncertain. What is certain is that marijuana, that psychoactive substance that pushes consciousness into liminal and uncharted neural pathways, will continue to spur the broader transformations of society at large—a transformation I turn to by way of conclusion.

Final Discussion

On the surface, one might conceive of the boundary between marijuana and society at large as a gateway—one that delineates legal from illegal, licit from illicit, regulated from unregulated, public from private, or any number of binary frames. As a power rationale, prohibition projects this conceptualization of absolute separation. Yet, this dissertation, following work on the porosity between legal and illegal realms (Campbell 2009; Heyman 1999; Nordstrom 2007), has shown how marijuana has been interwoven with local and regional political economies even at the height of prohibition. A gateway is not a separation. Rather it is a relation that sometimes separates and is sometimes crossed in anticipated and unanticipated ways. Prohibition, as a form of gating, is productively conceived as a type of indirect power that
operates not by actually stopping movement but by changing how movement occurs. To be illegalized is not to be banished from society. Rather, the illegalized moves through and dwells within society. Society is larger than and not coterminous with the reified geography of legality.

As law fenced out marijuana from dominant systems of governance, formal economy, medicine, and the moralities that inhere in these codes, marijuana became a kind of unenclosed commons, a wilds that supported a variegated, criminalized class of people—people who had much in common with the vagabonds, forest dwellers, cattle rustlers, muggers and “mobs” produced by capitalist processes of dispossession and exploitation (Hall et al 1978; Hill 1996; Hobsbawm 1959; Linebaugh 1991; Thompson 1973). This commons supported people left behind during the neoliberal rollback of the welfare state and the industrial economy, even as it became an object of fear and derision, wielded to build moral consensus among non-criminalized populations. To understand why this drug war system is being destabilized, this dissertation has looked to the political-economic orders that have supported it in the exurbs, rural areas, and tribal reservations of Northern California.

Though understanding the drug war’s destabilization is important, it is just as important to understand what follows. Decriminalization, as a contradiction-laden process unevenly elaborated in different places and times over different populations, only underscores the open-endedness and political nature of what takes the places after prohibition. The struggle for regulation and legalization—and the particular form they take—is dependent upon the social forces in motion and their relative power to affect marijuana’s emerging social form. As the former and singular arbiter of information about marijuana, law enforcement is now drowned out by a cacophony of other voices. In an increasingly licit environment, alternative conceptualizations of the plant are surfacing. The flattened, uniform outlaw spatiality of crime—
the space outside the gates as seen by those inside—becomes multi-dimensional in its new legalizing form. The resulting political economy produces a new matrix of risk, price, and profit that marks a shift in marijuana’s social and economic value. This dissertation has been an exercise in understanding this new political-economic balance and the new terms of governance, subjectivity, social practices, and social discourse that characterize it.

The key mode through which marijuana has been decriminalized and gained quasi-legal circulation has been through marijuana’s *medicalization*. Because marijuana prohibition is a technically economic process that seeks to stop the production, circulation, and transaction of a commodity, exceptions to prohibition had to be non-economic. Potential medical-scientific exceptions were built into the Single Convention on Narcotics and the legislation (e.g. the US’s Controlled Substances Act) around the world that codified it. Marijuana’s non-profit medical circulation created a space within which marijuana as a whole could be produced, circulated, and transacted in quasi-legal form. This medicalization militated toward full legalization but it was much more than just a shadow effort to legalize it—it was productive of new forms of subjectivity and politics and, through this, new political economic dynamics. In a historical sense, medical marijuana is just another swing on the medical-criminal pendulum back toward medicine. There are two important qualifications to that, however. First, medicalization is not simply just another mode of formulating stigma and oppression (though it can be, as critical medical anthropologists have long argued [see Baer, Singer & Susser 1996]). Medicalization can be *productive* of new forms of subjectivity and political possibility (Gillett, Pawluch & Cain 2000; Jasanoff 2004; Petryna 2002). Second, there is a specific *kind* of medicalization occurring around marijuana: as the population ages, illness paradigms have shifted toward treatment of chronic diseases and lifetime use of medications, even as wellness becomes a matter of
pharmaceutical risk management (Dumit 2012). The self-management of one’s illness (Biehl 2004; Maskovsky 2002) and the related growth of alternative treatments (Schneirov & Geczik 2003) are familiar trends to marijuana users who grow their own medicine for chronic conditions for which pharmaceuticals are ineffective and marijuana’s side effects are much fewer. As a not-for-profit commodity, marijuana medicalization was viewed and discussed as a medicine for the body and also for entire communities. Marijuana commerce was not a pure market practice but commingled with alternative logics of well-being, human-plant relations, self-treatment, and medicalized social life.

