

Date FEB 10 2011
Registrar
Greffier MUN Y CHAN

FEDERAL COURT

BETWEEN:

**NEIL ALLARD
TANYA BEEMISH
DAVID HEBERT
SHAWN DAVEY**

Plaintiffs

And

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Defendant

AFFIDAVIT OF SHANE HOLMQUIST

I, Shane Holmquist, a regular member of the Royal Canadian Mounted Police ("RCMP") stationed at the RCMP headquarters building located at 14200 Green Timbers Way, Surrey, in the Province of British Columbia, AFFIRM THAT:

QUALIFICATIONS

1. I have been a member of the RCMP since April 2005. I hold the rank of Constable but have been acting in the rank of Corporal since March 2013.
2. I am seconded to the Federal Serious Organized Crime Section on the Coordinated Marihuana Enforcement Team ("CMET").
3. The mandate of the CMET is to investigate large scale marihuana grow operations, organized crime groups taking advantage of the *Marihuana*

Medical Access Regulations ("MMAR"), provide assistance and training to police detachments on the MMAR and the Marihuana for Medical Purposes Regulations ("MMPR"), enhance police and public awareness of the dangers of and impact of organized crime, and promote and support changes to legislation and regulations that discourage people from engaging in illegal activities related to marihuana.

4. During my 9 years as a police officer, I have been involved in over 100 marihuana grow operation investigations that have been located primarily inside residences. I have spoken to numerous MMAR growers and have harvested marihuana plants from medical marihuana grow operations to determine the yield of marihuana bud.

5. I have provided training to Health Canada Inspectors, Drug Investigators in Canada, and law enforcement personnel in the United States, regarding production and trafficking of marihuana, MMAR, MMPR, and marihuana investigational strategies.

6. I have attached a copy of my '*Curriculum Vitae*' as "**Exhibit A**" to this affidavit that further outlines my experience with the production and trafficking of marihuana, as well as the MMAR and MMPR. Based on my experience as a police officer and, in particular, with the CMET, I am able to speak to the facts set out in this affidavit.

7. I have been asked by BJ Wray, counsel with the Department of Justice, to provide information on the following issues:

- a) the process of growing marihuana indoors;
- b) the number of MMAR licenses that exist in Canada;
- c) the criminal abuses associated with medical marihuana by referencing examples that I am aware of;
- d) the health and safety issues at MMAR grow sites from my experiences attending these sites and from reviewing RCMP investigations relating to the MMAR; and
- e) the efforts the RCMP has undertaken to ensure that the MMPR addresses the criminal abuses of medical marihuana and the

health and safety concerns identified that arose under the MMAR.

Attached as “**Exhibit B**” to this affidavit is a true copy of the letter of instruction I received from BJ Wray, dated January 24, 2014.

8. I believe the facts in this affidavit are true whether they are stated to be based on personal knowledge or on information received.

SECTION A: BACKGROUND ON THE GROWING OF MARIHUANA

9. Cannabis marihuana is an annual plant that starts out as a seed and completes its lifecycle within a one year period. By growing marihuana indoors in a controlled environment of high powered lights, fertilizers, and knowledge of the photosynthesis process, a marihuana cultivator can get marihuana plants to complete their lifecycle in a three month period – resulting in four crops a year.

10. Marihuana cultivators grow marihuana in a variety of grow mediums. The most common method is grown in a dirt-like substance called a ‘soil-less’ mix. Another method of growing marihuana is hydroponically. Hydroponic grow operations consist of the marihuana roots growing in a solution of water and fertilizers. An experienced cultivator who grows marihuana hydroponically can get marihuana plants to complete their lifecycle in a 2 month period – resulting in six crops a year.

11. Female marihuana plants develop flowers, known as buds, that contain a psychoactive ingredient called Tetra-Hydro-Cannabinol (“THC”). THC is a controlled substance under the Controlled Drugs and Substances Act. The buds are harvested, dried, and subsequently consumed.

SECTION B: NUMBER OF MMAR GROW OPERATIONS IN CANADA

12. There are three types of medical marihuana licenses issued under the MMAR. The Authorization To Possess (“ATP”) allows a person to possess dried marihuana for personal consumption, the Personal Use Production License (“PUPL”) permits a person to grow marihuana for their own personal

use. The Designated Person Production License ("DPPL") allows one person to grow marihuana for another person.

13. In October 2013, I was advised by Health Canada that there were 25,809 PUPL licenses and 4,231 DPPL licenses in Canada. In British Columbia, there were 14,451 PUPL licenses and 2,562 DPPL licenses. Therefore, British Columbia has approximately half of all the marihuana production licenses in Canada. The City of Surrey, for example, has over 1,200 PUPL and DPPL licenses. I have attached and marked two maps to this affidavit as "**Exhibit C**". These maps illustrate the proliferation of MMAR grow operations in British Columbia.

SECTION C: CRIMINAL ABUSES OF MEDICAL MARIHUANA

14. The MMAR program permits the production of marihuana inside dwellings that were designed and built for human occupancy. Police investigations into the excess production and trafficking of marihuana at locations that have been authorized under the MMAR have revealed various criminal abuses of the MMAR program, including the production and trafficking of medical marihuana for personal gain, producing over the legal limit, and the involvement of organized crime at MMAR sites. Attached as "**Exhibit D**" to this affidavit is an RCMP Criminal Intelligence Brief, entitled: "Criminal Exploitation of Marihuana Medical Access Regulations Licenses", dated May 2012. I review some of the abuses associated with the MMAR below, but "Exhibit D" provides further detail on how the MMAR program is exploited.

15. I have attended numerous MMAR locations where MMAR growers were involved in trafficking marihuana. Under the MMAR, a grower can grow very large marihuana plants (also known as "monster plants") and remain within his/her authorized plant count. Monster plants yield an extraordinary amount of marihuana. Under the MMAR, the grower is required to destroy the excess marihuana. In my experience, it is improbable that growers consistently comply with this aspect of the MMAR.

16. The MMAR provides an estimate of the yield of medical marihuana plants. Section 30 of the MMAR states the yield of a medical marihuana plant is 30 grams or 1.06 ounces of marihuana bud. However, in my experience, a

marihuana cultivator can achieve a substantial higher yield. In 2013, I attended two MMAR grow locations where I estimated the yield of marihuana bud to be 450 grams or 15 ounces per plant. In 2012, I attended a MMAR grow operation and found the yield to be approximately 997 grams or approximately 35 ounces per plant.

17. In addition, I have often seen how MMAR licences are used to disguise commercial scale grow operations. For example, I was involved in a police investigation in 2013 which discovered a commercial chicken barn with MMAR licenses. Twenty-five people, who were not authorized to grow marihuana, were tending to and packaging marihuana for the purpose of trafficking at this MMAR location.

18. An RCMP review of medical marihuana licensing in 2009 found 70 instances where violations to the licensing were confirmed and of those, 40 were found to be trafficking excess marihuana to make a profit. This review is contained in an RCMP Criminal Intelligence Brief entitled: "A Review of Cases Related to the Medical Marihuana Access Regulations", dated April 2009 attached as "**Exhibit E**" to this affidavit. "Exhibit E" also provides more detailed information with respect to criminal abuses under the MMAR.

19. Trafficking under the MMAR is also further disguised because the MMAR permits an authorized person to carry a 30-day supply of marihuana on their person, rather than their daily amount. If a person is authorized to consume 5 grams of marihuana a day and was going out for the afternoon, he/or she would logically take 2.5 grams with them and not carry around 150 grams (their 30 day supply) of marihuana.

20. MMAR license holders are known to transport shipments of marihuana for sale under the guise of their authorized possession amount. For example, a person with a PUPL license to consume 100 grams a day would entitle him/her to carry and transport a 30 day supply or 3,000 grams (or 3 kilogram or 6.6 pounds). At \$2,000 a pound this would indicate a value of \$13,200. The PUPL person would essentially operate as a marihuana courier and transport it to a location where it is subsequently sold to the clandestine market. Should the PUPL license holder be stopped by police, he/she would be in legal possession of the 6 pounds unless it could be proven that the marihuana was in his possession for the purpose of trafficking.

21. Criminal abuses of the MMAR may also arise because there are substantial costs associated with operating a medical grow operation. The main costs are associated to electrical consumption – the costs to operate the high powered lights, the air conditioning to keep the room at a steady grow temperature, and oscillating fans to keep the air circulating. Secondly, there are costs of equipment and grow chemicals.

22. To mitigate these costs, medical marihuana growers may sell the excess marihuana they grow. The street value of marihuana is approximately \$1,500 to \$2,000 a pound (depending on quality, quantity purchased, supply/demand, and location in Canada).

23. For example, I have reviewed an RCMP investigational file of an inspection of an MMAR grow location in which a grower stated that one room of marihuana was for medical purposes and the other grow room was a “mortgage helper”. In my experience investigating MMAR grow locations, I have found that there is an overwhelming temptation for MMAR growers to sell marihuana to supplement their income.

24. During the course of a number of my investigations into the excess production and trafficking of marihuana by MMAR license holders, I have made queries to BC Hydro with respect to the electricity consumption of these MMAR grow locations. I understand that some MMAR growers pay between \$10,000 to \$35,000 a month in electricity. To mitigate these expenses some MMAR growers steal electricity. This is done by ‘tapping into’ the electricity before the electrical meter can record the consumption for billing purposes. As I explain in more detail below, these connections can cause arcing and ignite items on fire. In addition, they pose an electrocution hazard.

25. The MMAR has also been used by organized crime. In my experience, organized crime groups are known to target persons with disabilities and low incomes. An organized crime group will encourage people to fraudulently obtain an MMAR license that they would control, in exchange for marihuana and/or money.

26. Additionally, in my experience organized crime groups are known to target terminal cancer patients. For example, a member of the organized crime group may offer the patient a substantial amount of money to help them

enjoy the remaining time they have left. In exchange, the patient completes the paperwork and obtains a large marihuana grow license and makes the organized crime member their designated grower.

27. In one RCMP project that I was involved in, an organized crime group brokered marihuana by collecting it from multiple sources and was re-selling it. In my experience, organized crime groups have been known to resell marihuana in remote locations in BC or other provinces where the demand is higher. If marihuana orders can't be filled with their own supply, they will often seek out MMAR growers to 'top up' their orders.

28. In 2012, the Capitol Region Integrated Marihuana Enforcement (CRIME) Task Force was initiated on Vancouver Island to disrupt organized crime groups from benefiting from the production and trafficking of marihuana. 27 percent of the investigations resulted in the execution of search warrants at MMAR locations. A Statistical Summary of the Task Force is attached as "Exhibit F" to this affidavit.

SECTION D: HEALTH AND SAFETY

Mould and Environmental Contamination

29. In some of the investigations that I have conducted at marihuana growing locations, I have observed the presence of mould and other chemical contamination.

30. Growing marihuana requires a considerable amount of water that results in high humidity. Grow chemicals are often mixed in water and fed to the plants. Some pesticides are also sprayed on plants.

31. In my experience, marihuana grow operations are often located in basements. The grow lights create heat, causing the moisture, and grow chemicals, and pesticides to rise up into the living area inside the residence.

32. Marihuana bud is cured and dried after harvest. The marihuana bud loses 60-80% of its weight in moisture as it dries. Because of the high moisture in the bud it will develop mould if it is not property cured and dried. I

have observed mould on marihuana buds during my investigations of marihuana growing operations.

33. There is no requirement under the MMAR for a PUPL or DPPL grower to test for mould on the marihuana at the microscopic level or to test for any type of contamination.

34. Mould can also be a problem because most homes are constructed with wood framing. In some MMAR grows I have seen that excessive moisture from the growing operation has caused wood to rot, structural nails and screws to rust, and electrical contacts to corrode. Attached as "**Exhibit G**" to this affidavit are two photographs that I took during an investigation of a double-homicide at a residential MMAR location of the mould located inside the MMAR grow operation.

35. Hydroponic marihuana growers often discard the water/fertilizer mixes into forested areas, the public sewer system and/or fish inhabited areas to avoid the difficulties in transporting and disposing the liquid. For example, in 2009 I attended a marihuana growing location in which the growers had dammed a fish spawning creek to pump water into the grow location to feed the plants. The excess water/fertilizer solution was discharged into a stream on the property that drained into a ditch.

Fire and Electrical Hazards

36. MMAR grow operations are at a higher risk to catch fire than a residence without a marihuana grow operation. Attached as "**Exhibit H**" to this affidavit is a document prepared by the RCMP for the Canadian Association of Chiefs of Police entitled, "An Analysis of National Cases Related to the Marihuana Medical Access Regulations." The document provides extensive information concerning the public health and safety issues associated with medical marihuana grows and, in particular, states that there is a 24 times greater risk of a fire at a marihuana grow operation than a fire in a regular home.

37. Based on my experience, there are a variety of lights used to grow marihuana but the most common lights are the 1,000 watt Metal Halide and

the 1,000 watt High Pressure Sodium lights. These grow lights consume more power than a standard wall plug can produce. Grow lights often operate on a 220-volt system, the same as an electric stove or a clothes dryer. Marijuana plants are usually given 12 to 18 hours of light a day.

38. In my experience, while some MMAR grows have had electrical inspection to ensure the initial wiring meets building codes, just because the electrical plug meets a certain standard, it does not account for the overloading of electrical circuits. For example, plugging in numerous wires to limited outlets, the hanging of grow lights from strings, running of multiple extension cords, or storing propane tanks near electrical connections. Attached as "**Exhibit I**" to this affidavit are photographs of what I believe to be potentially hazardous electrical work performed at MMAR grow operations. I took the top two photographs while investigating the double-homicide scene described above at paragraph 34 and the remaining photos were taken during the 2012 CRIME Task Force investigation noted above at paragraph 28.

39. Marijuana is best grown in a room with a consistently regulated temperature. The grow lights give off significant heat over the 12-18 hours they are left on. MMAR growers often utilize air conditioners to regulate the temperature. The combined electrical consumption can be exorbitant, putting a further strain on the electrical wires.

Injury to growers

40. I have also seen how medical marijuana grows can cause injury to the growers. For example, the grow lights generate significant heat and, if touched, can cause severe burns. Most grow lights are located above and in close proximity to the marijuana plants. In some cases the grow lights are located between marijuana plants. The grower has to carefully manoeuvre around the hot lights. One MMAR grower showed me the scars on the sides of his elbows from the times he accidentally brushed up against the hot grow lights while tending his marijuana plants.

41. Additionally, marijuana plants are often grown in pots. When watered, the excess water leaches out onto the floor. This creates slipping hazards and

the potential for electrocution should an exposed overhead electrical wire come in contact with the grower standing in the water.

42. The presence of high amounts of carbon dioxide in marijuana grow operations also creates a safety and health risk. Marijuana plants consume Carbon Dioxide ("CO₂") and excrete oxygen as part of the photosynthesis process. CO₂ is a colorless and odourless gas. From speaking with MMAR growers and from reading books on the cultivation of marijuana, I understand that supplementing marijuana plants with CO₂ can increase their yield by up to 20%.

43. In my experience of investigating MMAR growing operations, a common way to introduce CO₂ into a grow room is to use a 'CO₂ generator' or 'CO₂ burner' – essentially, this is the equivalent of operating a BBQ inside the residence. The burning of propane or natural gas causes the release of CO₂. On many occasions I have attended grow operations where I have observed CO₂ burners precariously hanging from the ceiling with open flames burning inside them. Attached as "**Exhibit J**" to this affidavit is a photograph of a CO₂ Generator/Burner inside an MMAR grow operation.

44. CO₂ generators/burners create four primary hazards:

- a device that burns unattended inside a residence creates obvious fire hazards;
- CO₂ generators/burners create a significant amount of heat that requires additional air conditioning and further strains the residential electrical system;
- CO₂ generators/burners can be used to kill bugs that infest marijuana plants which may result in elevated levels of CO₂. Extremely high doses of CO₂ can be fatal to humans. I have attended a marijuana grow operation with high levels of CO₂. I had to exit the room and request the fire department attend and vent out the CO₂ to make it habitable for human entry.
- CO₂ contained in a pressurized gas cylinder can act as a torpedo if the cylinder is knocked over and the valve is

broken off. In addition, if these cylinders are heated up in the event of a fire, they can explode.

45. The Federal Serious Organized Crime Section of the RCMP in British Columbia has, within it, a Clandestine Lab Unit. The Coordinated Marihuana Enforcement Team and the Clandestine Lab Unit operate out of the same office and often share resources between both units. The Clandestine Lab Unit investigates and dismantles synthetic drug laboratories. The Clandestine Lab Unit also maintains a response unit where they attend and dismantle clandestine laboratories that are inadvertently discovered. On occasion, they respond to marihuana oil laboratories.

46. Marihuana oil is known as 'weed oil' or 'hash oil' that is extracted from marihuana. Fires and explosions are known to occur during this extraction process. I asked Cst. Eric Boechler of the Clandestine Lab Unit to explain the chemicals used to make the marihuana oil and to provide photographs of damage resulting from the residential manufacturing of marihuana oil. Attached as "**Exhibit K**" is the document written on or about January 22, 2014 by Cst. Eric Boechler in response to my request.

Sealed Rooms and Confined Spaces

47. Marihuana growers often seal off grow rooms to maintain complete control of the growing environment. This is done to prevent the introduction of bugs and insects, control the levels of CO₂, and to control the temperature.

48. In my experience, sealed off growing rooms often have one entrance and one exit. Grow rooms often have boarded up windows to prevent light from getting into the grow room, to deter people from seeing the high-powered lights, and to keep the windows from dripping with condensation. Sealed rooms create confined spaces that make it impossible to escape in the event of a fire.

49. First responders (police and fire) often do not know that an MMAR grow operation is located within a residence which creates a heightened level of risk for these individuals. For example, fire fighters who do not know about

high voltage wires, fertilizers, propane tanks, confined spaces, and building modifications could put their lives at greater risk.

Grow Rips and Weapons

50. The skunk-like odour is a tell tale sign of a marihuana grow operation, whether legal or illegal. Marihuana plants that are reaching maturity tend to smell the most. Marihuana is a valuable commodity. People narrow down the location of the smell, break in and steal the marihuana. This is called a 'grow rip'.

51. People who conduct grow rips often use violence, have impersonated police, and have weapons including firearms. Often grow rips are under reported to police because the marihuana grower does not want to bring attention to their illegal activities. Attached as "**Exhibit L**" to this affidavit is an RCMP Criminal Intelligence Brief entitled, "Marihuana Grow Operations and Related Violence in Canada dated April 2012" that further explains and provides more detailed information on the violence at marihuana grow operations, including medical marihuana grows.

52. There has been a steady rise in violent grow rips in British Columbia. In particular, there were 4 violent grow rips in 2009 and 11 violent grow rips in 2010 at locations with MMAR licenses. Attached as "**Exhibit M**" to this affidavit is the report of Scott Fogdon, a Criminal Intelligence Analyst with the RCMP's Criminal Intelligence Section that provides further information regarding the increase in violent grow rips.

53. Perhaps due to the media attention of grow rips and an overall increased awareness of this phenomenon, some MMAR growers have begun to arm themselves. The presence of these weapons increases, among other things, the chance of a shootout where stray bullets could kill innocent people in the neighbourhood. In one investigation, numerous assault rifles, high capacity magazines, and a bulletproof vest was located at a MMAR grow location. Attached as "**Exhibit N**" to this affidavit are the photos of the seized firearms from that location.

