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Tells the Facts, Names the Names

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The Valley of Fear

California, Medical Cannabis and Killing the American Dream

by R.V. SCHEIDE

Whoever claims to love God yet hates a brother or sister is a liar. For whoever does not love their brother and sister, whom they have seen, cannot love God, whom they have not seen. – 1 John 4:20

I like to listen to the radio when I work in the garage. Where I live the station that comes in best is News Talk 99.3 KQMS out of Redding. In my opinion it's a cavalcade of lies and insanity that features 12 hours of back-to-back Rush Limbaugh, Sean Hannity, Glenn Beck and Michael Savage. You'll find the same line-up on stations up and down California's Central Valley. For many rural residents, it's their main source for "news."

Detractors call such programming "hate radio," and after many hours of listening it's clear to me that what these talk show hosts hate the most, more than President Barack Obama,

Tully's been on a roll lately, the most recent victory coming last month in Shasta County Superior Court with the acquittal of the owners of Planet Herb on all charges. The owners of Redding's last remaining dispensary had courageously remained open only to be targeted by narcotics officers in a monthslong sting operation costing an untold amount of taxpayer dollars.

more than former Secretary of State Hillary Clinton, more even than the Ayatollah, is the federal government. Lately they've gone apocalyptic over operation "Jade Helm," an upcoming eight-week military exercise they claim is prelude to the imposition of martial law in the United States.

But I've got a news flash for the fearsome foursome. Martial law has already been declared in California. Armed government agents maraud door-to-door upsetting households, destroying private property and trampling on constitutional rights. Unmarked SUVs loaded with machine-gun toting commandos materialize out of nowhere,

daring innocent civilians to make one false move. Decent, hard working men and women are shanghaied, their children spirited off to foster homes, their weapons, bank accounts and other assets seized.

Their alleged crime? Exercising the right to grow medicinal cannabis, approved by California's voters nearly 20 years ago. Old habits die hard and the long-failed war on drugs is proving tougher to kick than heroin. On the eve of what appears to be a nationwide relaxation of marijuana laws, the state's law enforcement community is vying for one last fix, and just like any junkie, it doesn't care who gets hurt along the way.

POLICE PLACING PATIENTS IN PERIL

"Law enforcement community" doesn't just refer to city police, sheriff deputies and highway patrol officers. It includes the entire apparatus necessary for detecting and solving crime as well as punishing criminals, including judges, district attorneys, public defenders, paid informants, court stenographers, jail guards, prison guards, code enforcement officers, child protective services workers and so on. In the case of medicinal cannabis, FBI and DEA agents are still in the mix despite assurances from U.S. Attorney General Eric Holder to the contrary. Also included

are government officials such as county supervisors and city council members charged with setting policy, including the creation of new crimes. Local, state and federal government is easily the largest employer in northern California.

That doesn't sound exactly like the "small government" advocated by traditional conservatives, yet northern California's rural counties are dominated by politicians who claim to be just that: small government conservatives. Like their counterparts on talk radio, they preach that individual rights must trump the rights of the state. But to which "state" are they referring? They rail about the welfare state to their constituents, many of whom are on welfare. But they just can't stop shooting that hot drug war money. Demonizing medicinal cannabis patients keeps the monkey off the police state's back.

"They're the good old boys club, and they've formed themselves a gang," explains Lanette Davies, director of Crusaders for Patient Rights, via telephone from Sacramento. "In their minds, they're saving America. They feel like they're the good guys, it's an ideal: Only the police can protect you from the big bad people—who are actually American farmers."

A nationally known medicinal cannabis activist, Davies' family

owns and operates Canna Care, one of the first medical marijuana dispensaries in the capitol. She is a devout Christian with surprisingly conservative views. She abhors the proliferation of medicinal cannabis advertising featuring scantily clad women with pot leaves covering their breasts, because it sends the wrong message to the public. She recently traveled to Idaho, where she had a "positive cannabis conversation" with a Mormon community, whose members were pleased to learn that the use of medicinal cannabis is 100 percent "compliant with Christianity."

