

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER**

**MINUTE ORDER**

DATE: 12/09/2025

TIME: 04:09:00 PM

DEPT: C32

JUDICIAL OFFICER PRESIDING: Lee Gabriel

CLERK: D. Hentschke

REPORTER/ERM:

BAILIFF/COURT ATTENDANT:

CASE NO: **30-2021-01221014-CU-WM-CJC** CASE INIT.DATE: 09/15/2021

CASE TITLE: **HNHPC, Inc. vs. The Department of Cannabis Control**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Writ of Mandate

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EVENT ID/DOCUMENT ID: 74725078

**EVENT TYPE:** Under Submission Ruling

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**APPEARANCES**

There are no appearances by any party.

**The Court, having taken the above-entitled matter under submission on 11/04/2025 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:**

The Petition for Writ of Mandate filed by Petitioner, HNHPC, Inc. against Respondents Department of Cannabis Control ("Department") and Nicole Elliott, in her official capacity as Director of the Department (collectively, "Respondents") is GRANTED.

Respondents' Request for Judicial Notice of Exhibits 18 and 19 is GRANTED.

Respondents' Evidentiary Objections Nos. 1-4 to Evidence Lodged by Petitioner are OVERRULED.

Respondents' Evidentiary Objections to Declaration of Elliot Lewis are SUSTAINED as to No. 5 and OVERRULED as to Nos. 6, 7, 8 and 9.

Petitioner's Evidentiary Objections to Respondents' Declarations are OVERRULED as to Nos. 1-9.

Petitioner seeks a peremptory writ of mandate and a finding that the Department failed to perform its mandatory ministerial duty to design and implement a track and trace database that flags irregularities for further investigation, as required by Business & Professions Code §26067, subdivision (b)(2).

**I. Standard of Review:**

"A writ of mandate may be issued by any court to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station..." (Code Civ. Proc., § 1085, subd. (a).) "The writ must be issued in all cases where there is not a plain, speedy, and adequate remedy, in the ordinary course of law." (Code Civ. Proc., § 1086.) "Mandamus ... is the traditional remedy for the failure of a public official to perform a legal duty." (*People*

*for Ethical Operation of Prosecutors etc. v. Spitzer* (2020) 53 Cal.App.5th 391, 407.) "The writ will issue against a county, city, or other public body, or against a public officer." (*Ochoa v. Anaheim City Sch. Dist.* (2017) 11 Cal. App. 5th 209, 223.)

"What is required to obtain writ relief is a showing by a petitioner of "(1) A clear, present and usually ministerial duty on the part of the respondent ... ; and (2) a clear, present and beneficial right in the petitioner to the performance of that duty." ' [Citation.]" (*CV Amalgamated LLC v. City of Chula Vista* (2022) 82 Cal.App.5th 265, 278.)

The court of appeal previously ruled the Department's duty under section 26067, subdivision (b)(2) is ministerial. (*HNHPC, Inc. v. Dep't of Cannabis Control* (2023) 94 Cal.App.5th 60, 71 (*HNHPC*).)

## II. Analysis:

Business & Professions Code Section 26067 was enacted in 2017 as part of the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). The purpose and intent of MAUCRSA is "to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of" medicinal and adult-use cannabis. (Bus. & Prof. Code § 26000, subd. (b).) The statute also "sets forth the power and duties of the state agencies responsible for controlling and regulating the commercial medicinal and adult-use cannabis industry." (*Id.*, subd. (c).)

Section 26067, subdivision (a) provides: "The department shall establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier and is capable of providing information that captures, at a minimum, all of the following:

- (1) The licensee from which the product originates and the licensee receiving the product.
- (2) The transaction date.
- (3) The unique identifier or identifiers for the cannabis or cannabis product.
- (4) The date of retail sale to a customer and whether the sale is conducted on the retail premises or by delivery.
- (5) Information relating to cannabis and cannabis products leaving the licensed premises in a delivery vehicle as determined by regulations adopted pursuant to subdivision (d) of Section 26068." (Emphasis added.)

Section 26067, subdivision (b)(1) provides: "The department, in consultation with the California Department of Tax and Fee Administration, shall create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program, which shall include, but not be limited to, the following information:

- (A) The variety and quantity or weight of cannabis or cannabis products shipped.
- (B) The estimated times of departure and arrival.
- (C) The variety and quantity or weight of cannabis or cannabis products received.
- (D) The actual time of departure and arrival.
- (E) A categorization and the unique identifier of the cannabis or cannabis product.
- (F) The license number issued by the department for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and retailers." (Emphasis added.)

Section 26067, subdivision (b)(2) provides: "The database shall be designed to flag irregularities for the department to investigate." (Emphasis added.)

### CCTT System/Database:

The Department has established the California Cannabis Track and Trace ("CCTT") system for reporting the movement of cannabis and cannabis products in the supply chain to comply with section 26067. Pursuant to an initial contract executed on June 30, 2017, Franwell, Inc. ("Franwell") created the CCTT system. (Petitioner's Compendium of Exhibits ("Pet. Comp."). Ex. A.)