54. On occasion, violent grow rips result in homicides. Keely Kinar, a Civilian Member of the RCMP and Criminal Intelligence Analyst for the Integrated Homicide Investigation Team in the Lower Mainland of British

Columbia reviewed homicide investigations related to grow rips. Between November 2003 and February 2013 there were 14 homicides related to grow rips in the Lower Mainland. The majority were the result of shootings. Attached as "**Exhibit O**" is a summary of the homicides related to marihuana grow operations.

Children's health and safety

55. In my experience, children often live in residences where MMAR grows are located. These grow operations put children at risk to the same hazards as adults – the risk of fire, electrocution, mould issues, and violence associated to grow rips.

56. In addition to these risks, there are THC enriched products that are being made from MMAR locations. In one instance, candy suckers and candies in a variety of colors were seized. These candies contain extracted THC. An unsuspecting child could consume this psychoactive ingredient. I have attached photographs of these candies as "**Exhibit P**" to this affidavit.

57. The MMAR permits indoor growing operations to be located adjacent to schools. Given the risks associated with medical marihuana growing operations, including the risk of grow rips, the proximity of these grows to schools increases the risk of harm to children in the area.

SECTION E: RCMP REVIEW OF LICENSED PRODUCER APPLICATIONS

58. On April 1, 2014 the new MMPR comes into effect. The MMPR eliminates the growing of marihuana in residential homes and permits the commercial production and sale of marihuana by persons who have been through an extensive security screening process.

59. The Security Intelligence Background Section (SIBS) is a section of the RCMP in Ottawa that provides security-screening services to federal departments. When Health Canada receives MMPR applications, they are given to the SIBS department to review. These applications are then forwarded to a Provincial RCMP MMPR Coordinator.

60. I am the Provincial RCMP MMPR Coordinator for British Columbia. I receive the information from SIBS and conduct additional police database queries to ensure that organized crime and criminals do not participate in the MMPR. I contact bylaws, detachments, and conduct open source queries.

61. Currently, I have over 50 pending MMPR applications to review in British Columbia.

62. I have spoken with four MMPR growers and have attended two MMPR commercial grow sites. MMPR grow sites require strict security measures for the production and storage of Controlled Substances, unlike MMAR grow operations.

63. MMPR grow sites will be commercial operations, not in residences, where Health Canada inspectors will be able to attend and conduct inspections. MMPR growers will be required to document their plant growth and yields that will be subject to inspection by Health Canada Inspectors. This will reduce the chances of diversion to illicit markets.

64. MMPR packaging requires that it be in a childproof container with the name of the patient clearly identified like other prescriptions. Under the MMAR there are no guidelines on how the marihuana is to be possessed.

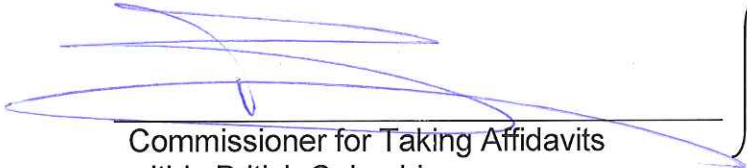
65. Under the MMPR, the marihuana will be analyzed for mould and will be required to meet the Food and Drug Act requirements unlike MMAR growers.

66. MMPR facilities will require extensive filtering systems to prevent the discharge of noxious skunk like odours in areas where children frequent.

67. Additionally, MMPR facilities in British Columbia will have to meet Worksafe BC standards. Where warranted, this will include the wearing of proper clothing and footwear, confined space protocols, CO2 monitoring devices, and fire suppression. This will create a safer environment and help prevent injuries.

68. I am aware of my duty to the court as an expert witness. Attached as "Exhibit Q" to this affidavit is my signed Code of Conduct for Expert Witnesses.

AFFIRMED before me at the City of Vancouver, in the Province of British Columbia, this day of February, 2014.



Commissioner for Taking Affidavits
within British Columbia



Shane Holmquist

BJ Wray
Barrister, Solicitor & Notary Public
for the Province of British Columbia
900-840 Howe Street
Vancouver, BC V6Z 2S9

This is Exhibit "A" referred to in the
affidavit of Shane Holmquist
sworn before me at Vancouver
this 4th day of February 2014

[Signature]

Constable Shane HOLMQUIST

Royal Canadian Mounted Police

QUALIFICATIONS TO PROVIDE AN EXPERT OPINION (MARIHUANA)

LAW ENFORCEMENT EXPERIENCE

Federal Serious Organized Crime Section, RCMP E DIV Headquarters	March 2013 to Present
Coordinated Marihuana Enforcement Team, Drug Enforcement Branch	May 2011 to March 2013
Chilliwack Serious Crime Section, Upper Fraser Valley Regional Detachment	April 2010 to May 2011
Chilliwack Drug Section, Upper Fraser Valley Regional Detachment	May 2008 to April 2010
General Duty Section, Agassiz RCMP	April 2005 to May 2008
Training Academy – Cadet, RCMP Depot Division	October 2004 to April 2005
Provincial Correctional Officer, BC Corrections Branch	July 1996 to October 2004
Auxiliary Police Officer, Powell River RCMP Detachment	January 1995 to February 1996

COURSES AND TRAINING

National Expert Witness Course

March 2012

A week long course in Ottawa that brought together a wide variety of expert witnesses to provide guidance and standardization in writing a CV, preparing an Expert Opinion Report, and giving expert witness evidence. The course ended with reviewing the evidence from a real marihuana investigation and providing an expert opinion.

Organized Crime Course

January 2012

A two week Canadian Police College course that covered a variety of techniques used to investigate Organized Crime Groups. Training included proactive source development, Part VI wiretap review, Asian Organized Crime, Outlaw Motorcycle Gangs, Proceeds of Crime, Operational Planning, Synthetic Drug Trends, Undercover Operations, Officer Safety, and Disclosure.

Drug Investigative Techniques Course

September 2012

A three week Canadian Police College course that covered all facets of drug investigations: drug recognition, pharmacology, jargon, prices, and packaging of cocaine, heroin, methamphetamine, and marihuana. Under the supervision of Health Canada chemists, I had the opportunity to make crack cocaine and GHB. Marihuana plant cloning, growth cycle, and equipment commonly used to grow marihuana was discussed. The course included informant scenarios, surveillance, high risk vehicle

stops, arrests, interviewing, and the drafting of a CDSA search warrant for the production of marihuana.

Search Warrant Course

July 2009

An intensive five day scenario based course that involved writing CDSA, criminal code, production orders, feeney warrants, impression warrants, DNA warrants, and general warrants. Warrant structure, case law, drafting considerations and the sourcing of search warrants were covered.

Intermediate Surveillance Course

March 2009

A five day course that covered foot and vehicle surveillance techniques, blending in, and making covert observations. Practical scenarios involved the recording of observations that were compiled into a master surveillance report.

Human Source Management Course

April 2009

An eight day course that covered policies and procedures for developing, reporting and disseminating information from confidential human sources. Emphasis was placed on recruiting, troubleshooting problems, and safety considerations. The evenings were spent approaching professional actors (who assume the role of sources) to obtain information, primarily related to drug trafficking.

Introduction to Search Warrant Drafting

February 2009

A two day introductory search warrant course that included the basic structure of warrants and drafting considerations. A production of marihuana scenario was presented where members had to write an Information to Obtain.

Major Crime Investigative Techniques

May 2008

An intensive two week Canadian Police College course that covered major case management, interview techniques, human sources, crime scene examinations, Part VI applications, criminal profiling, undercover operations, and pathology. Members participated in solving a homicide investigation scenario using major case management principles.

Human Source Management Workshop

February 2008

A two day workshop with the Delta Police Department that covered the policies and procedures for developing, reporting and disseminating information from human sources. Members participated in scenarios where undercover operators, acting as informants, provided information on drug trafficking.

Basic Thermographer Course

January 2007

A three day course that covered the theory and investigational application of the Forward Looking Infrared (FLIR) devices. The course included practical exercises and included case law decisions on the use of thermographic equipment. Certified as a thermographer through the Law Enforcement Thermographers Association (LETA).

Depot Training Academy

April 2005

An intensive six month training program that prepares the attending cadets for all aspects of police work in the field. Approximately ten hours of instruction was presented in street drugs identification, methods of use, packaging, distribution and street jargon used when referring to various illicit drugs.

An Employment Readiness program taught at the Justice Institute of BC. The training included case management, justice system, report writing, communication skills, conflict resolution, self defense, and search and seizure. Training also included drug identification and interdiction.

PRACTICAL EXPERIENCE

2014:

In January, I conducted a power point presentation on the Advanced Drug Course at the Canadian Police College related to the Marihuana Medical Access Regulations (MMAR), Marihuana for Medical Purposes Regulations (MMPR), and investigative strategies.

2013:

In October, I conducted a power point presentation on the, "Status of Marihuana Legislation in Canada and Current Enforcement Strategies for Marihuana Possession, Cultivation and Trafficking in BC," at the Washington State Cross-Border Law Enforcement Forum. Numerous senior management officials were present including the Deputy Attorney General, Chief of Washington State Patrol, Assistant Special Agent in Charge of the Homeland Security, Chief of Seattle Police Department, Acting Chief Patrol Agent for US Border Patrol, Assistant Area Port Director of US Customs, and Chief Deputy of the US Marshal Service. Also in attendance were senior police officials in BC including the Officer in Charge of the National Security for BC, Deputy Chief of Delta Police, Deputy Chief of Abbotsford Police, Deputy Chief of Victoria Police, Officer in Charge of CFSEU in BC, Executive Director of Canadian Border Services Agency, and Assistant Deputy Minister and Director of Police Services of the Ministry of Justice.

I am currently the affiant on a large scale project. The investigation involves numerous people who have medical marihuana licenses. The marihuana is being grown in BC and sold across Canada and internationally.

I am currently the point of contact in BC for the MMPR. With the assistance of a Criminal Analyst, I review MMPR applications to determine connections with organized crime. I consult with Health Canada Inspectors, Senior Managers, and the Security Intelligence Background Section of the RCMP in Ottawa on a weekly basis.

I attended the Canadian Police College in Ottawa on two occasions and instructed two day courses to Health Canada Inspectors and management. My presentations included the abuses of the Marihuana Medical Access Regulations, signs of diversion, how to grow marihuana, growing trends, calculating plant yield, and grow equipment.

I attended the scene of a medical marihuana grow operation that was contained in 3 large chicken barns. 20 people were arrested on scene. Hells Angels paraphernalia was located at the scene.

I conducted an intelligence investigation into Outlaw Motorcycle Gangs and medical marihuana. This information was included in an analytical report that was disseminated to police across Canada.

The Integrated Homicide Investigation Team (IHIT) were investigating the scene of double homicide which was also the location of a medicinal marihuana grow operation. I attended the scene and completed an expert opinion report to assist in determining plant yield and compliance with the Marihuana Medical Access Regulations (MMAR).

I have read the proposed MMPR that are to be fully implemented on April 1, 2014.

I inspected a medical marihuana grow operation and spoke with the grower on grow cycles, plant yield, use of carbon dioxide, and methods of consumption.

2012:

In 2012 I participated in the Capitol Regional Integrated Marihuana Enforcement (CRIME) Task Force which is mandated to eradicate marihuana grow operations on Vancouver Island. I assumed the role Exhibit Manager on two investigations, and dismantled three outdoor marihuana grow operations. I was the Primary Investigator on Project ENOG where marihuana was being supplied by multiple medicinal grow operations to a compassion club that operated a call center and sophisticated website which allowed them to sell millions of dollars' worth of marihuana across Canada.

I provided a two hour presentation on Organized Crime and Drugs to 49 teenagers at the Chilliwack Youth Academy. The teenagers volunteer their time to learn about the duties of Police Officers and participate in scenarios over the course of one week. Within the presentation I discussed the production of marihuana and the complexity of large scale marihuana grow operations.

I dismantled an outdoor marihuana grow operation consisting of over 2,200 marihuana plants and a 632 plant hydroponic grow operation in a residence that contained clones, vegetative, and budding plants. I also dismantled a 1,400 marihuana plant grow operation within an underground bunker. I have inspected two medicinal marihuana grow operations.

I attended the Squamish RCMP Detachment and provided a 4 hour presentation to 8 members on investigative techniques and marihuana grow operation exhibits.

I attended four marihuana dispensaries in the Lower Mainland to determine if a particular marihuana derivative was being sold.

With an extradition order, I escorted a male across the border into the United States and transferred custody of the male to the US Marshall Services. The male was wanted for trafficking hundreds of pounds of marihuana from BC into California.

On three occasions I have dried, clipped, and weighed marihuana bud from marihuana plants to determine the plant yield.

2011:

I participated in the Cariboo Region Interior Marihuana Enforcement (CRIME) Task Force which was mandated to eradicate marihuana grow operations in the interior of BC. I participated in the execution of two search warrants and assumed the role of Exhibit Manager in one of those investigations involving over 2,600 marihuana plants ranging from clones to budding plants.

I assumed the role of Affiant and File Coordinator on Project PRONATOR where a search warrant was executed on a rural property where a 6,000 plant marihuana grow operation was located in greenhouses.

I assisted in the execution of a search warrant where over 1,500 marihuana plants were located ranging from mother plants, clones, vegetative plants, and budding plants. While on scene, I discovered a male hiding under the insulation in the attic of the grow operation.

I participated in the execution of a search warrant where I assisted in dismantling a 2,000 plant marihuana grow operation. The electricity to power the grow lights were from two industrial generators connected to a natural gas theft-bypass.

On one occasion I dried, clipped and weighed marihuana bud from a plant to determine the plant yield.

2010:

I was the File Coordinator for a complex investigation relating to the extortion and bodily harm of an individual as a result of a large shipment of marihuana being lost/stolen. The investigation included an Agent and the interception of private communications. I wrote the Report to Crown Counsel and listened to the audio intercepts between the suspects and the Agent.

Between 2008 and 2010 I was the Primary Investigator for Project EPONE where I identified drug traffickers, and provided phone numbers, street jargon and prices to undercover operators. I then witnessed undercover operators purchase a variety of controlled substances.

2009:

I was involved in over 50 marihuana grow operations where I assumed various roles ranging from executing the search warrant, dismantling equipment, Exhibit Manager, Affiant, Scene Supervisor, and Primary Investigator.

I participated in the dismantling of an underground hydroponic marihuana operation that contained over 11,000 budding marihuana plants. Three electrical transformers were utilized to supply power to the operation. I participated in a video recorded press release that was shown on Global National News and CTV News in September 2009 from inside the underground bunker. The same press release was then included in a CBC documentary on marihuana called 'CANABIZ' that was aired nationally in January 2010.

I was the Primary Investigator and Affiant for an investigation where over 500 marihuana plants were being grown in four 53 foot long tractor trailer units within an industrial complex unit.

I was the Primary Investigator and Affiant for an investigation which resulted in the seizure of over 7,000 marihuana plants ranging from clones to budding plants. 60 pounds of marihuana had been clipped and drying on racks.

I assumed the role of Exhibit Manager for a fire scene where a teenager burned to death in an apartment fire that was a result of using butane to make hash oil from marihuana leaves.

2008:

I dismantled a large outdoor marihuana grow operation that consisted of more than 10,000 marihuana plants, some over six feet tall, in a remote area. After cutting down the plants, I loaded them in slings which were carried out by an RCMP helicopter.

I was the Affiant for a search warrant that contained over 2,000 hydroponically grown marihuana plants. The plants ranged from the clones to mother plants.

Over the course of my career I have:

Been involved in excess of 100 marihuana grow operations;

Observed marihuana plants that have been grown in dirt, and a variety of soilless mediums including peat moss, rock wool, coconut peat, clay mulch and fully hydroponic with water as the grow medium;

Interviewed persons who have been involved in the cultivation of marihuana to determine costs, prices, and methods of concealment;

Seized marihuana joints, seeds, clones, vegetative, mature marihuana plants, and marihuana shake. I have also seized marihuana oil, hashish, and hashish oil;

Assumed the role of Exhibit Custodian on numerous occasions where I have seized and recorded equipment used to grow marihuana;

Witnessed firearms, weapons, booby traps, and fortification efforts used to protect marihuana grow operations from being 'ripped';

Forwarded marihuana to Health Canada for THC analysis on over 10 occasions to determine the quality of seized marihuana;

Spoken with confidential informants who have provided information on the effects of marihuana, methods on consumption, quantities, and prices;

I have also observed people smoke marihuana as well as being under the influence of marihuana. I have spoken to them on the levels of consumption and amounts they purchase for personal use;

Read the Marihuana Medical Access Regulations (MMAR) and routinely speak with Health Canada to determine the amounts authorized for possession, storage, and plant production;

Have attended and inspected locations where persons have been authorized to grow medical marihuana;

Spoken with other experienced drug experts, drug investigators, electricians, and BC Hydro personnel on ways that electricity can be diverted. I have written search warrants for theft of telecommunication where marihuana grow operations were discovered and have assisted BC Hydro contractors in the removal of hydro meters / diversions at over 15 marihuana grow operations where theft of electricity was discovered;

I have read books on marihuana, including history, culture, and other forms of consumption. I have attended numerous stores that sell marihuana paraphernalia and dispensaries.

I have attended hydroponic supply stores to determine the prices of equipment associated to marihuana production and fertilizer schedules.

I have used the thermal imager (FLIR) on more than 10 occasions that have later been discovered to contain growing marihuana plants.

During my 8 years as a Provincial Correctional Officer I seized controlled substances hidden in jail cells, common areas, and on/in inmates. I have observed the ingenious methods to light and smoke marihuana joints and methods employed to bring controlled substances into the jail. As a Deputy Shift Supervisor, I trained new Corrections Officers on search, seizure, and identification of controlled substances.

LITERATURE READ

An Analysis of National Cases Related to Marihuana Medical Access Regulations

Prepared by the RCMP for the Canadian Association of Chiefs of Police, November 2010 (Protected A)

A Review of the Research on the Risks and Harms Associated to the Use of Marijuana

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Adverse Effects of Medical Cannabinoids: A Systematic Review

By Tongtong Wang, Jean-Paul Collet, Stan Shapiro, and Mark Ware. Canadian Medical Association Journal – June 17, 2008.

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By Jeff Ditchfield, 2009 Edition, ISBN# 978-1-931160-67-4

Cannabis Use in British Columbia

By Tim Stockwell, Jodi Sturge, Wayne Jones, Benedikt Fisher and Connie Carter. Bulletin 2 – Revised January 2007. Centre for Addictions Research of BC and the Faculty of Health Sciences at Simon Fraser University.

Commercially Viable Indoor Marihuana Growing Operations in British Columbia

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Drugs of Abuse (pertaining to sections on marihuana)

By US Department of Justice, Drug Enforcement Administration (DEA) 2005 Edition

Ed Rosenthal's Marijuana Grower's Handbook (Official Coursebook at Oaksterdam University)

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Illicit Drug Price Lists: 2006-2007 and 2010 (pertaining to sections on marihuana)
By the RCMP Criminal Intelligence Section, Ottawa, Ont, RCMP Headquarters

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By Jorge CERVANTES, 2002 Edition, ISBN # 1-878823-29-9

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By Yvon Dandurand, Darryl Plecas, Vivienne Chin and Tim Segger. University College of the Fraser Valley and the International Centre for Criminal Law Reform and Criminal Justice Policy. (May 2002).