And why wouldn't it be compliant with Christianity? Did not Jesus travel throughout all the cities and villages, teaching in their synagogues and proclaiming the gospel of the kingdom and healing every disease and every affliction?

Not that anyone will ever mistake James Benno for Jesus Christ, but Benno does walk a similar path. He is one of the most well-known medicinal cannabis advocates in Shasta County and has been particularly visible protecting the rights of medicinal cannabis patients to grow their own medicine, as long established by state law.

Last year, his 99-plant collective garden was raided by the Shasta County Sheriff's Marijuana

Team. I wrote about his ongoing conflict with Shasta County previously on News Cafe. He faces trial June 26 and could go to prison if convicted.

Deputies destroyed Benno's entire garden, carting plants, pots and soil off to a local landfill. The property was worth literally millions, and if Benno beats the charges, the county could be on the tab. But for medicinal cannabis patients, the value of the medicine that was taken is incalculable. There is perhaps no patient for whom that was more true than 3-year-old Spencer Koptis, a medicinal cannabis patient from Palm Springs who passed away just before Easter after losing a battle with a rare form of brain stem cancer.

Like hundreds of similarly afflicted children have experienced, Spencer's symptoms improved after he was treated with highly concentrated cannabis extract. The treatment was first widely popularized by CNN chief medical correspondent Dr. Sanjay Gupta's groundbreaking broadcast in 2013, but members of the medicinal cannabis community have been experimenting with cannabis extraction for decades. Benno was one of several growers who donated medicine for Spencer's treatment.

"I didn't know what they were

talking about at first," recalled Redding-based attorney Michael Scheibli, who sometimes serves as counsel for Benno. "I didn't know what they were doing."

Spencer had nearly died in 2013 but gradually improved after he began treatment. Scheibli met Spencer on one occasion, after he began treatment with cannabis extract, and the toddler was "running around playing and laughing."

Scheibli, a scientist in a previous career, eventually came to understand that it's the concentrated nature of cannabis extract that makes it so effective for treating nervous system disorders. That's why it takes a lot of plant material to manufacture it. It's complicated, so I'll give my own abbreviated version here.

Extracts, also known as concentrates, are made by subjecting raw cannabis to a variety of chemical processes. Bubble hash is made using water and ice; the end product is generally a hard or chewy solid. Butane Honey Oil, BHO, get its name from the compressed butane used to promote a chemical reaction with cannabis; BHO can be solid, crumbly or an oil. Rick Simpson Oil, also known as Phoenix Tears, is made using alcohol as a reactive agent. All of these varieties are far more concentrated than raw cannabis,

and therefore more effective medicinally. They can be smoked, vaporized or ingested—the latter option being highly important for patients with respiratory ailments as well as children like Spencer.

The strain of cannabis is arguably more important than the process used for extraction. There are an infinite number of strains and each can contain as many as 80 different compounds known as cannabinoids. The most well known is THC, the compound that creates the sense of feeling "high." The strain Dr. Gupta introduced to a worldwide audience was high in CBD, a cannabinoid that does not produce a "high" but seems to be particularly effective for treating neurological disorders such as epilepsy.

Folks who would have never considered using medicinal cannabis in their lives began clamoring for CBD extract after Dr. Gupta's program. The knowledge that CBD doesn't get you "high" is a big selling point for people fearful of the paranoia associated with marijuana as well as politicians leery of fickle electorates. At least a dozen states have established or are in the process of establishing CBD-only laws. However, they may have jumped the gun. Researchers are discovering that successful treatment for medical conditions

may depend on balancing THC, CBD and other cannabinoids for each individual patient in order to exploit what is known as the “entourage effect.”