The CCTT system consists of numerous software programs and collections of data which are entered into and retained, displayed, or accessed using different programs. (O'Connor Decl., ¶ 7.) All data that is entered into the CCTT system database is provided by commercial cannabis licensees. (O'Connor Decl., ¶ 7.) Cannabis licensees use a software program called Marijuana Enforcement Tracking Reporting Compliance (METRC) or other third-party programs that can interface with METRC to enter information into the system, such as retail point-of-sale systems. (O'Connor Decl., ¶ 8.) Licensees enter a wide variety of information into the system including, but not limited to plant information, harvest information, crop losses, commercial transfers, manufacturing information, transport manifests, inventory reports, and retail transactions. (O'Connor Decl., ¶ 8.) The data collected through the METRC system becomes part of a database within the CCTT system. (O'Connor Decl., ¶ 9.)

Respondents contend "the CCTT database is designed to flag irregularities for the Department to investigate through the ability to run reports that identify irregular transactions in the database." (Opp., p. 17, Ins. 13-14.) Examples of reports generated by the CCTT database to flag irregularities, include but are not limited to: Incomplete Transfer Report, Activity Report, Harvests Report, Plants Inventory Report, Monthly Sales Report, Package Adjustments Report, Package Inventory Report, Packages Sales Report, Plants Destroyed Report, And Plants Trend Report; Tag Usage Report; Donations Sold for Non-Zero Amounts Report; CA training Registration Attendance; Out of State Tag Order Report; CCTT Anomaly Report; Cultivation Anomaly Workbooks; Sales Workbooks; Tag Workbooks; Transfers Workbooks; and California Anomaly Workbooks. (Dorminey Decl., ¶¶ 11, subds. (a)-(k); 13, subds. (a)-(j).) The Department has also added a software program called Tableau which using CCTT data, can generate reports, summaries of data, and visualizations such as bar graphs, line graphs, scatter plot diagrams, and pie charts. (O'Connor Decl., ¶ 10.)

The CCTT system also has a Database Query tool that employs structured query language (SQL) searches to filter data within the system to identify patterns of activity that are indicative of non-compliant or illegal activity. (Dorminey Decl., ¶ 12.) This is a flexible and customizable tool for flagging irregular activity; SQL searches can be tailored to meet specific criteria for types of activity or transactions that are of interest to compliance staff. (Dorminey Decl., ¶ 12.) Once the SQL search has been created it can be used to automatically generate lists of licensees engaged in irregular activity at the request of an analyst or can be used to generate reports. (Dorminey Decl., ¶ 12.)

Department investigators, analysts and environmental scientists use information provided by reports to, among other things, investigate and validate whether a flagged irregularity is indicative of unlawful activity or activity that violates the statutory and regulatory requirements for licensees. (Dorminey Decl., ¶ 17.) There is no "one-size-fits all" analysis for reviewing the flagged irregularities identified by the various reports given the high amount of variability between production procedures, equipment and genetics utilized for cultivation and manufacturing. (Dorminey Decl., ¶ 17.) To investigate and validate a flagged irregularity, CCTT analysts review a licensee's historical production output, planting and harvesting trends, and distribution scheme. (Dorminey Decl., ¶ 17.) CCTT analysts using the historical data captured in the CCTT to validate whether a flagged irregularity has other data points that would explain the irregularity before referring a case for further investigations. (Dorminey Decl., ¶ 17.) CCTT analysts compile numerous reports together to investigate and validate irregularities that were identified by the reports to maximize the efficiency of compliance resources. (Dorminey Decl., ¶ 17.)

Petitioner contends the CCTT database is not designed to flag irregularities for the Department to investigate as required by section 26067, subdivision (b).

Specifically, Petitioner contends section 26067 mandates that the Department design and implement a CCTT database that automatically flags irregularities. Petitioner contends that when contracting with Franwell to design and implement the CCTT system, the Department itself interpreted the Legislature's mandate as requiring a system which "automatically" detects and flags potential irregularities in cannabis chain activity. The contract for the CCTT system provides the Department required that the CCTT system

"must automatically flag irregularities based on identified criteria and allow Licensing Authorities to review the specific cannabis distribution chain activity that is flagged as irregular." (Pet. Comp. Ex. A [Scope of Work §2E.]) The Department argues Petitioner mistakes the Scope of Work which identified 23 business needs for a statutory mandate. (Opp., p. 17, Ins. 3-6.)

Section 26067, subdivision (b)(2) provides the database "shall be designed to flag irregularities for the department to investigate." The statute requires the database be "designed to" flag irregularities but does not specify whether the flagging must be automatic or can be through database generated reports.