The Criminal Justice Response to Marihuana Growing Operation in BC
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The Increasing Problem of Electrical Consumption in Indoor Marihuana Grow Operations in British Columbia
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The Secrets of the West Coast Masters – Uncover the Ultimate Techniques for Growing Medical Marijuana
By Dru West (2011) ISBN # 978-0-615-44611-0

DATE UPDATED: January 22, 2014



Department of Justice
Canada

Ministère de la Justice
Canada


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Vancouver, British Columbia
V6Z 2S9

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January 24, 2014

By Email to shane.holmquist@rcmp-grc.gc.ca

Cst. Shane Holmquist
Federal – Serious Organized Crime
Coordinated Marihuana Enforcement Team
Mailstop 304 – 14200 Green Timbers Way
Surrey, BC V3T 6P3

This is Exhibit “ B ” referred to in the
affidavit of Shane Holmquist
sworn before me at Vancouver
this 4th day of February 20 14


Dear Cst. Holmquist

**Re: *Allard et al. v. Her Majesty the Queen in Right of Canada*
Instruction Letter**

Thank you for agreeing to provide the Attorney General of Canada (“AGC”) with an expert report in the matter of *Allard et al. v. Her Majesty the Queen in Right of Canada*. As discussed, this Federal Court litigation involves a constitutional challenge to the *Marihuana for Medical Purposes Regulations* (the “Regulations”).

Background Information

The plaintiffs in this litigation, all of whom are medical marihuana users, seek to strike down, among other things, the section of the Regulations that requires medical marihuana users to purchase their medical marihuana from a licensed producer or from Health Canada. The plaintiffs prefer the prior regime in which they were permitted to grow their own medical marihuana or designate another person as their grower. One aspect of the plaintiffs’ claim is their contention that the current Regulations will make the cost of their medical marihuana prohibitive and they will, thereby, be deprived reasonable access to their medical marihuana in violation of their rights under the *Charter of Rights and Freedoms*.

The plaintiffs have also indicated that they will seek an injunction from the Court that would permit them to continue under the rules of the old regime (ie. they would be able to continue growing their own medical marihuana) until the constitutionality of the present Regulations is decided by the Court.

The AGC is the defendant and it is the AGC’s position that the current Regulations are constitutionally sound, a position that will be defended by legal counsel on behalf of the AGC.

Facts and Assumptions

The facts alleged by the plaintiffs are outlined in the Amended Notice of Civil Claim which is enclosed.

Questions for Your Expert Report

Please address the following matters in your expert report:

1. The process of growing marihuana indoors and, in particular, in a residential location.
2. The number and location of medical marihuana grow operations in British Columbia and in Canada more generally.
3. The criminal abuses associated with medical marihuana grow operations, including, but not limited to: the production and trafficking of marihuana for personal gain; and, producing over the legal limit. Please include relevant example(s) of such abuses from your own experience investigating such grow operations.
4. The safety and health harms associated with medical marihuana grow operations including, but not limited to: violence such as "grow rips", firearms, and homicides; fire and electrical risks; security concerns; mould and chemical contamination issues; and, risks to children. Where relevant, please include examples of such harms from your own experience investigating such grow operations.
5. The RCMP's involvement in the vetting applications to become a Licensed Producer under the new medical marihuana regime.

Format of Your Expert Report

Your report must be prepared in accordance with the Federal Courts Rules. As such, we ask that you do the following in within the body of your report:

1. Set out the issues to be addressed in the report;
2. Describe your qualifications on the issues to be addressed;
3. Attach your current curriculum vitae as a schedule to the report;
4. Attach this letter of instruction as a schedule to the report;
5. Provide a summary of your opinions on the issues addressed in the report;
6. Set out the reasons for each opinion that is expressed in the report;
7. Attach any literature or other materials specifically relied on in support of the opinions;
8. If applicable, provide a summary of the methodology used in the report;
9. Set out any caveats or qualifications necessary to render the report complete and accurate, including those relating to any insufficiency of data or research and an indication of any matters that fall outside of your field of expertise; and,
10. Particulars of any aspect of your relationship with a party to the proceeding or the subject matter of your report that might affect your duty to the Court.

Please number each paragraph of your report as this will aid us in referring to your report in Court.

Please sign and date your report.

Duty to the Court

As an expert witness, you have a duty to the Court which is set out in the attached Code of Conduct for Expert Witnesses. Please carefully review this Code of Conduct and, after doing so, sign the attached Certificate and send it back to us.


Hearing Dates and Procedural Matters

We anticipate that the AGC's evidence with respect to the plaintiffs' injunction request will be due sometime in mid-February and that the Court will hear the injunction application sometime in mid-March. It is anticipated that the plaintiffs will have an opportunity to cross-examine you sometime in late February or early March. If the plaintiffs request cross-examination, we would work around your availability to the extent possible. If your testimony is also required for the trial itself, we will let you know as soon as possible. No dates have been set for the trial.

Please keep all correspondence pertaining to this assignment in a separate "Expert Witness Report" folder.

We look forward to discussing your report with you the week of January 27, 2014. Please do not hesitate to contact me by telephone at 604-666-4304 or my colleague, Toireasa Jespersen, at 604-666-4315 if you require further information or have questions regarding the foregoing.

Yours truly,

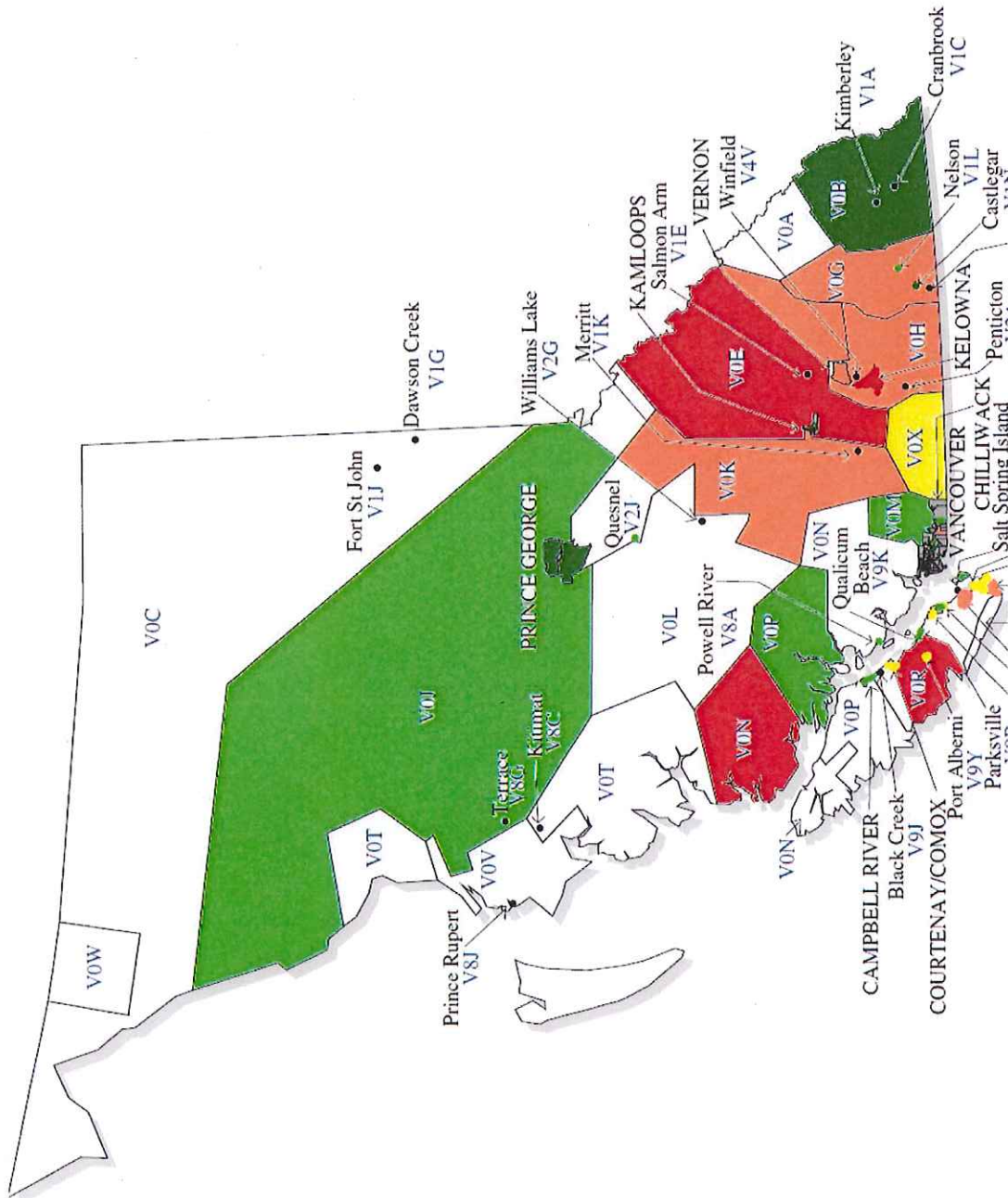


BJ Wray
Counsel

Enclosures: Certificate for Expert Witnesses; Code of Conduct for Expert Witnesses; Amended Notice of Civil Claim

- 600-1000 licences
- 300-600 licences
- 200-300 licences
- 100-200 licences
- 50-100 licences

This is Exhibit " C " referred to in the affidavit of Shane Holmquist sworn before me at Vancouver this 4th day of February 2014

Royal Canadian Mounted Police
Criminal Intelligence Brief

**Criminal Exploitation of Marihuana Medical
Access Regulations Licences**

May 23, 2012

This is Exhibit " D " referred to in the
affidavit of Shane Holmquist
sworn before me at Vancouver
this 4th day of February 2014

Financial Crime
International Operations
Drugs & Organized Crime
Border Integrity
Operational Intelligence



Key Findings

- Criminal networks are currently exploiting weaknesses in Health Canada's *Marihuana Medical Access Regulations* (MMAR) Program to produce and divert medical marihuana into the illicit market.
- Criminal networks are utilizing associates and family members who do not have police records in order to circumvent Health Canada's current safeguards for the production of medical marihuana.
- Intelligence and law enforcement investigations demonstrate that high-level criminal organizations engaged in illicit drug markets (cocaine, methamphetamine and marihuana) are actively strategizing to enter and exploit Health Canada's developing MMAR Program.
- Canadian criminal networks engaged in the illicit marihuana market have access to millions of dollars of startup capital. As such, they have the financial resources to commercially enter a sophisticated MMAR Program.

Purpose

This assessment examines vulnerabilities within the MMAR Program as it pertains to production licences currently being exploited by organized crime (OC).

Background

Canada was identified as a global top 10 producer of illicit marihuana.ⁱ Organized crime is involved in all levels of the marihuana trade (from production to exportation) as it remains one of the most trafficked illicit drugs within the country.ⁱⁱ Canadian criminal producers have developed the capacity and sophistication to produce on a commercial scale some of the most potent marihuana in the world. The illegal marihuana market in Canada is estimated to be a multi-billion dollar industry, in annual revenue, for criminal organizations.^{1 iii}

Gaining access to or control of a medical marihuana grow operation is highly desirable for criminal networks due to the array of opportunities it would present for the illicit production and diversion of high-grade medical marihuana. Criminal groups are currently exploiting Health Canada's MMAR Program. The RCMP reported that at least one high-level criminal organization – identified as a national level threat – is proactively seeking opportunities to exploit future MMAR guidelines currently being developed by Health Canada.

Occurring Threats

The following case studies are recent examples of investigations into broader ongoing organized crime trends identified by law enforcement in the RCMP's report *Analysis of National Cases Related to the Marihuana Medical Access Regulations (2010)*. Organized crime's exploitation of current and future MMAR represents an enforcement challenge and a public health threat.

¹ *Marijuana Growth in British Columbia (2004)* estimated that British Columbia exported \$2 billion CDN worth of marijuana to the United States based on 2000 data.

Scenario 1: Marihuana production in excess of the MMAR licence designation

CASE STUDY 1

FILE NUMBER(S): 2011-XXXX, 2011-XXXXXX

Issue: *Suspect 1* was issued a licence to produce medical marihuana. In late 2011, police entered *Suspect 1*'s residence and located a marihuana grow operation which was producing marihuana in excess of the quantity allowed under the Health Canada permit.

Criminal Background: *Suspect 1* was arrested in 2011 for possession of over 100,000 MDMA (Ecstasy) tablets² and 30 kilograms of cocaine.³ This individual is known to be a key cocaine importation and trafficking figure, is reportedly associated to a known violent organized crime group, and is an associate of a high-level (95 kilograms+) international cocaine trafficker.

Implications: High-level drug traffickers, who have access to significant amounts of capital, are currently exploiting Health Canada's MMAR Program.

Scenario 2: Criminal participation in a medical marihuana grow operation

CASE STUDY 2

FILE NUMBER(S): 2011-XXXXX, 2011-XXXXX

Issue: In 2011, police attended Address 1 where three individuals –*Suspect 2*, *Suspect 3* and *Suspect 4* – had MMAR licences to grow 49 plants each at this location, totalling 147 plants. *Suspect 3*'s and *Suspect 4*'s residential addresses were identified in other cities,

² This was estimated to be worth \$500,000 CDN, at the wholesale value, and approximately \$2 million CDN at the street value.

³ The cocaine seizure was estimated to be worth \$1.65 million CAN, at the wholesale value, and in excess of \$2.5 million CDN, at the street value.

differing from the declared MMAR location. At a later date police conducted a roadside check of a vehicle which *Suspect 3* was driving. This vehicle was found to be transporting marihuana. *Suspect 3* indicated to officers that they were permitted to possess marihuana due to the MMAR licence. When questioned about the ownership of the vehicle, *Suspect 3* provided false information, likely in an attempt to prevent police from identifying the owner. The actual owner of the vehicle has several criminal convictions, one of which is believed to be associated to an illicit marihuana grow operation.

Criminal Background: *Suspect 2* is a full-patch member of the Vancouver Chapter of the Hells Angels. *Suspect 3* has a criminal record dating back to 1965 and is a known marihuana/hashish importer/trafficker. *Suspect 4* has no criminal record.

Implications: This example highlights the access criminal organizations have to associates with no criminal records. Organized crime often utilizes the services of individuals with no criminal convictions to hold permits or be the public owner of the business(es). This technique insulates the organized crime figure and helps to avoid detection by law enforcement. Organized crime members and associates are exploiting MMAR licences in order to traffic marihuana. There is no method for law enforcement to determine the legality of the marihuana being transported.

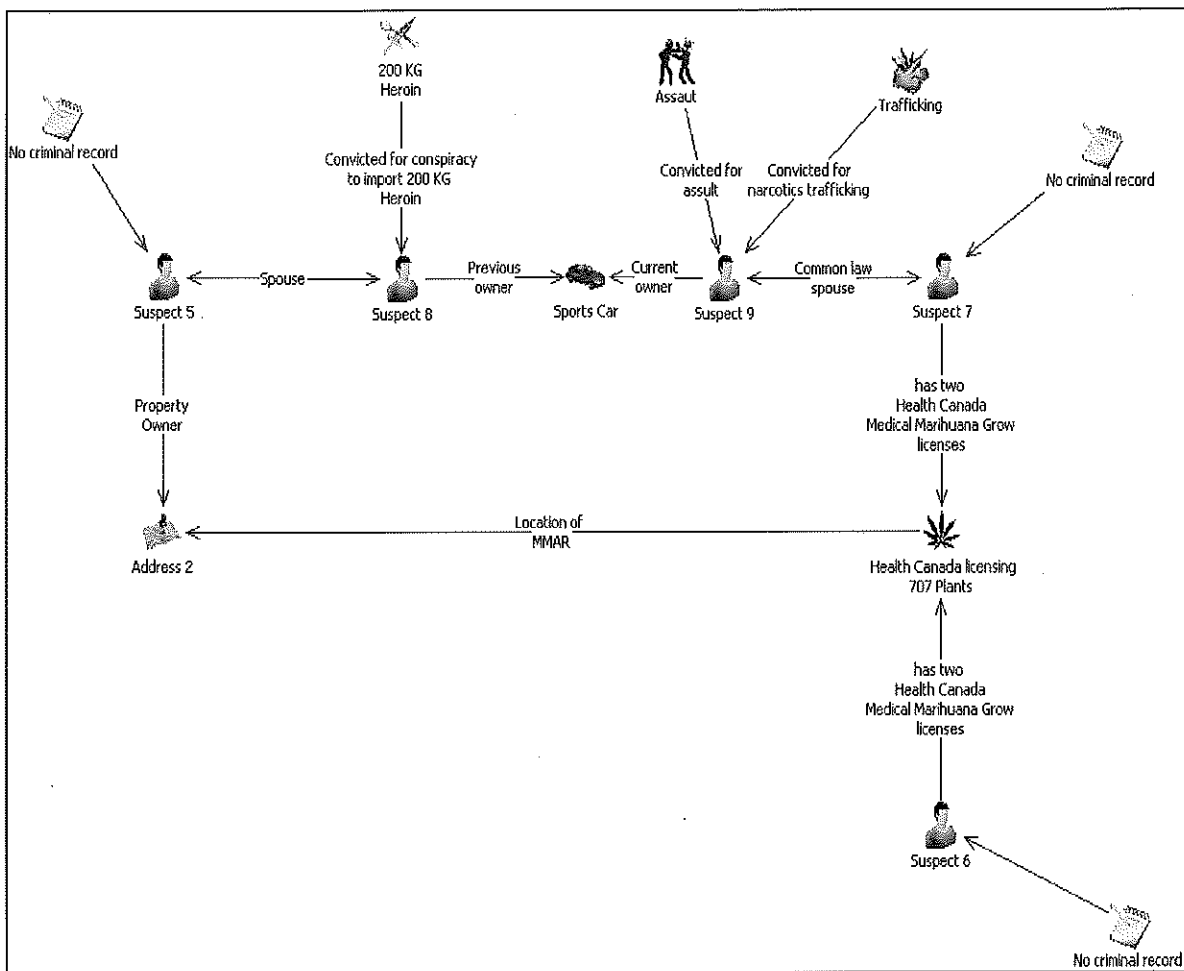
CASE STUDY 3

FILE NUMBER(S): 2011-XXXXX, 2011-XXXXX

Issue: Address 2, owned by *Suspect 5*, is a known medical marihuana grow operation with four licences associated to *Suspect 6* and *Suspect 7*. Health Canada issued Designated Personal Production Licences (DPPL) to *Suspect 6* for 74 plants, and *Suspect 7* for 633 plants.

Criminal Background: *Suspect 5* has no criminal record, however *Suspect 5's* spouse, *Suspect 8*, served a sentence for conspiracy to import 200 kilograms of heroin from Pakistan. *Suspect 7* has no criminal record, while *Suspect's 7* common-law spouse, *Suspect 9*, is the registered owner of a sports car previously registered to *Suspect 8*. Higher value assets, such as vehicle ownership, are often exchanged among participants in the illicit drug market as a covert form of payment.

Implications: This case study demonstrates the ease by which ineligible individuals (such as convicted drug traffickers) can circumvent standard safeguards currently utilized by Health Canada. Under the current framework, individuals who are inadmissible to the MMAR program are having family members (such as a spouse) and/or associates with no criminal records obtain MMAR licenses



Scenario 3: Criminal networks deliberately utilizing Health Canada MMAR licences to commercially produce illicit marihuana

CASE STUDY 4

FILE NUMBER(S): 2011-XXXX, 2011-XXXX, 2011-XXXX

Issue: *Suspect 10* holds a valid Health Canada licence to possess 1.8 kilograms of marihuana, to grow up to 292 plants and to store 13.14 kilograms at Address 3. *Suspect 10's* licence is for personal use, it does not permit the supplying or growing of marihuana for others. *Suspect 10* established Company X, which illegally produces and ships marihuana across Canada.