Spencer Koptis responded well to an RSO-type extract Benno made using a strain known as Ambiguous Purple Indica, or API. It has a ratio of CBD to THC that is approximately 2-to-1. A pound of API converted to cannabis oil via alcohol extraction provided enough medicine to last Spencer two months. His mother, Suzetta Vonzell, had neither the means to grow nor purchase the medicine, which would have cost as much as \$4,000 from a dispensary. Without Benno’s donations, Spencer’s life may have been shortened considerably. Benno had Spencer’s latest batch of oil steeping in a double-boiler on the stove top when he was raided last year. It never reached the toddler.

I never met Spencer, but I watched his health deteriorate the past several months on the Facebook page set up by his mother, Prayers For Spencer. When I started watching, he had been off cannabis for some time and was suffering from severe swelling. I never saw a picture of him on his feet. In the last picture I saw of him, posted posthumously, he was smiling weakly, wearing his Easter bunny mask for the last time.

The outpouring of grief from California’s medicinal cannabis community upon Spencer’s passing reverberated throughout social media, where you can find dozens of kids and adults suffering just as he did. Davies considers social media an extremely important asset for the medicinal cannabis community. She knows that when there’s a last-minute medical marijuana hearing at the capitol, she can muster 100 extremely ill patients and their caregivers with a few simple keystrokes.

On the morning I talked to Davies, the owners and an employee of Pure Life Collective, a legal medicinal cannabis dispensary in nearby El Dorado County that was raided last year, were charged with possession of marijuana with intent to sell, selling marijuana, and conspiring to commit a crime. The indictment came after the collective filed with the court to have the property taken during the raid returned, a circumstance that attorney Scheibli says occurs frequently. Davies has had enough of it.

“They’ve filed a vindictive prosecution, in my opinion,” she sighed. “I’m so tired of seeing victims.”

BAD ACTORS AND BHO EXPLOSIONS

Davies and many activists prefer to distinguish “medicinal

cannabis” from “recreational marijuana.” In California the core principle that differentiates the two, besides the fact that recreational use remains illegal, is the right to keep medical decisions between you and your doctor private. It is this right to privacy, codified in state law, that makes California’s medical marijuana regulations more robust than law enforcement and even many members of the medicinal cannabis community understand.

The right to privacy in regard to medical decisions permits physicians to prescribe patients as much medicine as they need. Patients and caregivers are permitted to grow as much medicine as they need and unlike other medicinal cannabis states, do not have to register their names in a state database. They can belong to informal collectives in which they are permitted to exchange labor, cannabis and money in what amounts to a perfect free market with but one regulation: be a good citizen.

For members of the medicinal cannabis community, being a good citizen means if you plan to grow on your own property, you ask your neighbors if they’re OK with it. If you rent, check with the landlord, too. If you don’t get the green light, find somewhere else to grow. If you get the green light, follow the state’s recommendation of six

mature plants per qualified patient and above all, don't get greedy.

It would be foolish to deny that there aren't bad actors taking advantage of the state's laws, and Davies, like many medicinal cannabis activists, has low tolerance for them.

"There's a difference between people who want to get high and people who want to get well," she says. "People abuse the situation and that feeds into the public's fear [of medicinal cannabis]."

Nothing is scaring the public more right now than the exploding popularity of BHO with young recreational users, pun intended. Known as dabs, shatter, wax and countless other names, BHO made in a professional lab can have a THC content pushing above 90 percent, which produces a phenomenal head rush when vaporized and inhaled.

Unfortunately it also can be crudely manufactured using pressurized butane and a homemade aluminum or plastic tube. Butane is extremely volatile in enclosed spaces and in amateur hands, the extraction process almost always ends in an explosion and a trip to the burn unit, jail or both. Hundreds of BHO explosions have been recorded across Colorado, Washington, Oregon and California in the past several years.

Dr. Tammy Brazil, owner of the Queen of Dragons medicinal cannabis in Shasta Lake City, is definitely not on the BHO bandwagon.