Medicalization significantly shaped the process through which marijuana was decriminalized, but it was layered upon marijuana’s longer-term legalized production and the communities and practices instituted through it. These individuals and communities have claimed a civil libertarian privatism, which has both kept the government at bay and facilitated the smooth functioning of marijuana’s alternative market itineraries. Decriminalization—particularly moves toward commercialization—made these communities suddenly visible, bringing them at least up to the gateway threshold, an object to behold as marijuana’s status was debated. As some are ushered through this threshold, they become subject to new forms of discipline and normalization, such as those that inhere through property aesthetics or the ethics of production and land tenure. Conversely, those left outside have undergone re-criminalization on new terms. For outlawed communities, decriminalization marks a disembedding from informal regulations, codes, and networks and a re-embedding in new institutions, discourses, parameters, practices, and relations. While producers and outlaw communities have never existed “outside” society, they now move from the legalized margins—with all the freedoms, liberties, constraints, and risks that space entails—to lawful,
regulated, and governed realms. Government ceases to overtly threaten liberty, freedom, and property, as it comes to govern through liberty, freedom, and property.

For non-urban Northern California, the shift in marijuana’s dynamics marks a significant departure from traditional extractionist and developer-based economies. The ideology of property rights has been hegemonic; it held together a political structure built upon the power of a rentier class. As a market commodity that threatens to fully commoditize land and subordinate the powers of landowning classes established around extraction (North Coast), patronage (tribal reservations), and development (Foothills) economies, marijuana could herald a new economic and governmental order just as it could signal a transformed metabolism between nature and humans in the region. It is no wonder that marijuana’s rise has been in complex interdependence with environmentalism.

This dissertation has focused on the new types of governance—and the new institutions of government—that have emerged in the wake of these transformations. Governance is becoming more interventionist, regulation-oriented, and involved in the contours of everyday rhythms around marijuana. If prohibition was a thin form of governance, formulated at a distance with punitive but uneven effects, a thick type of governance replaces it. Whereas thin governance rules in favor of a dominant class, a thicker governance emerges when a government is forced to balance the interest of numerous forces and classes, such as those signaled by exurbanites, environmentalists, and pot growers. The ending of prohibition and the thickening of governance is a moment of political opening for rural white (and now Native American) workers in rural regions. A gateway has been opened. Globally, too, the slackening of the War on Drugs could mean a recomposition of rural producer communities, their removal from illiberal drug war governance, and the potential cessation or moderation of drug market manipulation by state and
economic actors for non-democratic purposes. For rural US producers, this particular gateway would never have opened without the recent crisis among moral conservatives and the breakdown of the bipartisan consensus around punitive criminalization policies.

To the libertarian ideologies of the Tea Party, the War on Drugs was yet another government failure. Libertarians found common cause with progressives. As a result, marijuana prohibition collapsed, one dynamic in a broader sweeping criminal justice reform that has also found expression in Black Lives Matter. The law-and-order white reaction articulated by Goldwater in 1964 functioned for many years as a political center for Democrats and Republicans alike, but by 2008 even the scions of the Christian Right were admitting their defeat amidst the disappointment of George W. Bush and the rise of the Tea Party. It is not the morality of the drug war but the promise of the free market that now becomes America’s collective utopian fantasy.