There is a second licence for *Suspect 11*, who is also associated to Address 3. The licence only permits *Suspect 11* to supply *Suspect 12*. *Suspect 10* is an officer of Company X while *Suspect 12* is the director. Company X is sending significant quantities of illicit marihuana through Canada Post.

Marihuana Seizure: While conducting parcel interdiction at a major international parcel delivery company, police interdicted a package that contained 36 bags of marihuana, each weighing approximately 260 grams (for a total of 9.36 kilograms). The sender was Company X, which used the same address associated with *Suspect 10*, and the receiver was *Suspect 12*. Police were advised that *Suspect 10* inquired about the parcel with the company's corporate security department, saying that the marihuana was for medical purposes. When police spoke with *Suspect 10*, he stated that he was part of Company X and that the marihuana was for a licenced medical user.

Business Profile: Company X has a website claiming to be "permitted to produce and distribute marihuana for medical purposes." When police verified with Health Canada, it was indicated that no licence was issued for

Company X to distribute marihuana but rather the owner, *Suspect 10*, had a Personal Use Production Licence. *Suspect 10* was featured in a National Geographic documentary called "Marihuana Nation." Mark Emery (aka the Prince of Pot and well known marihuana activist) took a National Geographic reporter to *Suspect 10's* medical marihuana grow operation (MGO) in Canada. Emery stated it was the biggest and most sophisticated MGO he had ever seen. *Suspect 10* then showed the reporter the warehouse where marihuana plants (approximately 10 feet tall) were grown and concluded the presentation with showing cookies and cupcakes⁴ containing marihuana.

Criminal Background: In the documentary, *Suspect 10* admitted to having a criminal record for trafficking and extortion. The Canadian Police Information Center showed that *Suspect 10* is prohibited from possessing firearms stemming from a 1988 file; however, no criminal record was listed due to a possible pardon.

Implications: This example is one of several where MMAR licences are utilized with impunity to produce a significant quantity of marihuana, far exceeding what can reasonably be consumed by an individual. RCMP subject matter experts report the average yield per plant to be 90 grams (average plant size is 5 to 8 feet tall). As such *Suspect 10's* licence for 292 plants allows the production of at least 78.84 kilograms - with an average street value of \$657,000 CDN – per annum.⁵

⁴ At the time of filming this contravened Health Canada's *Marihuana Medical Access Regulations*, which restricted recipients to using only dried forms of marihuana.

⁵ Average yield per plant is 90 grams; therefore 292 plants will produce 26.28 kilograms. Most growers can rotate at least three crops per year (26.28 kg x 3 = 78.84 kg).

CASE STUDY 5

FILE NUMBER(S): 2010-XXXX, 2011-XXXXX,
2012-XXXX, 2012-XXXX

Issue: Intent by known organized crime individuals to obtain marihuana production licenses for medical purposes.

Criminal Modus Operandi: In June 2010, a specialized police outlaw motorcycle gang unit began an investigation into the criminal production of marihuana by *Suspect 13* and associates. *Suspect 13* worked for *Suspect 14*, a full member of the Hells Angels, White Rock Chapter. The investigation led to the search and seizure of three large-scale, commercial-grade, illegal MGOs in Chilliwack, Hope and Mission. Each location was maintained by a separate group of people, with *Suspect 13* in charge of each group.

Subsequent to the seizures, intelligence indicates that *Suspect 14* is planning to criminally produce marihuana under the cover of medical grow licences. In 2011, *Suspect 13* and two persons from his production network, *Suspect 15* and *Suspect 16*, are believed to have applied for medical marihuana licences. Another subject of this investigation, *Suspect 17*, was arrested by a municipal police service on 2012-01-10 at an illegal MGO that was operated by a person who had a valid medical marihuana licence for another address.

Implications: Criminal networks active in the production of marihuana for the illegal market currently view the MMAR Program as a highly desirable mechanism by which to produce illicit marihuana and circumvent law enforcement.

Strategic Considerations

Criminal organizations are highly likely to attempt to gain access, either directly or indirectly via associates who do not have a criminal record, to businesses or designated locations producing medical marihuana under Health Canada's MMAR Program.

The RCMP Criminal Intelligence deems that a criminal records check of applicants attempting to obtain production licences is insufficient in reducing the probabilities of exploitation by criminals.

A more comprehensive background screening of individuals to identify criminal associations would greatly contribute to mitigating the risks of exploitation, such as the RCMP's Security Intelligence Background Section (*see Appendix A*).

Health Canada currently utilizes databases, which identifies the locations and owners of MMARs. This database could be leveraged to identify questionable activity, such as individuals who reside in one municipality but are licensed and growing marihuana in another community. Developing core indicators of non-compliant medical marihuana grow operations could provide Health Canada with the resources to strategically target and deploy limited resources.

Appendix A

Security Intelligence Background Section (SIBS)

Mandate

The Security Intelligence Background Section (SIBS) has been established within the RCMP Criminal Intelligence Program to provide a security screening service to federal departments. The Security Intelligence Background Section produces comprehensive analysis of available police information about applicants, enabling client departments to accept or reject them for specific access or entitlement.

Law Enforcement Records Checks (LERC)

The Security Intelligence Background Section (SIBS) conducts Law Enforcement Records Checks (LERC) on names of individuals provided by a federal government department. The purpose is to determine if an individual has in the past engaged in and/or been associated to criminal activities that would indicate unacceptable risk for the client. A LERC involves a review of police databank holdings, and can result in either a "no hit", which is a search that yields no positive matches or in a "possible hit", which yields positive matches to information in the databases and requires further analysis. The Security Intelligence Background Section coordinates and conducts follow-up inquiries to confirm the accuracy and validity of the information, and then provides an assessment to departments or agencies of the Government of Canada.

Endnotes

ⁱ 2010 World Drug Report , 2010 United Nations Office on Drugs and Crime

ⁱⁱ 2010 Report on Organized Crime, Criminal Intelligence Service Canada

ⁱⁱⁱ *Marijuana Growth in British Columbia* (2004), Public Policy Sources, Easton, Stephen T., The Fraser Institute;
BBC, Canada's growing marihuana problem, 20 March 2006, <http://news.bbc.co.uk/2/hi/americas/4620272.stm>

This is Exhibit "E" referred to in the
affidavit of Shane Holmquist
sworn before me at Vancouver
this 4th day of February 2014

[Signature]

**RCMP Criminal Intelligence**

CRIMINAL INTELLIGENCE BRIEF

A REVIEW OF CASES RELATED TO THE MEDICAL MARIHUANA ACCESS REGULATIONS

APRIL, 2009

Criminal Intelligence

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**CRIMINAL INTELLIGENCE BRIEF
A REVIEW OF CASES RELATED TO THE MEDICAL
MARIHUANA ACCESS REGULATIONS**

APRIL, 2009

Designation/Classification Legend

(U) - Unclassified
(A) - Protected "A"
(B) - Protected "B"

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IN BRIEF



- 70 RCMP cases of Marihuana Medical Access Regulations (MMAR) license violations were submitted and reviewed. (A)
- 40 of these cases involved the production and trafficking of marihuana that exceeded the terms of the permit. (A)
- Six (6) cases involved a licensee with prior drug convictions or charges. Many licensees surfaced in criminal intelligence records while holding a MMAR license. (A)
- A single marihuana plant grown with seeds provided under the MMAR can produce 30 times more dried marihuana than estimated by Health Canada (HC). (A)
- The current ratio of Health Canada inspectors to licensees across Canada is 1 to 257. (A)
- Public safety issues such as increased risk for home invasions and break-ins are serious concerns regarding the MMAR. (A)

BACKGROUND

In 2001, Health Canada (HC) implemented the Marihuana Medical Access Regulations (MMAR) to allow the access and use of marihuana for medical purposes. Under these regulations, persons suffering from terminal illnesses, illnesses causing extreme pain or debilitating symptoms can have access to marihuana for medical use through HC.¹ A prescription by a medical practitioner² is necessary to apply for a marihuana possession and/or production permit. (U)

There are three (3) types of permits available:

- Authorization to possess marihuana;
- License to produce marihuana by applicant;
- License to produce marihuana by a designated person. (U)

Depending on the patient's needs, the license will outline the terms and conditions such as the daily amount allowed for medical use, the amount of dried marihuana stored per month, and the number of growing plants allowed at any moment. (U)

As of March 2009, a total of 3,611 Canadians held an authorization to possess dried marihuana and 2,568 could produce marihuana under the regulations, most of whom were producing for personal use (2,164). Over 400 individuals have a designated person license and are producing on behalf of an applicant. (U)

1 The patient can access marihuana supply from Health Canada, produce marihuana for personal use or designate a third party to produce marihuana on their behalf.
 2 As of July 2008, over 1,400 physicians had referred two patients or more under the MMAR.

CURRENT ISSUES

Serious issues regarding the MMAR have surfaced over the last several years and are cause for concern. A recent review of RCMP cases (70) by Criminal Intelligence between 2005 and 2009 revealed criminal activity involving MMAR license holders, public safety issues and a general lack of control under the regulations. (A)

Production and Trafficking for Personal Gain

The majority of cases reviewed (40) involved marihuana production and trafficking violations under the Controlled Drugs and Substances Act (CDSA). Basically, permit holders grow marihuana for medicinal purposes and sell the excess for personal gain. The cases involved both personal-use and designated person production licenses. (A)

A resident of Alberta had a designated person license to grow marihuana for a patient living in another city. He was producing marihuana over the limit allowed by his permit and trafficking the drug from his residence. He was charged with the production and trafficking of a controlled substance. (A)

A resident of Saskatchewan is allegedly operating a marihuana grow operation using her MMAR personal-use production license. Her son is suspected of trafficking the drug at school. (A)

There are a number of factors contributing to this problem: the excess marihuana produced by the plant; the potential high profits generated from marihuana trafficking; and, the relatively low risk of getting caught under the current system. (A)

The amount of dried marihuana yield per plant can vary from 28 grams to 1,400 grams.³ According to HC, one indoor plant can produce approximately 45 grams of dried marihuana; in reality, a plant can produce 30 times more than this estimate. Cases reviewed demonstrate that licensed marihuana producers are aware of this fact and are exploiting the system. The following case is an example of how licensed growers are trafficking the excess marihuana produced. (A)

Between 2005 and 2007, a resident of Saskatchewan was suspected of operating a grow house for production and trafficking marihuana using a MMAR license. The subject allegedly bragged about his \$6,000 monthly earnings from his operation and admitted that the government is "stupid" to not realize how much marihuana plants can produce. (A)

The amount of dried marihuana yield per plant is clearly underestimated by HC. In fact, it is impossible to know exactly how much dried marihuana a plant will produce. A number of factors can influence the yield, such as the cultivation method and the genetic species of the plant. Growing techniques, such as hydroponics (which allows the plants to mature faster and be harvested earlier), are available to anyone with access to the Internet and can help the license holder increase the yield of marihuana and surpass the terms of the license. (A)

3 Project SERRE II, Criminal Intelligence, RCMP (2002).

A license holder from Nova Scotia, living with a convicted drug offender, is suspected of producing more than double the amount of dried marihuana than the HC estimate. With a potential of five crops per year, the subjects could make over \$100,000 in illicit profits annually. (A)

Lack of Monitoring

Permit holders are allowed to grow a certain number of plants and possess a limited amount of dried marihuana for daily use; they are expected to destroy the excess marihuana as per HC policy. The regulation relies on the good faith of the license holder, which is clearly not effective, judging by the number of cases (40) where an excess of marihuana is produced by license holders. The current regulations combined with a lack of oversight open the door for potential misuse and production of marihuana for personal gain. (A)

"It is incumbent upon persons who are authorized by Health Canada to produce marihuana for medical purposes to ensure that they do not, at any given time, have more marihuana plants in their possession than they have authorization to produce". (MMAR policy) (U)

A very limited number of HC inspectors monitor permit holders to ensure that the terms of the licenses are respected. For example, in the Atlantic Provinces and Quebec, where there are over 600⁴ authorizations to possess issued by HC, there are only four inspectors available; one inspector overseeing the Atlantic region is currently dedicated to precursor chemical issues. In Ontario, where the largest number of license holders are located (1144)⁵, there are only six inspectors. Across the country, the current ratio of HC inspectors to licensees is 1 to 257. (A)

Furthermore, the powers of HC inspectors are limited. Inspectors only have the authority to inspect the building that the license holder has indicated as the growing area, not the dwelling houses.⁶ Police officers do not have the authority to inspect license holders in their jurisdiction without the suspicion of criminal activity and a search warrant. Consequently, there is little monitoring and control over the activities of MMAR licensees from both HC and law enforcement. (A)

Criminal Background of Licensees

There are no criminal record checks for medicinal marihuana possession/production licenses for patients, only for designated producers. The designated person must provide HC with a "clean record" proof as part of the application process. An official document from a Canadian police agency will show a person's past convictions and will allow HC to decide whether or not to issue the permit. (U)

Some cases (6) in this review identified permit holders, both patients and designated persons, with prior drug convictions or charges. Drug convictions and charges included possession, production, trafficking, importing and exporting a controlled substance in Canada. It is unclear how a designated person with a prior drug conviction could obtain a license issued by HC. Nonetheless, this is a serious concern as individuals previously involved in drug activity can obtain a MMAR license and could misuse the regulations. (A)

4 Health Canada Statistics for total Authorization to Possess as of July, 2008.

5 Health Canada Statistics for total Authorization to Possess as of July, 2008.

6 Information Brief to CISNS Operations Manager received on 2008-06-17

A license holder from Saskatchewan with prior convictions for production is known to police for using and dealing marihuana. Between 2005 and 2008, he surfaced in 14 police files regarding marihuana production and trafficking. He is suspected of operating a marihuana grow house, violating the terms of his permit, even producing hash oil. He is associated with other licensed growers in his area. (A)

A Saskatchewan resident with a prior drug conviction for marihuana trafficking and charges for production successfully obtained a MMAR license. He is suspected of operating a marihuana grow house and misusing the terms of his permit. (A)

Many license holders identified in this review did not have past convictions but had an extensive police record. Past charges and criminal intelligence do not appear on the official police document supplied to HC; however, they should be considered in the issuance of MMAR licenses as they can indicate a person's criminal involvement. (A)

In 2006, a license holder was charged and convicted of production and retained his permit. Three years later, he was again operating a marihuana grow again with an expired permit. (A)

MMAR licenses are not easily revoked, as HC will not revoke a license unless the person is convicted of drug production or trafficking. Even with a conviction, HC can allow the license holder to keep the authorization to possess marihuana for medical purposes. This shows the importance of conducting a thorough background check on all individuals applying for a MMAR license as well as conducting inspections of their residences. (A)

Public Safety and Risks for the Community

MMAR policy specifies that security measures against loss or theft of growing or stored marihuana are left to the applicant. This means that licensed users and growers must secure their medical marihuana supply so it does not fall into the "wrong hands". Cases reviewed identified community safety issues regarding medical marihuana grow houses such as increased risk of break-ins and home invasions because of the potential profits associated with the illicit sale of marihuana. (A)

In March 2009, police responded to a home invasion call in Port Coquitlam, BC. The perpetrators attacked the residents and demanded drugs and money. A marihuana grow was located behind the house while a drying room was located inside the home. The owner, a MMAR license holder, was found to have three times the number of plants permitted by HC. This was the second home invasion at this location in five months. At the time of the first home invasion, the owner had five times the allowed number of plants and was arrested for excess production. (A)

"(...) the current process for medicinal marihuana (...) puts law abiding medicinal marihuana growers at risk as victims of crime. Criminals are likely to find it tempting to rob someone's medicinal marihuana grow operation, because not only are the drugs themselves a desirable target, but so is the enormous profit that could be made from them." (Information Brief to CISNS Operations Manager received on 2008-06-17) (A)

The activities of medical marihuana growers can also have negative effects on the perception of security and safety in a neighbourhood. Crime tips were placed to local police by concerned citizens who suspected a neighbour of being involved in an illegal activity and drug trafficking. Only when the police officers responded to the call and confirmed with HC did they realize the grower had a legitimate license. (A)

The activities of licensed growers cause worries to unsuspecting citizens and the current regulations do not give police the necessary tools to ensure the safety, security and trust in the protection it provides for citizens. (A)

"Often, police receive Source and Crime Stoppers information concerning individuals that have a license to grow marihuana for medical purposes and that they are suspected of trafficking(...)" (Correspondence to Drug Branch, RCMP Headquarters received on 2009-03-24) (A)

The HC regulations do not permit a license holder to produce marihuana outdoors adjacent to public property frequented by persons under 18 years old. However, children can live in a residence where a license holder is growing and storing marihuana. A child living with a licensed user or grower has increased access to marihuana, which has potential negative ramifications. In British Columbia, a recent examination⁷ of the health of children living in houses where marihuana is grown raised serious concerns. Most of these children were found to have respiratory problems in reaction to mould and pesticides used to grow marihuana. These children are also at risk of residential fires and violence due to "grow-rips". (A)

A license holder in Alberta was producing an excessive amount of marihuana with an expired license. A child living at the residence told a teacher at school that the father was growing "special cigarettes on green trees". The license holder was arrested for marihuana production and possession, possession of child pornography as well as resisting arrest. (A)

Other public safety concerns associated with medical marihuana grows include growing techniques, the use of chemicals and destruction methods. Licensed growers can choose whatever technique they want to grow the plants. Certain techniques used by licensed growers reviewed for this report required special lighting, chemicals and irrigation systems. The same techniques are used by illicit marihuana growers to increase plant growth. These techniques are potentially hazardous and can result in residential fires, spilling of chemicals in sewer systems and injuries to growers and their families. (A)

Additionally, HC expects licensed growers to destroy excess marihuana; however, there are no guidelines as to how they should go about it. Are growers supposed to burn the drug, or should simply throw it away as garbage. Again, this increases the risks of the drugs falling into the "wrong hands". (A)

Challenge to Police Investigations

MMAR issues have presented obstacles in RCMP investigations for many years. The main problem occurs when police officer respond to a call for suspected marihuana-related activities. If police officers find marihuana (dried or plants) in a residence, they can ask to see the HC permit to confirm the legitimacy of the drug. Although the

⁷ When children get caught up in grow-op busts, CTVCB, 2009-04-07.

permit states how much the licensee is allowed to possess, it is impossible to know if more marihuana was produced and sold prior to police intervention. Essentially, police officers find themselves in a situation where they cannot properly assess if the licensee is upholding the terms of the permit; therefore, they are unable to detect and charge persons who misuse the regulations. (A)

Moreover in some cases, individuals obtained a MMAR license while under investigation for the production and trafficking of marihuana. In an ongoing indoor production of marihuana case, a suspect obtained a license before a search warrant could be executed. In this type of case, individuals are attempting to gain immunity from their criminal activity and undermine the police investigation. (A)

After being sentenced, an individual obtained a license to grow marihuana and indicated that he would be using it once released from jail in 2005. The individual has since surfaced in multiple police files and has been suspected of operating a marihuana grow house. (A)

A search warrant was executed at a New Brunswick residence. Marihuana and grow equipment were seized from the residence. The individual claimed he needed the marihuana for medical purposes, but did not have a license. He was charged for production and successfully obtained a MMAR license to grow marihuana shortly thereafter. (A)