"We do not even let BHO in the doors of the club, much less sell it," she says. "We educated the local sheriff's and fire departments. We used to do a monthly class to teach safe ways of extracting. A major problem is that now that people can't grow, they are going for the one-time shot: There's a huge market for BHO in Sacramento, the Bay Area and Los Angeles."

When Brazil says people can no longer grow their own medicine, she means just that. During the past two years, northern California's rural counties, including Siskiyou, Shasta, Butte, Yuba, El Dorado and Sacramento, have adopted zoning ordinances that declare cultivation of cannabis a public nuisance, banning or severely limiting all outdoor cultivation. Indoor cultivation, if it is allowed at all, is confined to a permitted structure that's prohibitively expensive for most patients.

It's that old monkey clamoring on the police state's back. Upset that their drug war cash cow is moseying down the road, they've enlisted politicians and media in a campaign to brand all medicinal cannabis growers as drug-dealing eco-terrorists,

defiling the countryside with fertilizer and pesticide, stealing precious water with their million-plant grows, poisoning our children to turn a quick buck.

"That's not medical marijuana," Scheibli says. "That's cartel grows. Cannabis patients aren't using using pesticides and fertilizer. They're into organic. They're eating this stuff!" Not that Scheibli doesn't believe bad actors exist. "The bad actors are the police!" he states emphatically.

Lately, it's been hard to argue with him.

"...THE POLICEMAN, IN THIS CASE, IS NOT YOUR FRIEND"

The no-grow ordinances adopted by the counties transform growing medicinal cannabis, legal under state law for qualified patients, into a petty crime that can be ratcheted up to a felony by pretending state law doesn't exist. Otherwise friendly neighbors become anonymous police informants. It doesn't matter if you live in a trailer park or on 10 acres in the middle of nowhere. Any citizen, whether their complaint is legitimate or not, may call code enforcement and rat you out, anonymously.

If the county has actually funded its enforcement program, this anonymous

informant can depend on a code enforcer, accompanied by an armed sheriff's deputy and perhaps even an interagency narcotics task force SWAT team, being dispatched to the scene to eradicate the offending grow, and jail the perpetrators and seize their property.

The northern California medicinal cannabis community is no stranger to police harassment, but there's an added sense of urgency among the targets of the nuisance code ordinances. It was readily apparent in a frantic St. Patrick's Day post featuring numerous typos and desperate over-capitalization on the Save Butte Growers Rights Facebook page:

"Palermo area Code enforcement in your area earlier and coming back. Their tactic there is saying their gonna take you to jail. KNOW THAT THIS IS A CIVIL ORDINANCE AND THEY CAN NOT TAKE YOU TO JAIL FOR A CIVIL OFFENCE. Say and continue to say "I DO NOT CONSENT TO A SEARCH" AFTER YOU HAVE TOLD THEM TO LKEAVE YOU PROPERTY WITHOUT A WARRANT. THE FIRST THING THEY WILL SAY IS WE DONT NEED A WARRANT BUT THEY DO. DO NOT LET THEM IN YOUR HOUSE, SHED GARAGE BACKYARD, FRONTYARD OR GARDEN!!!! THEY ARE NOT YOUR FRIEND, THEY DO NOT

WANT TO HELP OR PROTECT YOU !!! THEY JUST WANNA GET AS MANY POINTS AS THEY CAN FUCKING US ALL OVER AND BULLYING US INTO COMPLIANCE. I DO NOT CONSENT TO A SEARCH!!!"

Translation: Code enforcement officers, accompanied by sheriff's deputies, are going door-to-door in Butte County without warrants, asking folks to invite them on to the property to ensure their garden, if they happen to have one, conforms to the county's recently passed, highly restrictive "stay inside the box" medicinal cannabis ordinance.

For example, patients that live on a half-acre property or less may not grow outdoors and are confined to an indoor grow room no larger than 50 square feet. People who live on properties 5 acres to 10 acres in size may grow indoors or outdoors in a "box" no larger than 100-square feet. That's incredibly restrictive, but it's better than Shasta and Sacramento counties, where all outdoor growing has been banned.

