

November 1, 1989

REPORT TO THE COMMITTEE ON RULES, LEGISLATION,
AND INTERGOVERNMENTAL RELATIONS

ENFORCEMENT OF CALIFORNIA DRUG PARAPHERNALIA LAWS

At its meeting on July 5, 1989, the Committee on Rules, Legislation and Intergovernmental Relations referred a communication from Councilmembers Bob Filner and Wes Pratt on the enforcement of drug paraphernalia laws to the City Attorney, City Manager and Intergovernmental Relations Department for development of any needed legislative changes. The difficulties of enforcing drug paraphernalia laws were previously addressed in a Memorandum of Law dated May 1, 1989, from the San Diego City Attorney's Office (Attachment One) and a memorandum dated May 24, 1989, from the City Manager's Office (Attachment Two).

An informal survey of other cities in San Diego County revealed practically no enforcement of drug paraphernalia laws due mainly to difficulties in proof.

On September 9, 1989, Assistant City Attorney Ronald L. Johnson and San Marcos City Attorney Dan Hentschke, as representatives of the various cities in San Diego County, met with San Diego District Attorney Ed Miller and senior members of his staff to discuss the enforcement of drug paraphernalia laws throughout the county. Specific attention was focused on the problems of proof associated with enforcement of California Health and Safety Code section 11364.7.

As a result of that meeting it was concluded and agreed that a uniform strategy must be developed for drug paraphernalia prosecutions. Essential to that strategy would be the development of credible expert witnesses with the ability to establish that an item is in fact "drug paraphernalia" within the meaning of the statutory prohibition. Such expert witnesses could be used county-wide.

The proposed strategy would involve identification of the most blatant vendors, notification to them that they are in violation of California Health and Safety Code section 11364.7, and coordination with the cognizant district attorney or city attorney when vendors ignore the notices of violation.

Notification of the results of the meeting with District Attorney Ed Miller and senior members of his staff was sent to each city attorney in San Diego County. Attachment Three is a

sample copy of that notification.

No legislative changes are recommended pending results of further efforts to enforce existing California Health and Safety Code section 11364.7.

Respectfully submitted,

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City Attorney

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Attachments

RC-89-42