The Privacy Act does not allow HC to make a list of license holders available to police agencies. Police investigating possible marihuana production or trafficking cases can contact HC and request information on a specific individual and the terms of their license. If police do not contact HC, valuable resources and manpower can be spent processing files, executing search warrants and, conducting seizures and arrests needlessly. (A)

FINAL CONSIDERATIONS

- In the majority of the cases involving production and/or trafficking of marijuana that exceeded the terms of the permit, the license holder was not arrested, charged or convicted. This is due, in part, to the above-mentioned issues regarding the regulations and the inability for police to proceed with a criminal case. (A)
- Although some files mentioned prior convictions and charges of license holders, there is no way to unequivocally establish that fact without comparing the date HC issued the license, and the date of conviction/charges in the criminal records. (A)
- Thirteen (13) individuals were mentioned in two or more files, representing 70% of cases reviewed. This fact supports the recommendation for HC to revoke licenses for certain individuals who continuously abuse the terms of their permits. (A)
- This assessment does not represent an exhaustive review of all MMAR-related police cases. Most of the cases reviewed originated in the Prairies and the Atlantic region, where the RCMP is the police service of jurisdiction. There are many other potential cases in Ontario, British Columbia and Quebec, where a large portion of MMAR licenses are issued. (A)

RECOMMENDATIONS

- Tighter regulatory clauses for criminal background checks prior to the issuance of a permit should be implemented, considering the number of cases involving license holders with prior convictions or drug-related charges. (A)
- More inspectors should be dedicated to overseeing the MMAR and have increased authority to ensure that license holders are respecting the terms of their permits. (A)
- HC, in collaboration with the RCMP, should consider revoking licenses for individuals involved in criminal activity identified in this review. (A)
- Increased collaboration between police agencies and HC is necessary to prevent the misuse of the regulations and the potential harm to the community, especially children. (A)
- Inspection capabilities for law enforcement to conduct site visits (unannounced) should be seriously considered. (A)

RELEVANT COURT DECISIONS

Since its establishment in 2001, the MMAR has been challenged in Canada's courts. As a result, rulings have weakened HC's control over the access to medical marihuana. (U)

- In 2000, R v. PARKER was the first court decision in which the prohibition of marihuana in Canada was found to be unconstitutional. (U)
- In 2003, the Ontario Superior Court removed multiple restrictions to the MMAR such as the need for endorsement from two physicians and the one-to-one ratio for licensed growers. Growers are now allowed to produce medical marihuana for more than one person and in common with two or more other growers. (HITZIG v. Canada) (U)
- In 2008, a Federal Court ruling granted medical marihuana users more freedom to pick their grower and allowed growers to supply marihuana to more than one patient. (SFETKOPOULOS v. Canada) (U)

CRIME Statistical Summary Last Updated 2012-10-12

File #	Date	Plants	Lights	Plants/light	Seized Drugs Packaged (kgs)	Approved Charges	Seized Vehicles	Seized Firearms	Crop Yield (kgs)	Yield per Plant (kgs)	Crop Value	Value per Plant	Cash	Equipment	Hydro Theft	License
1	12-02-11	450	17	26.5	0.00	2	1	0	37.80	0.08	\$ 112,500.00	\$ 250.00	\$ 1,125.00	\$ 6,800.00	n	n
2	12-00-15	284	23	12.3	1.36	10	0	2	16.14	0.06	\$ 142,000.00	\$ 500.00	\$ -	\$ 9,295.00	n	n
3	12-02-00	124	6	20.0	0.08	2	0	0	10.08	0.08	\$ 60,000.00	\$ 483.87	\$ 9,900.00	\$ 2,400.00	y	n
4	12-05-10	254	12	21.2	0.40	4	0	0	10.08	0.04	\$ 27,940.00	\$ 110.00	\$ -	\$ 3,600.00	n	n
5	12-05-18	154	6	25.7	0.00	4	0	0	2.27	0.01	\$ 11,000.00	\$ 71.43	\$ -	\$ 1,800.00	n	n
6	12-09-16	300	33	9.1	0.15	0	1	0	12.95	0.04	\$ 57,000.00	\$ 190.00	\$ 475.00	\$ 20,000.00	y	n
7	12-05-15	132	45	2.9	0.00	3	0	8	15.45	0.12	\$ 74,880.00	\$ 567.27	\$ -	\$ 30,000.00	n	n
8	12-08-17	1076	34	31.6	3.67	3	0	0	34.03	0.09	\$ 254,700.00	\$ 236.71	\$ 6,760.00	\$ 6,200.00	n	n
9	12-11-14	186	54	3.4	0.00	0	0	1	53.09	0.29	\$ 308,160.00	\$ 1,656.77	\$ -	\$ 20,000.00	n	n
10	12-12-13	382	12	31.8	0.00	4	0	1	14.59	0.10	\$ 309,000.00	\$ 721.00	\$ -	\$ 300.00	y	n
11	12-12-20	382	12	31.8	0.00	4	0	1	14.59	0.10	\$ 309,000.00	\$ 721.00	\$ -	\$ 300.00	y	n
12	12-13-16	195	74	2.6	2.50	2	0	0	88.45	0.45	\$ 561,000.00	\$ 2,876.82	\$ 2,695.00	\$ 30,600.00	y	n
13	12-16-08*	28	1	28.0	3.18	2	0	0	4.75	0.17	\$ 82,800.00	\$ 2,869.71	\$ 1,395.00	\$ 1,600.00	y	n
14	12-15-04	223	27	8.3	4.63	8	0	1	18.73	0.08	\$ 115,700.00	\$ 536.82	\$ -	\$ 14,115.00	n	n
15	12-13-33	70	17	4.1	2.62	2	0	2	16.02	0.23	\$ 77,800.00	\$ 1,100.00	\$ -	\$ 5,000.00	y	n
16	12-18-13	1028	28	36.7	0.00	2	0	0	68.43	0.07	\$ 302,250.00	\$ 294.02	\$ -	\$ 4,800.00	n	n
17	12-20-12	2511	12	17.5	0.00	4	0	0	17.64	0.08	\$ 113,400.00	\$ 940.00	\$ -	\$ 4,800.00	n	n
18	12-02-22	2247	00	0.00	0.00	10	0	0	210.90	0.08	\$ 2,109,400.00	\$ 840.00	\$ -	\$ 40,000.00	n	n
19	12-02-23	2247	00	0.00	0.00	10	0	0	188.76	0.08	\$ 1,887,380.00	\$ 840.00	\$ -	\$ 40,000.00	n	n
20	12-01-82	81	10	22.9	2.05	6	0	1	4.59	0.06	\$ 58,635.00	\$ 723.77	\$ -	\$ 4,000.00	n	n
21	12-01-84	367	16	22.9	0.00	4	0	0	9.82	0.03	\$ 42,000.00	\$ 114.44	\$ 2,000.00	\$ 2,000.00	n	n
22	12-27-13**	44	00	na	0.00	0	0	0	3.67	0.08	\$ 21,995.00	\$ 488.52	\$ -	\$ -	n	n
23	12-28-17	0	0	na	0.00	0	0	0	0.00	0.00	\$ -	\$ -	\$ -	\$ -	n	n
24	12-12-17	0	0	na	4.78	0	0	0	0.00	0.00	\$ -	\$ -	\$ 4,775.00	\$ -	n	n
25	12-31-10	84	11	7.6	0.05	0	0	0	37.65	0.45	\$ 182,600.00	\$ 2,173.81	\$ -	\$ 5,600.00	n	n
26	12-31-16	9	9	na	0.00	0	0	0	1.06	0.22	\$ 6,784.53	\$ 753.84	\$ -	\$ -	n	n
27	12-331*	158	9	17.6	0.00	0	0	0	35.54	0.24	\$ 79,325.00	\$ 502.06	\$ -	\$ -	n	n
28	12-02-16	300	56	5.4	0.00	0	0	0	72.66	0.11	\$ 640,750.00	\$ 2,135.83	\$ -	\$ 34,420.00	n	n
29	12-32-23	133	00	na	4.50	0	0	0	15.08	0.22	\$ 66,000.00	\$ 496.24	\$ -	\$ -	n	n
30	12-32-29	167	100	na	1.75	0	0	0	37.41	0.10	\$ 83,500.00	\$ 500.00	\$ -	\$ 500.00	n	n
31	12-33-04	57	00	na	0.17	0	3	0	5.70	0.10	\$ 42,568.70	\$ 753.84	\$ -	\$ -	n	n
32	12-33-20	11	00	na	3.00	0	0	0	1.10	0.10	\$ 8,292.20	\$ 753.84	\$ -	\$ -	n	n
33	12-30-09	134	00	na	0.00	0	0	0	58.64	0.44	\$ 258,000.00	\$ 1,925.37	\$ -	\$ -	n	n
34	12-23-12**	7000	00	na	0.00	0	0	0	595.00	0.09	\$ 7,300,000.00	\$ 1,042.86	\$ -	\$ -	n	n
35	12-23-12 PR	340	9	na	1.15	0	0	0	60.00	0.00	\$ 340,000.00	\$ 1,000.00	\$ -	\$ -	n	n
36	12-34-08	264	9	29.3	2.00	0	0	0	0.91	0.00	\$ 6,500.00	\$ 590.91	\$ -	\$ 15,000.00	n	n
37	12-34-09	78	11	7.1	0.50	0	0	0	8.73	0.11	\$ 41,800.00	\$ 535.90	\$ -	\$ 15,000.00	n	n
38	12-35-13	189	20	9.5	0.00	1	0	0	5.36	0.03	\$ 25,860.00	\$ 137.35	\$ -	\$ 10,000.00	n	n
39	12-35-33	109	16	6.8	8.83	0	0	0	6.18	0.06	\$ 16,720.00	\$ 153.39	\$ 295.00	\$ 10,000.00	n	n
40	12-36-1	180	21	8.8	5.00	0	0	13	0.00	0.00	\$ -	\$ -	\$ 14,000.00	\$ 10,000.00	n	n
TOTALS		19564	581	15.2	61.13	89	3	33	1779.77	0.1	\$ 15,715,195.43	\$ 753.84	\$ 43,420.00	\$ 360,520.00	8	11

Average Crop Yield per plant: 30.40

Total Value of Seized Packaged Drugs: \$ 295,869.20

Average Plants per Grow: 322.2

Average Lights per Grow: 19.4

Overall Average Plants per Light: 15.2

Average Yield per Grow (kgs): 30.4

Average Crop Value: \$ 402,902.45

Average Revenue per Plant: \$ 753.84

* denotes an Assist

** accused has licence on other property

** no case outdoor - yields based on averages.

OD - indicates outdoor grow

** - est based on 3 ounces per plant

Dentons PROJECT SABOT

SABOT project resulting in an indoor grow warrant

Where values could not be provided by SME, average values have been used to calculate approximate yields and crop value

This is Exhibit " F " referred to in the affidavit of Shane Holmquist sworn before me at Vancouver this 4th day of February 2014

This is Exhibit "G" referred to in the
affidavit of Shane Holmquist
sworn before me at Vancouver
this 4th day of February 20 14



EXHIBIT G

Mould damage inside a residential MMAR grow operation (2013-193). Photographs taken by Cst. Shane HOLMQUIST on January 13, 2013





This is Exhibit "4" referred to in the
affidavit of Shane Holmquist
sworn before me at Vancouver
this 4th day of February 2014

An Analysis of National Cases Related to the Marihuana Medical Access Regulations

Prepared on behalf of the CACP
by the RCMP
November 2010



Acknowledgement

This report could not have been written without the assistance of the following collaborators:



OTTAWA POLICE SERVICE
SERVICE DE POLICE D'OTTAWA
Working together for a safer community
La sécurité de notre communauté, un travail d'équipe



Prepared on behalf of the CACP by the RCMP

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Executive Summary

The Canadian Association of Chiefs of Police (CACCP) Drug Abuse Committee requested a formal report on any misuse and non-compliance issues of the Marihuana Medical Access Regulations (MMAR) encountered by law enforcement agencies throughout Canada. (U)

This report analyzes national cases of abuse related to the MMAR administered by Health Canada (HC). It examines criminal activity associated with MMAR licences, challenges with the MMAR from a public safety perspective, and provides strategic recommendations on the application of the MMAR. A total of 190 MMAR-related cases submitted by various law enforcement agencies, covering the time frame between August 2003 and April 2010, were examined for this assessment. (A)

This report does not claim to provide a comprehensive review of the MMAR and the Marihuana Medical Access Program, rather it is intended to provide examples of abuses that have come to the attention of the police and which have resulted in enforcement action. In order to produce an accurate scale of abuses, each and every MMAR grow operation would have to be inspected by HC. HC has limited capacity to conduct inspections and during the time period covered by this report had not conducted any inspections, to the knowledge of the authors of this report. (A)

Cases outlined in this report have been investigated by the police across Canada. It is important to note that, in the majority of instances, when police start an investigation into a marihuana grow, they contact HC to confirm if there is a holder of a production licence at that address. If the response from HC is positive, and no further extenuating circumstances exist, the investigation is often concluded and no further action is taken. If information exists about trafficking, overproduction or other issues, then the investigation is continued. Some of those cases are included in this report. (A)

It is important to add that HC licences individuals only, and that it does not licence organizations such as "compassion clubs" to possess, produce, or distribute marihuana for medical purposes. The Department restricts the number of people growing in common through two provisions of the Regulations: by limiting the number of production licences in one location to four, and by limiting the number of people a person can produce for to two. A licensed production holder whose site exceeds these limits would be subject to law enforcement measures. (A)

Key Findings

- Sixty-seven of the 190 cases involved trafficking and/or production of marihuana exceeding the terms of the MMAR authorization or licence. The remaining 123 files involved licence violations, violence against licence holders, and health and safety hazards. (A)
- Thirty-seven of 134 licensees¹ had a minimum of one trafficking and/or production conviction — 67 had a criminal record. (A)

¹ There were 134 licensees identified in this review, however, a number of licensees appeared in several of the 190 files.



- The number of Designated Person Production Licences (DPPL) being granted is increasing, and licensees are now permitted to grow more marihuana plants for an increasing number of individuals. (A)
- A single marihuana plant can yield approximately five to six times more dried marihuana than what is estimated by HC in the MMAR. (A)
- The current ratio of HC MMAR inspectors to licensees in Canada is one to 338. (A)
- Marihuana grow operations, legal or otherwise, continue to be a concern for health and safety reasons. There is an increased risk of home invasion, violence, fire, and health related issues. (A)

Introduction

The illicit production of marihuana in Canada has increased steadily in the last 20 years. In 2008, HC reported that marihuana seizures represented nearly 75 percent of all illicit drugs seized by law enforcement agencies in Canada.ⁱ According to the U.S. National Drug Intelligence Center, while seizures of Canadian marihuana have declined² at the U.S.-Canada border, Canada continues to be one of the source countries for high-grade marihuana destined to U.S. illicit drug markets.ⁱⁱ Cannabis products have the largest consumer market in the world.ⁱⁱⁱ The drugs' popularity with the general public and its potential for profit makes it an attractive market for organized crime (OC) involvement. In 2009, there were 343 Canadian OC groups known to be involved in the marihuana market, 102 of these groups are specifically involved in marihuana grow operations.^{iv} (A)

A 2007 study in the *Journal of Quantitative Criminology* stated that the risk of detection in one year for indoor marihuana grow operations in the province of Quebec³ was less than 10 percent, even for the largest grow operations.^v Across Canada the risk of detection of MMAR grow operations that are committing criminal abuses is assumed to be significantly lower than the study found. Unlike illegitimate marihuana grow operations, police do not normally search for and pursue suspected MMAR violators due to the presence of a licence to produce and other law enforcement issues highlighted in this report. (A)

Many law enforcement agencies across the country have voiced similar concerns as those expressed by Cpl. Chris NEWEL of Clearwater RCMP Detachment "E" Division:

"The problem is we start an investigation only to find out somewhere along the line that there is a MMAR licence, at that point we basically stop the investigation. Although we "believe" the person is not abiding by the regulations (i.e. too many plants, trafficking, etc.), because we don't execute a warrant we never know for sure. The Crown (prosecutor) has basically told us not to go near a licensed grow." (A)

The current MMAR and its application have exposed a new avenue for Canadian drug traffickers to produce and sell illicit marihuana with minimal interference from law enforcement agencies. Some police agencies and crown attorneys have shown a lack of appetite to pursue MMAR violators, as an individual's access to medical marihuana can be a sensitive issue. (A)

This assessment of 190 law enforcement cases involving the MMAR across Canada highlights the limitations of the current regulations and provides recommendations for improvements and enhanced controls. (A)



2 The 2010 NDIC National Drug Threat Assessment reported a decrease in the amount of marihuana seized along the U.S.-Canada border from 10,447 kilograms in 2005 to 3,423 kilograms in 2009.

3 The study examined the province of Quebec only, detection rates in other provinces were not provided.

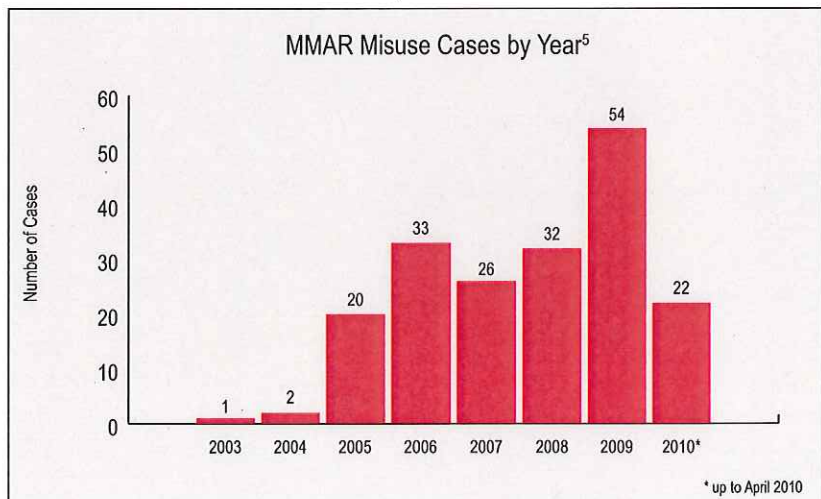


Methodology

In order to obtain a national perspective of MMAR licence misuse in Canada, the CACP requested Canadian law enforcement agencies to participate in an examination of investigational and/or intelligence files held by their agency regarding MMAR infractions. (U)

This report is the result of an analysis of information contained in files, from intelligence reports and other information sources from various law enforcement agencies including: RCMP; Abbotsford Police Department; Calgary Police Service; Edmonton Police Service; Guelph Police Service; Halifax Regional Police; Hamilton Police; Ontario Provincial Police; Ottawa Police Service; Peel Regional Police; Royal Newfoundland Constabulary; Service de police de la Ville de Montréal; Service de police de la Ville de Québec; Sûreté du Québec; Strathroy Caradoc Police Services; Taber Police Service; Toronto Police Service; Vancouver Police Department; Winnipeg Police Service; and, Windsor Police. (U)

A total of 190⁴ files dated between August 2003 and April 2010 were reviewed; this included the 70 files previously collected for a RCMP Criminal Intelligence Brief produced in April 2009 on this subject.^{vi} (A)



- 4 On May 27, 2010 a seizure occurred at a MMAR grow operation. The licensee had a licence to produce 75 plants and was found with 1,744 plants growing in the residence. This is the largest known plant seizure at a MMAR licensed grow operation. While this case fell outside the date parameters of data collection for this report, the authors chose to include this example due to the significance of the seizure, for the benefit of the readers.
- 5 This chart shows the breakdown of the 190 cases in this assessment by year of occurrence.