Legally, the Save Butte Growers Rights post is correct. The policeman, in this case, is not your friend. You can refuse to consent to a search without a warrant, and law enforcement are supposed to go away. But

what if they don't? Standing up to an armed law enforcement official, let alone a SWAT team, takes the sort of fortitude most people don't have and for which activists like Benno have paid a substantial price.

Heidi Grossman, executive secretary for the Sacramento chapter of NORML, shared her frightening experience with law enforcement last year in Yuba County.

Grossman was operating a "mutual benefit nonprofit patient association," in accordance with the medicinal cannabis directive issued by now-Gov. Jerry Brown when he was Attorney General in 2007. At 6 a.m. on September 30, 2014, Grossman was awakened by the arrival of an interagency narcotics task force comprised of 15 armed men positioned in front of her home and business.

"The officers were armed with assault rifles that were pointed at me through my front window," she recalled, noting that the warrant was signed and approved by a Butte County District Attorney and a Butte County judge for a raid conducted by Yuba County Sheriff's deputies, California Fish and Wildlife officers and agents from other unidentified government organizations. "Their shouting caused me to fear for my life."

"They've instituted Fish and

Wildlife fully,” says Scheibli somewhat ominously. The state agency has its act together more than local law enforcement. That makes fighting cases more difficult because “their warrants are proper, tighter.”

Grossman says she was handcuffed, roughly searched by a male officer, then released after they realized she had the proper documentation for her collective. Although she was never charged with a crime, the raiding party nevertheless seized more than 100 plants, her computer and her seed stock, valuable private property that was never returned. Rendered homeless by the incident for three months, she moved to Sacramento and has no intention to return to Yuba County or retrieve her property, for fear of being prosecuted.

“They laughed and boasted about other patients they had busted, specifically James Michael Benno and sons from Shasta County,” she remembers.

Grossman also shared a flier for a March 31 event held by Yuba County’s Drug Endangered Children Training and Advocacy Center. Hosted by the Yuba County Probation Department and the California Narcotics Officers Association, Region II, it reads:

“This training course will provide learners with investigative skills necessary

to link drug usage, trafficking, manufacturing and/or grow operations to child endangerment.” Those invited to attend included “law enforcement, District Attorneys, CPS and other first responders who have a job which require them to enter homes where drugs may be used, sold, manufactured and/or marijuana grow operations.”

If there is one law enforcement organization that raises Scheibli’s hackles the most, it’s the California Narcotics Officers Association. The lawyer claims the association instructs police officers in tactics such as keeping suspects talking after they’ve already exercised their right to remain silent. It’s blatantly unconstitutional.

“The California Narcotics Officer Association teaches police how to avoid the law and they knows it’s illegal,” Scheibli said, citing a well-established U.S. Supreme Court precedent set in the late 1980s. “Officers can’t purposely avoid the law and perform valid arrests.”

As Martinez-based defense attorney Joseph Tully has been demonstrating of late, there are all sorts of things that law enforcement officers can’t do when it comes to prosecuting medicinal cannabis patients. Tully’s been on a roll lately, the most recent victory coming last month in Shasta County

Superior Court with the acquittal of the owners of Planet Herb on all charges. The owners of Redding’s last remaining dispensary had courageously remained open only to be targeted by narcotics officers in a monthslong sting operation costing an untold amount of taxpayer dollars.

“The police feel entitled to go anywhere there’s a grow,” Tully says via telephone. “It’s a lot of work and costs a lot of money.”

Medicinal cannabis patients are scared because they don’t trust law enforcement, Tully says, an assessment shared by Scheibli and many patients, caretakers and growers I’ve interviewed.

“People are afraid, but a lot of what causes their fear is their sense that the police are corrupt,” Tully says.