The transformation of marijuana policy points to a larger shift in policing systems and the stance of the carceral and prohibitive state. For marijuana alone, which comprises the lion’s share of value seized and arrests counted in the War on Drugs, the signs are manifold: native reservations have been told they can grow without federal interference; federal prosecutors helped design Washington DC’s medical marijuana system; and the Department of Justice has been ordered by Congress to back down from prosecuting marijuana cases in states that have legalized or medicalized it. Internationally, sitting presidents have begun to speak out against the War on Drugs, with Uruguay being the first to withdraw from the Single Treaty on Narcotics with a fully legal marijuana system. The changes go beyond marijuana. The disparity between crack and powder cocaine has been reduced (though not eliminated), the stop-and-frisk techniques in New York have been banned, and drug arrests (and the number of prisoners)
nationally are declining, slowly reversing a 30-year trend. At the same time, the federal government has been ordered to stop “adopting” forfeited property from states; investigations and actions against police forces in New York, Philadelphia, Cleveland, Albuquerque, and elsewhere have been initiated. In February 2015, the FBI director made the most overt comments about racial bias and policing of any director in history. The rightist Koch Industries, Americans for Tax Reform, and FreedomWorks have teamed up with the liberal-leaning ACLU and Center for American Progress to study and offer recommendations for criminal justice reform.\textsuperscript{125} In California, prisons are being “realigned” as non-violent offenders (most of them drug cases) are sent to county and municipal jails or, more often, sent through the probation system. Drug task forces and marijuana eradication teams have been eliminated, jails are being depopulated under court order; prisoners have held protests against inhumane solitary confinement practices and have won significant reforms. California’s Bureau of Narcotics Enforcement has been virtually eliminated. Furor over the murders of Oscar Grant and Trayvon Martin, police tactics in Occupy, student protests against budget cuts (and the police response) and the fight for legalization and prison abolition have all fueled a post-Ferguson national resistance around racialized police violence. New York City’s Mayor DeBlasio and Chicago’s Mayor Rahm Emmanuel are only two of many politicians who have been forced into crisis as they mediate the relationship of the police to constituents. In light of the major retrenchment that has been gripping the criminal justice system for several years now, the Ferguson protests were not the beginning of a process but were an expression of a process already underway. Ferguson has given voice and shape to these transformations and pushes them ahead into new political realms. There is nothing automatic about the shape of the state’s transformation but, rather, this is all to indicate a

moment of upheaval and opportunity prior to a new pattern of social life, government, and power.

This shift in the criminal justice apparatus can be linked to the changing political economy of US cities. The rise of the War on Drugs was a crucial mode of governance in urban America as cities were deindustrialized and populations of color were largely left behind in the suburbanization of the US. As welfare and social assistance systems were whittled down and dismantled, the War on Drugs capped political energies, preventing their outburst (Mullings 2003; Sharff 1998). A wave of urban gentrification has risen again, with cities becoming mature expressions of the global production of capital (Sassen 2001; Castells & Mollenkopf 1991). Now the modes of policing and governing characteristic of the 1980s “ghetto” are increasingly unacceptable. With the emergence of cities as a hyper-mediatized zone of social visibility, such as that seen in recent hashtag activism, the spectacle of the drug war and harsh policing tactics may be subsiding. Instead of direct policing, however, social life stands to become differently controlled through other forms of monitoring and self-governance, state and non-state alike.

With the increasing dispersion of poor people and people of color to the urban fringe (Berube 2006), the effectiveness of concentrated police forces makes less sense than a more dispersed law enforcement capacity encapsulated in the probation check. Much like the dispersion of the organized labor force to the suburbs, pushing poor people and people of color to the urban fringe diffuses potential political resistance and lessens the requirement of the state to care for the social reproduction of poor people or to police their daily lives. In its most dystopian expression, the future proffers urban fortresses protected not by guns and walls but by intensive surveillance and the soft barrier of immense wealth.

In this emerging rural/urban geography, surveillance becomes critical. The need for brick-and-mortar jails grows less urgent; prison functions of surveillance and probation are
diffused throughout society. Metadata signals the making of society into a prison just as it positions citizens as consummate consumers. Governments and corporations alike mine metadata to predict consumer behavior and criminal behavior. Predictive law enforcement replaces deductive, post facto law enforcement. For crimes that do occur, technology has always-already created a trail back to the perpetrator. This society is a society of circulation and motion, not prohibition and incarceration.

Today’s surveilled society is what Bauman (2000) calls the Synopticon—an all-seeing society that is looking at itself—marking a departure from Foucault’s Panopticon—an all-seeing authority that is viewing the watched. As mediated society pervades more aspects of life, “the outlaw” becomes less a reality and more of a cultural trope and desire. I have observed this in depictions of the marijuana outlaw since the late 2000s, through media exposés that have shifted from simply the depiction of the evils of drug use or the thrill of crime and have trended toward the paradox of the criminalized in a legalizing economy, the moral gumption of the medical lawbreaker, and the intrepidness of the potrepreneur. In becoming sympathetic, the criminal becomes “us” as “we” become the criminal. The outlaw focus fascinates a society that finds itself encompassed by a governance that inheres in the very rhythms and accouterments of our daily lives. The allure and spectacle of a glorified outside beckons as reality television brings this outside into our most intimate reach.