Background

On July 30, 2001 Health Canada (HC) implemented the MMAR. The objective was to provide Canadians suffering from critical and chronic illnesses (terminal illnesses or severe conditions) a means with which to access a lawful source of marihuana for medicinal purposes. It was created in response to a court decision that identified a need to offer access and a supply of marihuana to those suffering from these illnesses where conventional treatments were not appropriate or providing the necessary relief. (U)

Currently there are three types of authorizations under the MMAR:

- Authorization to Possess (ATP) — licence holder can possess dried marihuana for medical purposes;
- Personal-use Production Licence (PPL) — licence holder can produce marihuana plants for their own personal consumption for medical purposes;
- Designated Person Production Licence (DPPL) — licence holder can produce marihuana for medical purposes on behalf of a person with an ATP. (U)

Holders of an ATP can currently purchase dried marihuana from the Government of Canada supply. Holders of a production licence can purchase marihuana seeds from the Government as well.⁶ (U)

Obtaining a Licence

In order to obtain a licence to possess or produce marihuana for medical purposes applicants must be a resident of Canada, complete a detailed written application, include two photos, fall into one of the two eligibility categories,⁷ and have the support of a medical practitioner.⁸ Licence holders are required to renew their authorization every year, and must include the signed declaration of their medical practitioner with each renewal. A criminal record check is completed on those applicants applying for DPPL and is redone every year upon renewal of the licence. At this time a criminal record check is not completed for those applying to produce or possess for personal use. Once approved, licence holders are issued an identification card that can be shown to law enforcement officials as evidence that they are authorized to possess or produce marihuana for medical purposes. (U)

Based on the type of licence obtained and an applicant's medical needs, there are specific terms and conditions assigned with regards to the amount of marihuana the licence holder can possess for a 30-day treatment supply, or the amount of marihuana plants that can be grown. Growers are told that they need to take the necessary measures in order to protect plants as well as dried marihuana from any potential loss or theft. (U)

⁶ Health Canada has a contract with Prairie Plant Systems Incorporated which extends through Fall 2011.

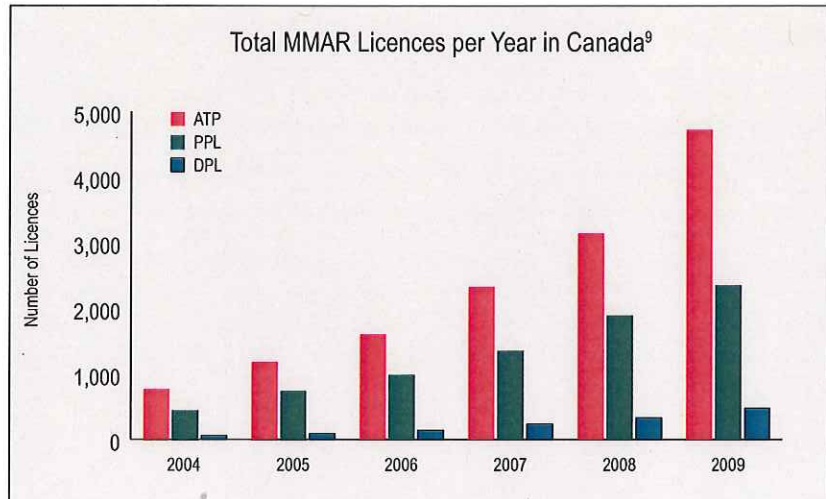
⁷ Category 1 is compassionate end-of-life care, and Category 2 is symptoms of a serious condition not listed in Category 1. In the case of Category 2, the applicant needs to demonstrate that they have consulted with a Specialist.

⁸ As of June 2009, 1,977 physicians had referred two patients or more under the MMAR.



Current Status

As of November, 2009 4,728 Canadians were issued authorizations to possess (ATP) dried marihuana. There have been 3,430 production licenses granted, this includes both PPL and DPPL. The program has grown in size since its inception and it is believed that it will continue to increase in number. (U)



⁹ These are Health Canada statistics for total ATP as of November, 2009, and for PPL, and DPPL as of June 2009.

Criminal Abuses of MMAR Licences

Production and Trafficking of Marihuana for Personal Gain

Many (67) of the cases reviewed for this assessment involved production and/or trafficking violations as outlined under the Controlled Drug and Substances Act (CDSA).^{vii} Licence holders, both Personal and Designated Producers, appear to be capitalizing on the excess medical marihuana they produce and are selling it illegally for profit. (A)



On March 2, 2007, police executed a search warrant at a residence in the city of Ottawa, Ontario. Information was received regarding an individual who possessed a licence and was believed to be selling marihuana and hash oil. Two suspects were arrested and charged with numerous offences. Police found 20 marihuana plants, only the one plant over the exemption was seized. Police also seized 271.5 grams of Hashish, four vials of Hash oil, and a loaded shotgun. The licence holder was convicted for possession for the purpose of trafficking contrary to Section 5(2) CDSA and Unauthorized Possession of a Firearm. (Ottawa Police Service 2007-56620) (A)

In 2008, officers were involved in an undercover operation where they purchased Oxycontin® and marihuana from a male and female residing in Wasaga Beach, Ontario. The undercover officer was shown the suspect's indoor marihuana grow operation where he bragged that he had a licence to grow 25 plants. Police subsequently executed a search warrant at the suspect's residence. The licence stated that he could grow 25 plants, and he was found to be growing approximately 40. (Ontario Provincial Police (OPP) RM08086145) (A)

Police received intelligence that a subject in Saskatchewan had a MMAR grow operation and was selling marihuana to numerous persons. Investigations revealed that the suspect did have a MMAR licence to grow 25 marihuana plants, store 1,126 grams of dried marihuana, and possess 150 grams. In November 2009, two undercover police officers each purchased approximately eight grams of marihuana from the licence holder. (Saskatchewan RCMP 2008-734171) (A)

Producing Over the Legal Limit

In 57 of the 190 files reviewed for this assessment, licensees were found to be cultivating well over their specified legal limit of marihuana plants. In some cases, the excess produced was found to be used in trafficking activities, generating personal profit for the licence holder. This creates a situation where marihuana produced under the cover of a legal licence is diverted to the illicit drug market. In most cases, where the licence holder is producing over their legal limit, law enforcement officials are directed to take the excess plants, leaving the licensee with their legal allowable amount. (A)

In January 2007, police investigated a residential building suspected of having an illegal marihuana grow operation. Upon executing the search warrant, police were confronted by a woman with a knife who was subsequently subdued. The woman believed thieves were trying to steal the marihuana from the grow operation. The male MMAR licence holder responsible for the grow operation was allowed to produce 75 marihuana plants and store 3,375 grams of dried marihuana. Police located a total of 464 marihuana plants. (Service de Police de la ville de Montréal (SPVM) 23-070124-007) (A)

On December 19, 2007, police arrested a MMAR license holder following a search warrant executed at his residence. The MMAR license holder was allowed to grow 14 marihuana plants and possess 5.2 kilograms of dried marihuana. Police found 50 kilograms of dried marihuana, seven marihuana plants, and 195 grams of hashish. Police found evidence of production of hashish, documentation detailing the suspect's illegal trafficking activities and proceeds obtained to finance the purchase of his residence. (Sûreté du Québec 163-071008-009) (A)

On September 10, 2008, the OPP were conducting a marihuana eradication operation and located a marihuana grow operation on a property in Norfolk County, Ontario. The subject had a MMAR licence to produce 38 plants, however, was producing 311 marihuana plants. The Children's Aid Society was involved as children were present on the property being investigated. (OPP RM08110644) (A)

On April 29, 2009, police executed two search warrants at a MMAR licence holder's residence and her separate production site. The licence holder was authorized to produce 39 marihuana plants and allowed to store 1,755 grams (3.9 lbs) of dried product at her residence. The licence holder and her spouse were suspected of producing over 39 plants and trafficking the excess marihuana. At the licence holder's residence, police located 348 marihuana plants and two unsecured firearms; at the production site, police located 26 marihuana plants. On October 19, 2009, police continued their investigation on the same noted couple and executed two additional search warrants. Police seized approximately 48 pounds of marihuana at the licence holder's production site. (Nova Scotia RCMP CMET 2009-443799 & 2009-1240673) (A)

On June 9, 2009, at the end of a two month investigation, police executed two search warrants at two properties owned by one family. This family had a MMAR license to produce 36 marihuana plants. During searches at the two properties, police found a total of 1,483 marihuana plants, \$30,000.00 of growing equipment, \$42,400.00 of stolen property, and five firearms with ammunition. (Hamilton Police Service 09-216527) (A)

On October 28, 2009, the Green Team North executed a search warrant at a MMAR grow operation suspected of overproduction. The location had two MMAR licences permitted to grow a total of 50 marihuana plants. Police seized a total of 262 marihuana plants. (Edmonton Police Service 2009-1279457) (A)

In November 2009, the Cowichan RCMP Green Team investigated a report of a suspected marihuana grow operation at a residence. The investigation determined that the suspected grow operation was in fact a MMAR grow operation, whose owner was licensed to grow a maximum of 50 plants. Police found the electrical consumption at the location to be unusually high and suspected overproduction. The licence holder responsible for the MMAR grow operation admitted to overproduction and police seized a total of 866 marihuana plants. (Cowichan RCMP 2009-15782) (A)

On March 10, 2010, the City of Vancouver district electrical inspectors investigated a complaint of faulty wiring at a commercial premise selling marihuana for medical purposes to the general public. Health Canada did not recognize the business in question, but advised that there were two MMAR licences at the premises to produce a total of 58 marihuana plants. The business was found to be producing in excess of their allowed amount. The Vancouver Police Department (VPD) seized 604 excess marihuana plants. While on site, VPD observed at least 10 subjects coming to the business to attempt to purchase medical marihuana. (Vancouver Police Department GO 2010-42983) (A)

Factors Contributing to Criminal Abuses of the MMAR

Several factors likely contribute to this criminal misuse of the MMAR, including: the reasonably low risk of being apprehended within the existing system; the large production and possession amounts being granted to licence holders; the issuance of multiple licences; the excess marihuana being produced per plant; having no controlled manner in place to destroy any excess; the potential for profit gained by trafficking marihuana; and, the lack of both monitoring and penalties that exist under the current MMAR. (A)

Low Risk of Apprehension

Within the current MMAR system there is a relatively low risk that a licence holder will be apprehended when exploiting the terms of their licence. This is partly due to a lack of HC resources to monitor licence holders and a lack of authority in both HC inspectors and law enforcement to enforce licence compliance or revoke licence privileges. In the event a licensee is apprehended, prosecution is unlikely. Public Prosecution Service of Canada (PPSC) often will not entertain a prosecution due to a lack of resources as well as a difficulty in attaining a conviction. (Staff Inspector Mario DI TOMASSO, Drug Squad, Toronto Police Service) (*Please see Lack of Monitoring, page 17*). (A)

Large Licence Amounts

The number of plants and amount of dried marihuana HC authorizes for a MMAR licence holder is based on a specified formula that incorporates a physician's recommended daily amount and the estimated plant yield. For example, the amount allowed for a production licence is calculated by taking the daily amount of dried marihuana needed (as recommended by the physician), while also taking into account the growth cycle of the plants and the estimated yields. The formula is altered based on whether the licence holder will be producing indoors or outdoors, as this affects yield amounts. (See Appendix A) (U)

"The marihuana dosage recommended by a physician has many unknowns and is often based on the patient's recommendation of his or her tolerance to marihuana usage. This method for recommending medicinal marihuana by physicians can lead to the issuance of large permits which, in turn, leads to abuses of the MMAR by criminals. These large permits create an environment of legalized commercial production of marihuana where the excess product can be easily diverted to support illicit and lucrative drug trafficking activities with minimal or no intervention by police". (S/Sgt. Darren DERKO, EDGE Unit, Edmonton Police Service) (See Appendix D) (A)

The daily amount being recommended to medicinal marihuana users does not take into consideration the tetrahydrocannabinol (THC)¹⁰ levels and its subsequent effect on the potency of the marihuana. The average THC content has increased over time — in the 1960s it was three percent whereas today the average is between 12 and 15 percent.^{viii} THC levels in marihuana should likely be considered when making licence amount recommendations as potency will impact the effectiveness of the marihuana in alleviating symptoms associated with medical conditions. (A)

Health Canada has reported that an increasing number of MMAR program participants are being authorized to possess higher daily amounts of marihuana.^{ix} These higher daily amounts translate into permission to produce larger crops for those who hold PPLs and DPPLs. The files reviewed in this assessment found HC to be granting authorization for large numbers of marihuana plants, as well as high quantities of dried marihuana permitted to be stored. Several of the files in the review (31) found both PPLs and DPPLs to have licences for considerably large amounts of marihuana. Specifically, in the 31 files, the minimum amount permitted for plant production was 44 plants (most being for a larger number), and for authorizations to possess dried marihuana the minimum noted was 1,755 grams to be stored at one time. (A)

For example, one licensee was granted a PPL to produce 273 plants and store 12,285 grams of dried marihuana. This is a large amount for one person to produce for their own personal medical marihuana needs; a producer of medical marihuana only needs nine plants to bud every five months in order to have an adequate supply for one heavy medicinal user.^x It should be noted that licence holders may need to produce larger amounts of marihuana plants if they will be using the marihuana in baked goods, as this is one available method of consumption, based on the user's preference. However, eating marihuana bud is a less typical and desirable method to consume marihuana as a result of the lessened 'high' experienced due to digestion. The typical amount of marihuana bud consumed at one time by oral ingestion is one gram; the effects last up to four hours.^{xi} (A)

¹⁰ THC is the psychoactive substance in the cannabis plant. THC levels determine the potency, the higher the level the more potent the marihuana.

On February 25, 2009, police investigated an individual suspected of having two marihuana grow operations at his two residences in the Toronto area. Upon executing search warrants at both locations, police discovered that the main suspect had a MMAR license to produce in one residence and his associate had a MMAR license to produce in the other residence. Both subjects were allowed to produce a total of 138 marihuana plants. Police located a total of 367 marihuana plants. (Toronto Police Service File no. unavailable) (A)

During a court hearing in Québec for a MMAR licensee charged with trafficking related offences, an anaesthetist testified on her knowledge and experience to treat the chronic pains of the Accused. In her testimony, the physician stated that it was the Accused who had determined his dosage to fight his pain. As a medical specialist, the physician also stated that cannabis resin and cannabis itself were the same substance, which is not exactly the case. In light of the physician's evidence, the judge had to remind the anaesthetist that cannabis resin was not legally admissible under the MMAR. In this case, there was an incomprehension or lack of knowledge in the application of the MMAR. The Accused in this case was found with 50 kilograms of dried marihuana. (Sgt. Suzanne DE LAROCHELLIÈRE, Drug Specialist, Sûreté du Québec) (A)

Multiple Licences

Another issue of concern is the recent development of multiple licences. Multiple licences are now being granted to several people who reside at the same location. The licensing developments are a contributing factor to the increased amounts of marihuana being legally grown. The court decision of *SFETKOPOULOS v. Canada, 2008*, has allowed for a single designated producer of medical marihuana to produce for more than one medical marihuana user, currently set at no more than two; this was previously not authorized under the regulations. The court decision of *R. v. BEREN and SWALLOW, 2009*, ruled that the restricting of production sites placed undue limits on access to medical marihuana. As a result, HC amended the regulations so that now no more than four production licences are permitted per site. These decisions have created the possibility of individuals running 'legal' large scale marihuana grow operations. (A)

Excess Marihuana Per Plant

As per Section 30 of the MMAR, HC estimates that one indoor marihuana plant will produce approximately 30 grams of dried marihuana.^{xii} Although it is difficult to determine the exact amount yielded per plant, various law enforcement expert findings indicate the numbers are a considerably low estimate of what a marihuana plant can actually produce. It appears as though many licence holders are aware of this fact and are using it for their personal gain, as demonstrated by the number of misuses noted in this review of cases. (A)

The yield measurements of dried marihuana per plant as observed by law enforcement agencies in Canada often surpass the 30 gram estimates. (Appendix C shows the type of yield amounts that some law enforcement agencies are finding at illegitimate marihuana grow operations.) It is believed that the 30

gram measurement was established early in the creation of the MMAR and that its conservative amount is a reflection of marihuana plants grown naturally without any specialty growing supplies or techniques. There is a significant risk when the potential yield per plant is estimated without considering the yields that can occur from a three stage grow operation.^{xiii} (A)

Sgt. Vincent ARSENAULT of the Surrey RCMP Green Team is a court recognized expert in marihuana production and trafficking. (See Appendix D) He stated the following:

"Indoor grown marihuana plants (Indica variety) can yield in excess of two pounds (over 900 grams) of dry bud, depending on the type of operation (i.e. two stage (60 day) 'sea of green' versus the three stage (90 day) operation or the three stage 'monster' plant operations (120 days))" (A)

"Two Stage" marihuana plants will max out at approximately 1 ½ feet in height and yield 1-2 ounces of drug bud per plant, however they mature much sooner (60 days). These plants by-pass the vegetative stage of plant growth. (A)

"Three stage" marihuana plants take longer to mature (90 days), however they grow much larger (3-5 feet high) and consequently yield considerably more dry bud per plant (3-6 ounces). (A)

"Three stage - Monster Grow" operations take even longer for the marihuana plants to mature (120+ days), however the plants yield far more dry bud than other types of operations (between one (1) and two (2) pounds of dry bud per plant). (A)

There are several factors that will influence how much dried marihuana can be yielded per plant: whether the plants are grown indoor or outdoor; the genetics of the marihuana plants used; growing techniques such as soil-based growing or hydroponics;¹¹ ^{xiv} and, the lighting being used. Several cases in this review involved indoor grow operations using varying amounts and types of lights. (A)

These lighting techniques allowed for growth of super-sized marihuana plants — some plants were seven feet tall. These large plants would deliver a high yield of dried marihuana and would allow the licence holder to remain within their legal limit of plants, by number only. (A)



"Growers are not limited to the size or type of plant, only a total number, there is also no limit to the amount of lights they can use. Growers are able to grow large plants (the size of Christmas trees) and produce 1 to 1 ½ pounds per plant". (Cpl Shawna BAHER, Green Team, RCMP "E" Division) (See Appendix D) (A)

¹¹ The term hydroponics refers to an extremely fast and efficient growing method that produces higher yields per plant.