The distrust is warranted. Law enforcement are required to list asset seizures in public notices in local newspapers, and the value of the cash and property seized runs into the millions each year. When prosecutors lose cases, those assets must be returned. But when otherwise innocent patients don’t challenge prosecutors, the money and property disappears down the black hole of interagency budget transfers, where it is nearly impossible to track.

So why don’t patients try to get their property back?

“Most people are scared, it’s a gamble,” Tully said. Prosecutors transform possessing legal medicinal cannabis into felony charges with prison sentences. “They try to deprive you of a medical marijuana defense.”

Tully advises patients who know they’re in the right to challenge vindictive prosecutions. He estimates that it costs \$20,000 to \$50,000 to mount a successful medicinal cannabis defense. Patients who can’t afford a private attorney shouldn’t be shy about retaining a public defender says Tully, a former public defender himself.

When patients are fully acquitted, Scheibli and other civil attorneys will step up to bat. With Tully and other criminal defense attorney knocking down criminal charges like dominoes, medicinal cannabis lawsuits will blow big giant holes in county budgets. It could get ugly.

FEAR OF FARMING

The smart money people say the California economy has recovered from the Great Recession precipitated by the 2007-’08 financial crisis. That may be true for folks who live and work in Hollywood or Silicon Valley. But in rural California, beyond the city limits, nothing’s happening. Whether you live outside Redding, Chico, Sacramento or Fresno, the story is the same.

There is no work.

What people in rural areas do have is room to grow, and since the passage of the Compassionate Use Act in 1996, cultivating medicinal cannabis has become an integral part of the rural economy, particularly in the northern counties.

Most medicinal growers aren’t in it to get rich. The ones I’ve met are small-time operators who follow the law and are among the most generous people I know. Generally they are patients or have loved ones who are patients. They live inauspiciously, moving to the rhythm of the seasons, not just the weekly paycheck, if they’re fortunate enough to earn a weekly paycheck. Any cash they earn—generally under the table—can hardly be called disposable income. In essence, they represent an economic unit missing from the American landscape since the turn of the 20th century, the small family farm.

It’s the sort of self-reliance conservative pundits preach daily on the talk radio stations that dominate political discourse up and down the valley. You’d think the rightwingers who predominate the boards of supervisors of the rural counties might be pleased with that development. As noted above, they’re anything but pleased. From a conservative or

a Christian point of view, the ongoing war against the scourge of medicinal cannabis is difficult to explain. It’s left activists and attorneys befuddled.

“What’s happened to the American people?” Davies asks, knowing the question doesn’t have an immediate answer. “Our country was built on farming.”

Scheibli feels the same.

“What are they trying to accomplish?” he asks. “Why are they doing it?”

I suggest to him that perhaps the big money people who run the counties are sweeping the little people out of the way to capitalize on the coming Green Rush. Marijuana activists from all factions in the state are busy right now crafting a unified initiative to place on the California ballot in 2016. Current polls indicate it is likely to pass.

“I can’t discount it, but I feel like that’s so evil I couldn’t fathom it until now,” Scheibli says. “Between Ferguson and marijuana, the last 24 months I’ve almost come to the conclusion that fighting it’s a waste of time. What is the end game?”

Davies, who has been participating in the crafting of the initiative, is concerned that the rights of individual citizens to grow cannabis, medicinal or

recreational, will be severely limited in the final document. On the eve of what appears to be the legalization of marijuana in the state of California, patient-growers who've been following the law for years may be cut out of the coming bonanza.

April 20 is soon upon us once again. Known as 420, marijuana's unofficial national holiday, it also marks the beginning of outdoor planting season. But this year many medicinal cannabis cultivators who wish to continue growing outdoors in northern California, including patients who depend on it for medicine, have a tough choice.

They can risk going to jail, or they can go without medicine. It's not a decision anyone can make lightly. I've seen it weigh heavy on the faces of decent men and women not inclined to break the law, who know this year they may have no choice but to do it.

Call it fear of farming. ■