While the drug war formulation of race and crime stands to be transformed, the processes of racialization and criminalization continue in new ways. In marijuana, we can see those contours: federal arrests of undocumented immigrants have nearly made up for recent decreases in drug arrests; public debates about marijuana are often bounded by the specter of “the Mexican cartel” or other organized and ethnicized criminal networks; new forms of criminalization are
emerging within regulated marijuana spheres around pollution, the violation of public lands, trespassing on private lands, and the lack of proper permissions and tax payments. Reworked drug fears mingle with new founts of fear, most vividly in the War on Terror and the fear of the Mexican border, where the federal government has found a new spring of support for its anti-drug maneuvering. For the urban and rural poor, who were targets of marijuana prohibition, the question now looms of what will replace marijuana for them. More risk commodities, such as heroin and meth, could fill the hole that marijuana leaves, just as new informal markets, particularly in high-tax states, may form around marijuana, much like cigarettes.

Looking forward to regulated commercial marijuana, the force of capitalist rationality is compelling. In the utopian terms of capitalism, land and labor stand to be rationalized, becoming mere inputs for value production. The information networks that sequestered market knowledge in underground market codes and official reports by law enforcement must be broken and replaced with open information networks that can appear to represent “the marijuana economy.” As prohibition’s limitations on capital accumulation are lifted, industrial planning and future investment gains a longer temporal reach, technological replacement of labor becomes possible, and a new, more complex social division of labor emerges with a new distribution of marijuana’s risks and rewards. As capitalist mythologies go, marketization colonizes social and medical life, reducing them to economic value. This mythology is pervasive after decades of neoliberal politics and the assertion that the market is the primary motor of social life. Yet, there are always countertendencies to capital’s elaboration, ranging from the stickiness of land tenure systems to the ethics of environmentalism to desires for liberty and property to medical necessity to the moral aesthetics floating around psychotropic substances. It is not just that capital must contend with these forces but that capital only comes into formation through social dynamics.
Though utopian concepts of capitalist markets presume all commodities travel in open, legal, rational, formal markets, criminal market circuits have always been an alternative method of circulating and creating value through illicit commodities, particularly in times of formal market crisis when legal markets are stalled. The Great Recession of 2008 revealed that after nearly 40 years of deregulation and the growing dominance of finance capital, extra-legal circuits for capital could be found not just on the periphery of formal markets, in commodities like marijuana, but were in fact at the core of the global capitalist market itself (Carrier unpublished). If capital can act with impunity in a “too big to fail” era of deregulated commerce, then secretive methods of generating liquidity and facilitating accumulation become less crucial. Capital circuits that skirt the law are readily available within formal capitalism. It is perhaps no wonder that George Soros and Milton Friedman, advocates of the legally and territorially unrestrained movement of capital, have advocated for free market marijuana.

Similarly, the covert extra-state drug market spaces are undergoing a transformation. Their old logic as a means to bypass the Cold War constraints of sovereign nation-states is reforming as large swaths of the world’s geography collapse into statelessness; the new situation seemingly calls for global “policing” rather than inter-state war. In the aftermath of the Iraq War and the failed “New American Century,” however, the US role as global police officer has been thrown into doubt (Arrighi 2007). This is most evident throughout Latin America as countries long under the sway of the US War on Drugs medicalize and legalize marijuana. Even Colombia, the center of drug war activity, declared it would make marijuana legal in November 2015, following its announcement that it is ending US-funded anti-coca pesticide spraying.

If the 2008 Great Recession represented a kind of “terminal crisis” (Arrighi 2007) of US economic hegemony—a crisis that the US could not displace onto other regions around the world
Through the Gateway

Michael Polson

(Harvey 2005)—it also represents a shift within US domestic governance. Stock market growth and the economic polarization it created was no longer an answer to the long decline of the US population’s capacity to reproduce itself. This was spectacularly shown in the collapse of the mortgage markets as consumers found themselves unable to pay debtors because their position as workers had been completely undercut. In response, there has been a turn toward productive industry and progressive systems of redistribution, vividly represented by the arc spanning from Occupy to the candidacy of Bernie Sanders. Marijuana legalization, taxation, and industrialization emerges from these dynamics. It is logical that Sanders is the first major presidential candidate to propose marijuana legalization.