This picture depicts two marihuana plants being grown indoors at a MMAR grow operation in Manville, Alberta. The Edmonton Green Team police officer in the picture measures 6'1" in height. The MMAR licence holder in this case was allowed to grow 73 plants; police located 93 plants in total. The excess 20 plants were between four and six feet in height and growing in a concealed room only accessible through a trap door. (Vermillion RCMP 2006-309269) (A)



The following pictures depicts a marihuana grow operation with expired MMAR licences. One of the suspects was in the process of applying for a MMAR licence. The indoor plants in this instance were averaging 7' in height. (Nanaimo RCMP 2009-30970) (A)



In January 2010, Langley RCMP investigated numerous complaints about a strong smell of marihuana in a residential area. The property in question belonged to a MMAR licence holder with two production licences, both for 49 plants. However, there were 28 high intensity lights so the plants were about 7' tall, easily providing a yield of over one pound per plant. This grow operation could yield approximately 100 pounds per crop. The maximum amount of dried product allowed for both parties is 2,205 grams each (or about five pounds). The grow operation was located directly across from a daycare and an elementary school. (Langley RCMP 2010-2735) (A)

No Controlled Manner to Destroy the Excess

The expectation by HC is that licence holders will destroy excess amounts of marihuana they produce. However, there is no policy in place to guide the safe removal and destruction of this excess. Depending on the disposal method chosen by the licensee (e.g. burn the excess or dispose of in the garbage), there is an increased risk that the drugs may find their way into the wrong hands. (A)

"The regulations do not clearly define the manner of destruction of excess marihuana and the security measures that have to be taken, whereas police destruction procedures are clearly defined to ensure safety and to respect the CDSA". (Sgt. Suzanne DE LAROCHELLIÈRE, Drug Specialist, Sûreté du Québec) (See Appendix D) (A)

Potential for Profit

Trafficking the excess marihuana could potentially bring a licence holder a high amount of profit. Even when using the conservative estimates of yield amounts HC utilizes in the MMAR, a licensed grower could sell the excess marihuana they produce and make a substantial personal profit. (A)

The current MMAR does not state any specified terms for a designated producer with regards to the amount of money they are permitted to charge a medical user for the product they sell. This can be seen as a potential opportunity for current and future designated producers to make a personal profit through an untaxed means of income. (A)

"In understanding the issue respecting "amounts or weights" of marihuana, it is important to conceptualize what these amounts signify. One ounce of marihuana equals 28.4 grams, for simplicity 28 grams will be utilized to represent one ounce. The standard street level packaging for marihuana sold at the ounce level is a plastic sandwich bag filled with marihuana. This is still an abstract amount for many individuals to comprehend. To truly understand what this amount represents, in the form that this product is commonly consumed, we need to understand how many marihuana cigarettes or "joints" this represents. On average 1 gram of marihuana produces 3 to 5 marihuana "joints". Therefore 1 ounce or 28 grams would equate to 84 to 140 joints (3 joints / gram x 28 grams = 84 joints or 5 joints / gram x 28 grams = 140 joints). When one is to consider what a MMAR licence holder is permitted to possess at any given time the allocated amount should be considered in terms of what that amount truly represents, and in a term that can be conceptualized". (Sgt. Lorne ADAMITZ, Drugs and Organized Crime Awareness Services, RCMP "K" Division) (See Appendix D) (A)

When you consider the expert yield amounts based on a two stage grow method there is a high potential for the grower to profit. Taking the lowest yield estimate of 28 grams and applying it to a marihuana grow operation where the licensee is growing an excess of 50 plants, this would mean a production of 1,400 grams. If the grower produces four crops in a year and sells their excess product for \$2,800, the average market price for a pound,^{xv} the annual tax-free profit potential for the marihuana grower would be \$33,600.00. (See Appendix B) (A)

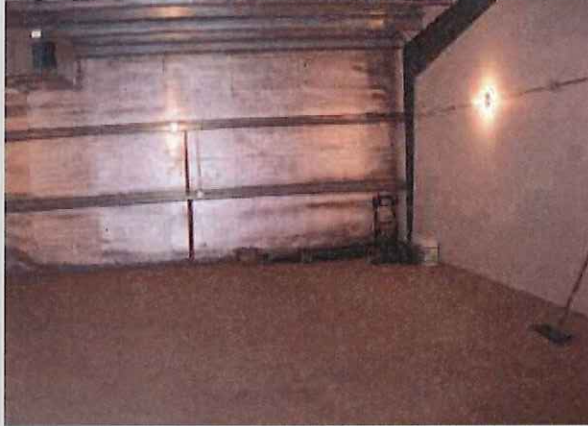
On May 6, 2009, police executed a search warrant at the residence of a MMAR licence holder suspected of overproduction. The licence holder was permitted to produce 49 marihuana plants and store up to 2,205 grams of marihuana. At the residence, police located the licence holder, his wife and child. Police seized: 136 marihuana plants; 6,274 grams of dried marihuana; a business plan showing the cost of setting up a grow to produce 200 plants and the estimated profits that could be made; ammunition; unsafely stored shotgun and rifle; brass knuckles; trafficking paraphernalia; and, cannabis oil. The licence holder had high end televisions, an ATV, a ride-on lawnmower, a boat, fly rods, high end appliances, and stereo equipment. (Kamloops RCMP 2008-31825) (A)

On March 18, 2010, Provincial and Municipal inspectors as well as law enforcement conducted an inspection of a building to be used for a MMAR grow operation. The property was in close proximity to the United States border and could accommodate a helicopter landing site. The licence holder was permitted to grow 199 plants and store up to 19 pounds of dried marihuana. The building and electrical set up could accommodate a commercial marihuana grow operation able to produce over 5,000 marihuana plants. The building was approximately 120 feet in length by 50 feet in width. The son-in-law of the licence holder is a helicopter pilot with a known association to the Hells Angels. (Chilliwack RCMP 2010-7736) (A)



There were nine air conditioning units outside (four visible in this picture).

There were four grow rooms each 30 feet by 40 feet. There were ten electrical sockets on the ceiling in each grow room that had three electrical twist plugs.



Two 600 amp service panels



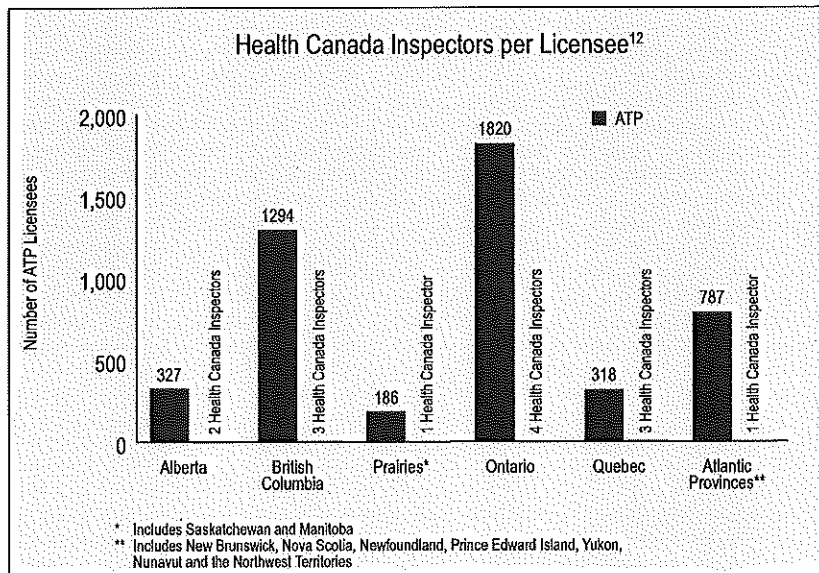
The electrical inspector stated that it would have been easy to install a bypass in this type of set up.



Lack of Monitoring

Depending on the type of licence, a MMAR licence holder is permitted to grow a certain number of plants and possess and store a specific amount of dried marihuana for their daily use. Any excess is expected to be destroyed by the licence holder, as per the MMAR. Adhering to these set legal limits operates mainly on the principle of an "honour" system. The responsibility of staying within the legally permitted amount of marihuana is entrusted to the licence holders. It would appear that this arrangement is flawed. There were several files, 57 of the 190 reviewed, where individuals were found to be producing well over their legally permitted marihuana amounts. (A)

There are insufficient HC inspectors (14 Canada wide) to monitor MMAR licence holders to ensure conformity. They also are responsible for all CDSA inspections. Ontario has the highest number of ATP licences (1,820), and only four HC inspectors to monitor all MMAR licences in that province. These numbers indicate insufficient resources to consistently and effectively inspect and monitor licence holders across the country. The number of licence holders is expected to increase as the program continues to grow. HC estimates that the number of ATP licences will grow to at least 6,000 by 2011 from the 4,728 who are currently licensed.^{xvi} (A)



Section 57 of the MMAR outlines the guidelines concerning HC's inspection of medical marihuana grow operations. It states 'an inspection may occur at any reasonable time'. However, the guidelines do not state a specified schedule of required inspections (i.e. monthly, quarterly, yearly, etc.). It is possible that an individual authorized to grow medical marihuana may never undergo an inspection of their grow operation. (A)

¹² These are the Health Canada statistics for ATP as of November, 2009.

In addition to a lack of resources, inspectors also have a limited authority. A HC inspector can inspect the building specified by the licence holder as the growing site, but they may not inspect dwelling houses. Inspectors must have the consent of the occupant prior to entering any residence or dwelling. Police officers do not have the authority to inspect licence holders unless there are sufficient grounds of criminal activity and a search warrant can be obtained. (A)

"There appears to be no person or organization that inspects these licensed grows except for the police when they inadvertently receive information regarding the marihuana grow operation. It appears that once the police receive information from Health Canada that the grow is licensed then it increases the difficulty to obtain a warrant as there must now be evidence to indicate that the amount of marihuana is in excess of the licensed amount". (Sgt. Neil MUNRO, Vancouver Police Department) (A)

"Carrying out such investigations is difficult as the presence of 'normal' signs of an indoor marihuana grow operation are negated by the Health Canada permit. Investigators must therefore resort to other methods of investigation in order to acquire sufficient grounds to support an application for a CDSA search warrant, which is time and resources consuming. In some instances, smaller investigative units often must ignore these investigations as a result of limited resources". (Sgt. Simon ROY, Coordinated Marihuana Enforcement Team, RCMP "J" Division) (A)

Public Safety Issues

The presence of a marihuana grow operation within a community, whether legally permitted by HC or otherwise, is a public safety concern. There are several dangers to public health and safety associated with grow operations: fire, health, electrocution, poisonous gas and chemicals, violence, booby traps and children being put at risk.^{xix} This assessment revealed a number of public health and safety issues. The health and safety issues seen at illegal marihuana grow operations are also seen at legal grow operations. (A)

Medical marihuana grow operations can affect the safety of a community and its members. Crime tips are often received by concerned neighbours or members of the community who suspect the presence of an illegal marihuana grow operation, and are concerned with the potential for illegal activities and illicit drug trafficking. In several cases police have begun investigations only later to discover it is a licensed MMAR grow operation. In order for police to more effectively monitor and safeguard for safety risks and concerns, they should be made aware of the presence of a legal grow operation. As first responders, the police services or fire departments would benefit from being informed about the presence of medical marihuana grow operations. Having this information before entering a residence could reduce health and safety risks by allowing responders to be appropriately prepared. (A)

Child Endangerment

The MMAR states that medical marihuana being grown outdoors cannot be adjacent to any public property that is mainly frequented by persons 18 years of age or younger, such as a school or public playground.^{xx} This rule only pertains to outdoor growing, as an indoor grow operation does not have the same restrictions; children can reside in a dwelling that has been granted a licence to grow medical marihuana. Children who live with a marihuana grower or user have increased access to the drug, exposure to potential illegal activities, as well as all the potential health and safety issues associated with that environment. (A)

Marihuana grow operations require considerable amounts of water, resulting in high levels of humidity within the residence. The presence of continued humidity without proper ventilation can cause a build-up of mould. HC completed two reviews of scientific literature on the effects of indoor moulds and they found that exposure to indoor mould is associated with an increased prevalence of asthma-related symptoms such as chronic wheezing, irritation symptoms, and non-specific symptoms.^{xxi} Exposure to emissions from chemicals used at indoor grow operations can also be the cause of respiratory health problems, particularly with regards to children.^{xxii} (U)

"The immediate risk for children living in a grow operation is the elevated risk of fire, electrocution, inadvertent exposure to harmful chemicals, higher risk of respiratory problems or fungal infections from exposure to mould and carbon monoxide". (S/Sgt. Ian SANDERSON, Drugs and Organized Crime Awareness Service, RCMP "K" Division) (See Appendix D) (A)



Not only is health an area of concern for children but the presence of a marihuana grow operation increases their risk of exposure to a lifestyle that involves criminal activity or violence, such as grow-rips¹³ and home invasions, as well as other serious safety issues such as fires and electrocution. Children present at grow operations are exposed to situations and factors that place them at a higher risk of injury and/or illness.^{xiii} This review found children were present in 15 of the cases examined. A few of the cases also referred to marihuana grow operations discovered in very close proximity to a school or a daycare. While they were not technically contravening the MMAR — as the property would have to be directly adjacent — the proximity could expose children to the health and safety risks referenced in this report. (A)

On September 29, 2006, the Ontario Provincial Police communication centre received a 911 call reporting that a male had been shot at a residence. It was determined that the homeowner resides at the location with her ten year old daughter, twelve year old son, as well as her common-law partner. The homeowner held a Designated Producer licence from Health Canada and was permitted to grow 37 marihuana plants indoors during winter months and 10 plants outdoors during summer months. The license further allowed her to possess 3,750 grams (8.5 lbs) of dried marihuana on behalf of another individual. The homeowner and her family were the victims of a home invasion. Her common-law spouse confronted the two suspects who subsequently shot him in the leg and fled. During the course of the investigation, police located 510 marihuana plants, 14.24 pounds of dried marihuana, digital scales, and \$350.00 cash. (OPP RM07016758) (A)

On March 17, 2009, police executed a search warrant at a residence in Prince George, British Columbia. A MMAR grow operation consisting of 21 plants was located in a room adjacent to a child's bedroom. The electrical wiring and connections that powered the grow operation were deemed to be of substandard quality and a fire hazard. The ventilation was poor, likely exposing the kid(s) to chemical fertilizers and mould spores. (Prince George RCMP 2009-6097) (A)

On July 24, 2009, police attended a residence in Windsor, Ontario on an unrelated incident. When police arrived they were approached by an employee of the neighbouring daycare who complained about marihuana plants being grown next door. Police investigated the matter and found marihuana plants growing in the backyard neighbouring the daycare's play yard. The owner of the marihuana plants had a MMAR license to produce 25 indoor plants and was not allowed to grow marihuana plants outdoors. (Windsor Police Service 2009-44525) (A)

¹³ The term grow-rip refers to a marihuana grow operation which is targeted by criminals who commit a home invasion in order to steal or destroy the crop.

In August, 2009, Kelowna RCMP received a complaint from a neighbourhood appointed spokesperson of the suspicion of a marihuana grow operation in their area. The community was concerned for the potential criminal activity and safety risks associated with the grow operation. Police investigated and found the person living at the location had a MMAR licensed grow operation in the back shed/garage that was accessible to her children. The license holder was allowed to grow 273 marihuana plants and store over 12 kg of dried marihuana for two medical users. Her children were known to brag to local kids at school about their marihuana grow operation. (Kelowna RCMP 2009-4052) (A)

Violence

The MMAR stipulates that it is the responsibility of the licence holder to safeguard the marihuana supply from potential loss or theft in a satisfactory manner. The applicant must provide a description of the security measures that will be implemented at the potential production site as well as the proposed site for the dried marihuana to be stored. This is to ensure that a marihuana supply does not somehow find its way to individuals intending to use it for profit and also to protect the licensee and his/her family from violence. The regulations can work only if the MMAR grower respects the regulations; however, in many reported cases, MMAR licence holders are themselves illegally trafficking the excess marihuana, failing to make any attempts to conceal its presence (i.e. the smell), or growing it openly which may attract violence. (A)

The drug trade is often found to be surrounded by violence or the threat of violence. Weapons such as firearms and knives are known to be used by drug traffickers to protect their drug operations and/or steal someone else's supply. This was reflected in this review as there were cases involving the presence of weapons (16) or that included attacks and home invasion (16). The review also found a few (2) cases where individuals were shot during a home invasion. (A)

These home invasions or "grow-rips" often lead to the violent victimization of the medical grower, or in some cases, the violent victimization of unrelated bystanders. Neighbours who reside close to a grow operation are at an elevated risk of a home invasion, possibly due to a mistaken address. As a result of these violent home invasions there is the potential for legally grown marihuana ending up in the illicit drug market. The difference for a licensed medical marihuana grower is that they are able to contact law enforcement for protection and support in the event of a home invasion. (A)

In 2006, police investigating a residence in Vancouver were confronted by a man with a machete who thought that his legal grow was being "ripped". Police determined that the individual with the machete had a legal grow operation. The MMAR grow operation was located near an elementary school, and was within the limit for the number of plants but failed the electrical inspection. (VPD GO 2006-148108) (A)

In 2009, two individuals living at a residence in Dartmouth, Nova Scotia, were being investigated by Integrated Drugs (IDU) due to information received that one of them had a grow and was trafficking. The investigation revealed that the individual in question held a valid personal licence to grow 25 plants, store 1,025 grams, and hold 150 grams on his person. The two subjects were victims of a home invasion where the license holder was shot. Police executed a search warrant at this location. Police located approximately 49 plants with dried marihuana and limited evidence of trafficking (scales and score sheet). (Halifax Regional Police 09-139935) (A)

On May 26, 2009, Surrey RCMP received a call from a subject reporting that he had been attacked by masked intruders at his residence. The complainant was walking towards his truck behind his home when he was confronted by three masked men. One of them claimed to be police and was holding a piece of nylon rope. The other two men came around him and the complainant fled. The complainant's girlfriend observed the events unfold from inside the house and reported that one of the masked men was holding a black handgun. The three suspects fled on foot. Police followed the tracks and recovered a backpack filled with break and enter tools, and a pack of three foot zap straps. Police did not locate the suspects. The complainant was uncooperative other than mentioning he had a MMAR licence to grow marihuana which was located in his rear outbuilding, the same direction as where the suspects had been. The complainant did not want police near his residence or the outbuilding. (Surrey RCMP 2009-61224) (A)

On March 15, 2010, Chilliwack RCMP responded to a report of a home invasion at a residence. The homeowner was a MMAR licence holder with a marihuana grow operation of approximately 50 plants. Two unknown males entered the licence holder's residence stating they were the RCMP and threatened to shoot the victim who fled to the neighbour's. The suspects fled in a vehicle driven by a third male. (Chilliwack RCMP 2010-7517) (A)

On April 2nd, 2010, Langley RCMP responded to a home invasion involving five suspects wearing black clothing, balaclava, and gloves. The male victim awoke to his house alarm and when he went to investigate he found five males in his home. The victim was ordered to kneel on the floor and a gun was put to his head. The individual's wife and seven year old daughter were located by the suspects and ordered to sit by the victim. The suspects then went searching through the residence. Several males remained in the residence and several more tried to gain entry into a shed located at the rear of the residence. This shed contains three medicinal grows each licensed for 50 plants. Attempts to force entry into the shed failed and the alarm to the shed went off, the suspects then fled. The victims had just moved into the residence and had no ties to the shed containing the grow. (Langley RCMP 2010-9910) (A)

See Appendix E for a summary of an incident that occurred in Seattle, Washington.