Petitioner has not submitted any legislative history, regulations, or any argument other than Department's Scope of Work to show the statute requires automatic flagging of irregularities. (*Doe v. Marysville Joint Unified Sch. Dist.* (2023) 89 Cal.App.5th 910, 916 ["If the language of the statute is ambiguous, a court 'can look to legislative history and to rules or maxims of construction' to resolve the ambiguity." [Citations omitted].) The Court agrees with the Department, a plain reading of the statute does not support Petitioner's contention that the database must automatically flag irregularities. The use of a database designed to flag irregularities through generation of reports that identify irregular transactions in the database can satisfy the Legislative mandate.

As to the Department's report driven compliance system, Petitioner argues it also fails to comply with the mandate of section 26067, subdivision (b). Specifically, Petitioner argues the CCTT database is designed to generate standard and custom ad hoc reports the Department staff must manually review, without any objective criteria against which to assess the raw data. Petitioner contends the Department reports do not flag any irregularities, instead, they contain queried raw data listing "events or transactions," which staff, without the benefit of any objective criteria or definitions, then review manually looking for irregularities. (Reply, p. 5, Ins. 14-16.)

In response, the Department has shown some reports like an incomplete transfer report is capable of flagging time based technical regulatory violations. The incomplete transfer report presents a number of rows of data that represent potential irregularities for Department staff to review, shows automatic flagging of an irregularity. (O'Connor Decl., ¶ 12.) Petitioner contends although the incomplete transfer report identifies regulatory violations based on objective criteria (failure to accept a transfer within 24 hours), the report is useless because the report lists all incomplete transfers as of the time the report is run, even if the time to accept a transfer has not expired. (Reply, p. 6, Ins. 17-18.) Further, Petitioner contends there are no established criteria to determine at what point beyond 24 hours an incomplete transfer is deemed an irregularity. (Reply, p. 6, Ins. 19-20.) Petitioner has shown the other reports referenced by Respondents –inbound versus outbound packages report, unfinished harvest report, package adjustment reports, and voided manifest report – also have no set objective criteria for establishing or identifying an irregularity. Therefore, the Department has failed to show the reports generated by the CCTT database flag irregularities instead of just containing queried raw data listing events or transactions, which staff, without the benefit of any objective criteria or definitions, must review manually to look for irregularities.

Further, Petitioner has submitted a chart of Department compliance with statutory requirements prepared by Department staff in 2020 which states: "System does not currently flag irregularities. Must be done manually by cultivators and licensing authorities." (Pet. Comp. Ex. V; Augustini Decl., ¶ 21, Ex. 1.)

Based on the foregoing, although reports generated by a database can comply with section 26067, subdivision (b)(2), the Department's report-driven CCTT database fails to comply since the reports do not flag irregularities but require manual review to identify irregularities.

Beneficial Interest in the Outcome of the Case:

"The requirement that a petitioner be "beneficially interested" has been generally interpreted to mean that one may obtain the writ only if the person has some special interest to be served or some particular right to be preserved or protected over and above the interest held in common with the public at large.' "

(*Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 165.)

Petitioner operates a licensed cannabis dispensary in Santa Ana, California. (Lewis Decl., ¶ 1.) Petitioner contends as a result of the Department's refusal to implement a CCTT system which flags irregularities, it has been harmed both financially and competitively by the illegal sale of unregulated cannabis. Petitioner states that between 80-90% of all cannabis initially entered into the METRC system by licensed cultivators was diverted or lost in the METC system prior to a final retail sale at a licensed retail location. (Lewis Decl., ¶ 3.) The cannabis that Petitioner sells is regulated and has been tested and confirmed not to contain a multitude of harmful chemicals and substances which increases the price of the cannabis sold at retail by Petitioner. (Lewis Decl., ¶ 4.) Further, Petitioner is required to collect sales tax (generally 8-10%) as well as excise taxes which recently increased from 15% to 19%. (Lewis Decl., ¶ 4.) By diverting cannabis to the black market, illegal retailers circumvent the costly testing regime implemented by the state and also avoid paying any sales or excise taxes. (Lewis Decl., ¶ 4.) As a result, illegal retailers that sell unregulated cannabis - including cannabis that has been diverted within the CCTT system to the black market - can often do so for prices that are 40% or more less than regulated cannabis sold by licensed retailers like Petitioner, leading to lost sales, lost revenue and lost profits for licensed retailers. (Lewis Decl., ¶ 4.)

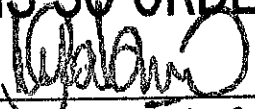
Petitioner has therefore shown it has a beneficial interest to seek a writ of mandate.

The Court finds the Department's current report-driven compliance system does not comply with section 26067, subdivision (b)(2).

The Court set a **status conference hearing for 02/06/2026 at 10:30 a.m.** and the parties are to come prepared to the hearing to discuss how the Department can implement report-driven flagging of irregularities based on established criteria not requiring manual review to identify irregularities.

Court orders Clerk to give notice.

**IT IS SO ORDERED.**

  
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Judge of the Superior Court