In these respects, I am skeptical of interpreting present efforts at criminal justice reform as doomed. There is no an inevitable, unidirectional, ahistorical drive by dominant forces to criminalize. Rather, the political spaces opened up by decriminalization signal an indecision around and an open-endedness to the systems of punishment, incarceration, and domestic warfare that have typified responses to crime and drugs since Anslinger. Lancaster (forthcoming) rightly points out that criminal justice reform does not mean the ending, or even amelioration, of criminalization processes, and instead points to how criminalization is being reasserted in new ways. This argument is just as important, I would argue, as understanding what genuinely new political spaces and possibilities are opened up by reform efforts. It has been tempting throughout this dissertation to portray marijuana as hurtling toward a collapse into a moralizing liberal capitalism, but to do so blinds us to emerging political forms in new historical periods. By ignoring these forms, analysis can be complicit with dominant forces attempting to foreclose those political spaces before they ever open (see Schneider & Schneider 2008). My analysis attempts to hold open those political spaces—and at times go even further than my interlocutors
by extracting the underlying and sometimes unarticulated stakes for society at large.

This project started as an inquiry not into the “failure” of the drug war but, rather, into its achievements, regardless of whether they were intended. This project was not an inquiry into how liberalization unilaterally augurs greater freedom but, rather, how liberal capitalism crafts freedom into a governable form. This required a shift away from norm-based theories of law. The drug war was not simply a war to protect American morality, just as legalization is not simply a reflection of mysteriously transforming social norms. Instead, this dissertation has attempted to explore what the drug war and legalization do, what they produce, and how this shapes the political economies now in formation.

Future research should first investigate the particular historical, political, and economic factors that coalesce toward different paths and dynamics surrounding marijuana, particularly in states like Colorado, which has been led by a much more moralistic and investor-friendly political effort, and Washington, where law enforcement and state taxation and regulatory authorities have taken a lead in marijuana’s formation. As the two first states to fully legalize—while the patient activist- and producer-led system in California was being selectively dismantled—these two models have become templates for future legalization efforts, including California’s own, as Governor Jerry Brown recently stated. Second, while research on the emerging marijuana industry should be conducted, it is my contention it should avoid simple boosterism and the unqualified celebration of marijuana freedom. As this dissertation has detailed, marijuana legalization is not a zero-sum game. It involves fundamental shifts in social and economic dynamics for some of America’s most vulnerable and marginalized populations. Though these shifts will not appear in jobs statistics, investment and taxation reports, and other socio-economic indicators, they invisibly accompany marijuana’s formal marketization. Third, as
commercialization looms, research is also needed not just into marijuana’s medical value, which appears to be quite significant, but also into the relation of its industrial structure and regulation to matters of public health, democratic economies, and wide definitions of marijuana’s benefits. For whom is marijuana regulated and structured, and with what effects?

The reformation of carcerality and prohibition, despite being couched in consumerization and surveillance, are political opportunities. The architecture being put in place to socialize our world—even its social control function—is unparalleled in human history. The major difference between the governmentalized world of Orwellian nightmares and a world oriented toward substantive equality, freedom, and justice is the presence of an aware and astute political force. This dissertation gathers and collects the pieces of this force, in their differently-focused ways, in order to show how, at this moment of incertitude and transformation around a symbolically-loaded substance, they have a forward motion. It is not just that some will pass through a gateway and others will be excluded, but rather that marijuana’s gateway itself is being reconstructed. Its terms of entry and expulsion are being negotiated and even as they are brought into the fold of liberal capitalism, new smuggling routes also emerge through which new political transformations can develop. In this political moment of gateway re-construction, I hope that through this dissertation readers may take lessons for how future construction projects may work, what new blueprints might be drawn up, and what architecture might dazzle our world anew.
Works Cited


Armentano P. 2011. Recent Research on Medical Marijuana: Emerging Clinical


Chicago: University of Chicago Press.


Berkeley: University of California Press.
Gane, N., 2012. The governmentality of neoliberalism: panopticism, post-panopticism


University of California, Davis.
Kepple N & Friesthler B. 2012. Exploring the Ecological Association Between Crime and
Littlefield.
York: Verso.


Smith MD & Krannich RS. 2000. “Culture Clash"Revisited: Newcomer and Longer- Term Residents' Attitudes Toward Land Use, Development, and Environmental Issues in