Health Concerns

The health issues and concerns reviewed with regards to child endangerment are fairly consistent with the risks to the general population, law enforcement, and first responders exposed to marihuana grow operations. Canadian law enforcement agencies have strict policies and procedures in place in order to protect the health and safety of police officers who investigate and dismantle marihuana grow operations. These policies are specifically concerned with protecting officers and emergency workers from the inherent health hazards encountered at marihuana grow sites. (See Appendix F) (A)

The main health hazard encountered in a grow operation is the exposure to mould and chemical contamination including pesticides and fertilizers. Improper ventilation is often an issue at marihuana grow sites as it leads to elevated levels of humidity. The high levels of moisture as a result of the humidity within grow operations expose individuals within the site to mould.^{xxiv} (U)

In December, 2009, a public safety team conducted an inspection of a MMAR grow operation. The licensee was wheelchair bound and could not access two of the three grow rooms, indicating other persons were involved in tending to the operation. The public safety team determined the residence was full of mould and presented significant safety hazards. The occupancy permit for the residence was revoked. The residence was owned in part by a member of the Hells Angels who resided next door. (Coquitlam RCMP 2009-39103) (A)

Fire/Electrocution

There is an increased risk of fire associated to marihuana grow operations due to the modifications to the electrical systems that are often made by unqualified individuals. The large amounts of electricity and the illegal tampering with electrical systems can increase the risk of fire or electrocution. The hazard is not only to the dwelling containing the marihuana grow operation but also to the neighbouring buildings. In June, 2009, the Ontario Fire Marshal's office and the OPP reported that over a period of six months they had been called to a fire involving either a marihuana grow operation or illegal drug lab approximately every 15 days.^{xxv} It is these types of fires that pose a serious risk to the health and safety of first responders as well as the overall community. (U)

Marihuana grow operations are being set up with lighting and hydroponic growing equipment, and are being unsafely installed without the proper permits or inspections, most often in a residential setting. These operations are being set up by unqualified licence holders, which increases the risk of fires and electrocutions to the entire neighbourhood.^{xxvi} An inspection of a MMAR grow operation is not required prior to the issuance of a licence in order to ensure provincial safety codes such as fire, building, or electrical will be met. Some research estimates that marihuana grow operations are at a 24 times greater risk of residential fire than a regular home.^{xxvii} The possibility of electrocution when entering a marihuana grow operation, whether it is legally permitted or otherwise, is always a concern and a risk for law enforcement. (U)

In this assessment there were 23 files that specifically mentioned electrical hazards due to unsafe electrical work completed within the residence; there were two cases where an actual fire occurred. Several cases had electrical/fire inspections at the time the search warrant was executed and power was subsequently shut off to the residence due to building code safety violations and potential hazards. (A)

Police were required to respond to three separate complaints (September 2008, October 2009, and March 2010), at an apartment which contained a MMAR grow operation. In September, 2008, authorities had to shut the electricity to the apartment as the altered electrical wiring of the grow operation presented a fire hazard. In March, 2010, police found that the grow operation was unsafe and posed a safety risk to neighbouring apartments. The licensee was charged under the fire code. (Toronto Police file no. unavailable) (A)

On November 20, 2009, Maple Ridge Fire Department responded to a report of smoke emitting from a warehouse complex. Upon arrival, the Fire Department determined the fire came from a marihuana grow operation located in the upper floor of the warehouse complex. It appeared faulty electrical wiring used in the grow site was the cause of the fire. Police determined the two individuals responsible for the grow operation had recently expired MMAR licences allowing a total of 15 plants and 735 grams of dried marihuana. Police found 185 marihuana plants growing in three rooms. The entire unit where the grow operation was located was transformed to accommodate a marihuana grow operation and measured 100' by 60'. The investigator stated the following: "...their intentions were to grow marihuana for illegal purposes. The warehouse they had leased was suitable for an operation far exceeding their allotted limits and had a monthly rental fee of \$3,000 dollars a month." (Ridge Meadow RCMP 2009-26815) (A)

Challenges to Law Enforcement

The Privacy Act

The *Privacy Act* presents significant obstacles for law enforcement in dealing with the MMAR. The *Privacy Act* does not permit HC officials to proactively provide law enforcement with a list of those licensed to grow or possess marihuana for medical purposes within the communities that they serve. However, HC can and does provide law enforcement, upon request, with the licence details for specific cases. (A)



Lack of Inspection Capabilities by Law Enforcement

Under the current MMAR system, law enforcement agencies have no authority to conduct an inspection to ensure licence compliance. Police can only inspect a licence holder residing within their jurisdiction if they have reasonable grounds that criminal activity is taking place. Only through investigation, intelligence gathering, tips received, the presence of unusually high electrical consumption, among other factors, are police then able to obtain a search warrant and inspect a MMAR grow operation. Upon inspection, if a licence holder is found to be breaking the terms of the licence by producing over their limit for example, typically police will be directed to simply seize any excess plants and leave the remaining legal amount untouched. Darryl Plecas, a Criminologist at the University of the Fraser Valley, believes it is the inability to monitor the situation due to a lack of inspectors that "in effect, amounts to virtually no enforcement".^{xxviii} (A)

Although many law enforcement agencies may feel it is not their responsibility, or may not want the permanent obligation to inspect and monitor MMAR licensed grow operations, it could be a short term option. Police departments already have specially trained units who have experience entering marihuana grow operations. Police have policies and procedures in place that could be used in order to inspect MMAR licensed grow operations. However, designating police officers as inspectors would require the use of already strained police resources, therefore, may not be practical as a long term remedy. Police could use their knowledge and expertise of marihuana grow operations in order to train HC inspectors so they may safely and effectively monitor licensees going forward. (A)

Communication Between Health Canada and Law Enforcement Agencies

There is a lack of communication between HC and law enforcement agencies which has associated costs in terms of time for investigations and the needless seizures and arrests of individuals. (A)

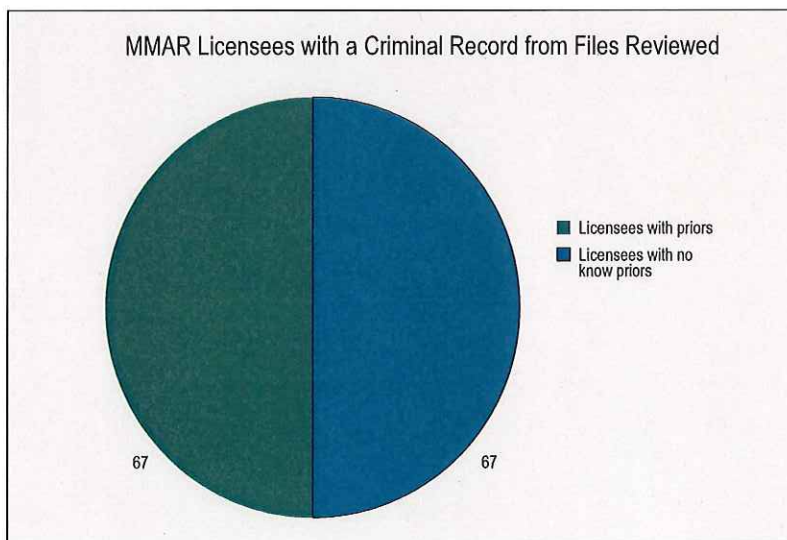
Some positive advances have been made with the establishment of the 24-hour pager system available to law enforcement to obtain licensee information. In most cases a HC official will respond within an hour to the police inquiry with the desired information on the presence of a MMAR licence and its terms. Continued communication between both parties will increase enforcement of, and compliance with, MMAR licences. However, more law enforcement agencies need to be made aware of this resource. If police fail to contact HC, valuable resources can be spent in the processing of files and executing search warrants unnecessarily. (A)

Other Potential Considerations

Criminal Record of MMAR Licensees

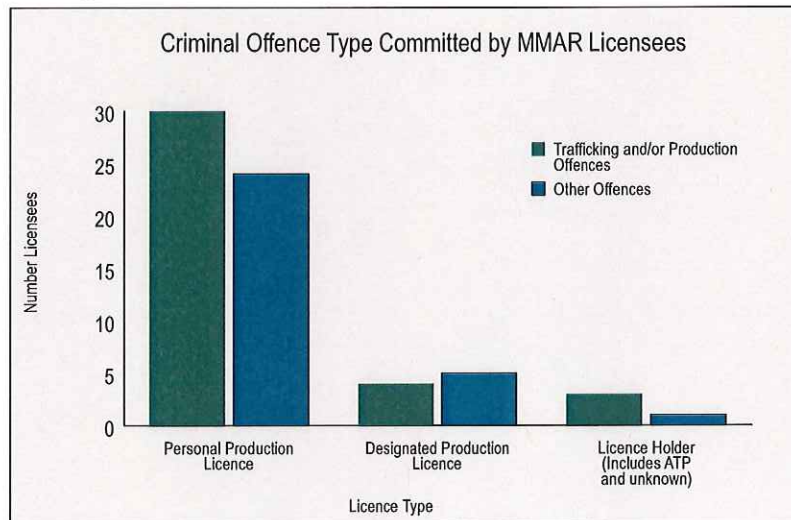
As per the existing MMAR system, criminal record checks are done for those applying for a DPPL¹⁴ but are not completed for PPL or ATP applicants. In order to obtain a licence to produce marihuana on behalf of another individual, a DPPL applicant needs to demonstrate that within the 10 years preceding their application, they have not been convicted as an adult of a designated drug offence. (U)

In the 190 files reviewed for this assessment, there was a total of 134 licensees, as several licensees appeared in multiple files. Of the 134 licensees, 67 (ATP, DPPL and PPL) were found to have a criminal record which included production, trafficking, and importing and exporting of controlled substances. Of the 67 licensees with prior criminal offences one had an ATP, nine had DPPL, 54 had PPL, and the licence information for three licensees was not available. Fifty percent of the 134 licensees captured in this report have a criminal record, the majority of which were PPLs. A criminal record check of all MMAR growers would be needed in order to establish an exact percentage of licensed producers with criminal records. However, based on these findings, the percentage of licensed producers with a criminal record, specifically those individuals with PPLs, would likely be higher than the approximately 12.88%^{xxix} of Canadian adults in the general population that have a criminal record. (A)



¹⁴ The DPPL applicant must supply a document issued by a Canadian police force establishing that, within the ten years preceding the application, they have not been convicted, as an adult, of a designated drug offence.

As noted above, the largest number of licensees with a criminal record, from the files reviewed in this assessment, are those licensed as PPL. These are the individuals who are given the authority to produce without having a criminal record check as their marihuana is for personal medical use. Consequently, their previous criminal history, particularly designated drug offences committed within the last ten years, is not taken into consideration by HC when granting a MMAR licence. Having a history of designated drug offences could indicate a potential licensee's tendency towards further criminal involvement and lead to a potential misuse of a MMAR licence. Those with such a history would likely be considered a risk and this information should therefore factor into the issuance of a medical marihuana licence. In this review, 54 personal production licensees had a criminal record, 30 had drug related charges and convictions of trafficking and/or production. (A)



Revoking a MMAR licence is not a simple process. HC will revoke a licence only if the licence holder has been convicted of a designated drug offence. However, law enforcement agencies do not always follow-up with HC to inform them that a licensee has received a criminal conviction. There is no formal process in place to notify HC when a case has been concluded and a conviction received. The difficulty in revoking a licence once one has been obtained demonstrates the need to conduct more rigorous background checks prior to licensing. It should also be noted that even after a conviction, HC must allow the licence holder to maintain their authorization to possess marihuana for medical purposes as it was supported by a physician. (A)

Organized Crime

Marihuana production and trafficking is one of the most lucrative activities for Canadian OC groups. The demand for marihuana, both in Canada and in the United States, creates opportunities to generate large profits. The MMAR lacks checks and balances^{xxx} leaving the system open to exploitation by OC groups enabling them to hide illegal grow operations behind HC exemptions. MMAR licences would enable OC groups to avoid detection and increase their profits. There is current information suggesting at least three OC groups in Canada are trafficking large amounts of marihuana and abusing the MMAR to facilitate their operations.^{xxxi} In this review four of the cases mentioned an association between a MMAR licensee and a known OC organization. (A)

Lack of Resources

Investigating the presence of a potential grow operation involves a good deal of law enforcement time and resources. These resources are often used unnecessarily on legal grow operations as the presence of a licence is not discovered until well into an investigation. A tip can be received from a concerned community member detailing the potential presence of what they believe to be an illegal marihuana grow operation, and police, unaware it is a MMAR licensed grow operation, will commence an investigation in order to ensure community safety. (A)

Many law enforcement agencies feel having access to a list of those licensed to grow in their communities would alleviate potential safety risks to those first responders as well as save valuable resources needed for other law enforcement priorities. (A)

"The providing of this information would allow for the respective agencies to quickly rule out suspected grow operations that are licensed and allow for our limited resources to be put towards illicit grow operations" (PC Richard KITELEY, Drugs & Guns Enforcement Unit, Windsor Police Services) (A)

Compassion Clubs

Since the inception of the MMAR there has been an emergence of clubs or stores that are known to sell marihuana and marihuana-based products allegedly for medical purposes. These establishments are commonly known as "compassion clubs". (See Appendix G) (A)

Some MMAR licence holders are using their MMAR authorizations to open compassion clubs. In some cases, police have received information that MMAR licensed producers are supplying compassion clubs with their excess marihuana. Compassion clubs portray themselves as non-profit organizations which sell medicinal marihuana to doctor-recommended persons with medical conditions. These clubs are a means for criminals to illicitly traffic marihuana for personal gain under the guise of selling for medicinal purposes. In the province of Quebec, a large portion of the population believes that compassion clubs are legal, monitored, and regulated by the Federal Government.^{xxxii} (A)

Contrary to the general public's belief, compassion clubs are illegal in Canada — the owners and operators are contravening not only the MMAR but the CDSA as well. Police departments and the general public need to be better educated on the MMAR and its application. (A)

Compassion clubs continue to appear in Canadian communities and Canadian internet sites due in part to the reasons mentioned above. Currently, there are at least 16 known compassion clubs in Canada.^{xxxiii} The emergence of compassion clubs is a problem that will precipitate the criminal abuses of medicinal marihuana principles. (A)

Lack of Rules Regarding Transportation

The MMAR does not have clearly defined rules regarding the transportation, by various methods, of medical marihuana by licence holders. This was illustrated by a recent incident at an airport in the province of Quebec. (A)

Sgt. Suzanne DE LAROCHELLIÈRE, Drug Specialist, Sûreté du Québec, raised the following issues:

- 1) The authorized person is not obligated to declare the transportation of an excess supply of medical marihuana he/she may need for extended absences from home. This may cause police to believe the licence holder possesses a controlled substance for the purpose of trafficking contrary to Section 5(2) of the CDSA.
- 2) Public transportation companies and authorities are not aware, educated, or equipped to handle the MMAR. The detection of marihuana on a licence holder by public transportation staff will result in unnecessary police intervention. Further, it may well be public transportation policy to disallow any controlled drugs on their vehicles and in their buildings.
- 3) The MMAR does not require a licence holder to maintain control of his/her medicinal marihuana during transportation. This may cause a third party to take possession of the marihuana, which would equate to trafficking of a controlled substance contrary to Section 5(1) of the CDSA.

Conclusion

It should not be solely incumbent upon the MMAR licensed producer to abide by municipal, provincial, and federal laws. Medicinal marihuana is a controlled substance that requires strict oversight mechanisms in order to mitigate criminal abuses through the MMAR. Criminals have been found to be trafficking marihuana for decades. This analysis of national cases related to the MMAR has demonstrated that the current regulations are allowing criminal abuses to occur while increasing the risks to public safety. In the meantime, most police agencies are struggling to enforce the law on those individuals who are suspected of and/or caught abusing their MMAR licences.

The CACP is making recommendations to HC to change the MMAR in a manner that will meet the compassionate needs of the individual while ensuring that the general public's interest and safety are not compromised.

The CACP is presenting 10 principal recommendations for changes to the MMAR in a manner that is fair while minimizing its abuses by criminal elements. The CACP is aware that these principal recommendations may take some time to implement across Canada.

For that reason, the CACP is also presenting 12 additional provisional recommendations, which can be implemented in a short time frame in order to be in place during the transitional period between the current application of the MMAR and the newly proposed one.





Recommendations

Principal Recommendations:

- 1) The current regulation allowing for PPLs and DPPLs to grow marihuana themselves should be repealed.
- 2) PPLs and DPPLs should be given a reasonable time limit to cease their marihuana growing activities. This time limit should take into consideration the time it will take HC to have all its approved suppliers in place.
- 3) HC should contract reputable companies to produce a variety of medicinal marihuana throughout Canada to meet the needs and expectations of most medicinal marihuana users as well as the timely and reliable delivery of the product.
- 4) Approved medicinal marihuana companies should be located in areas where they are easily accessible to the majority of MMAR licensed users.
- 5) The approved medical marihuana companies would be subject to HC regulations and inspections; have the necessary standardized security and safety measures in place; have regulated quality control and safety standards for the medicinal marihuana; and, have the ability to deliver the marihuana in a reliable and timely manner. This recommendation will allow HC to conduct regular inspections on and maintain oversight of the MMAR program as the locations to visit will be reduced to a manageable size. This will also limit the criminal abuse of the MMAR and the public safety risks posed by some MMAR grow operations to their communities.
- 6) The daily amount of marihuana recommended by a physician should be based on recognized training encompassing scientific findings and literature versus the demand of the patient.
- 7) Physicians who recommend marihuana to their patients should receive an accreditation from their governing bodies who will in turn provide monitoring and compliance support on dispensation.
- 8) The regulations should have meaningful penalties assessed to MMAR violators which would include criminal prosecution and the immediate suspension and/or revocation of the licence of an individual and/or business believed to be committing abuses.
- 9) A regulation on the allowable methods of transport of medicinal marihuana should be incorporated in the MMAR to clearly dictate the rules for a licence holder to transport medicinal marihuana via all modes of transportation, whether it be from point A to point B, or for an extended absence from his/her residence.
- 10) HC and the CACP should improve cooperation, consultation, and communication between agencies to better draft and apply any future regulations or other laws that may cause conflict with the CDSA. Initial consultation and cooperation is vital to prevent the problems experienced today with the current MMAR.

Provisional Recommendations for a Transitional Period:

In the interim, on HC inspectors:

- 1) HC inspectors should immediately begin to conduct MMAR grow inspections.
- 2) HC inspectors should be trained to detect electrical, structural, chemical, and mould hazards often associated to indoor marihuana grow operations.
- 3) HC inspectors should have the authority to immediately contact police and/or other municipal/provincial agencies to report any violations (suspected or actual) of the MMAR, Criminal Code, and provincial and municipal safety and building codes.
- 4) HC should have the authority to inspect, within a period of one year, premises on which a MMAR licensed grower had a grow operation, but whose licence has since expired. This would ensure that MMAR growers are not continuing to produce marihuana beyond the expiry of their licence. A number of cases in this report found expired licences at marihuana grow operations investigated by police. This recommendation would ensure that a residence used by a MMAR licensee has been remediated up to code of all potential hazards related to marihuana grow operations such as, but not limited to, mould contamination and structural modifications.
- 5) HC should engage and consult with law enforcement officials to find ways to increase the number of HC inspectors. With only 14 multi-purpose HC inspectors across Canada, it is and will be extremely difficult for HC to conduct efficient and effective inspections of over 3,400 MMAR growers and counting.

In the interim, for PPLs and DPPLs:

- 6) HC should not allow medicinal marihuana to be produced on properties accessible to children. Individuals with PPLs who have children should be given the option to purchase medicinal marihuana from an approved supplier; to have a DPPL produce their medicinal marihuana; or to produce their medical marihuana in a separate location not frequented by children. HC should have the authority to impose meaningful sanctions to MMAR licence holders who expose children to the dangers of marihuana grow operations.

In the interim, on the yield of dried marihuana per plant and the patient's daily dosage:

- 7) After consultations with marihuana production experts, HC should revise their guidelines determining the number of plants needed to produce X amount of dried marihuana (yield per plant). The current HC regulations indicate a yield of 30 grams of dried marihuana per plant to calculate the number of plant required to produce X amount of dried marihuana. This should be revised to a more accurate yield of 90 grams of dried marihuana per plant. As such, all MMAR production licences should be amended accordingly to reduce the number of plants allowed to be grown.
- 8) HC should add to their regulations a maximum allowable size and height of the plant.

In the interim, on penalties and enforcement of MMAR violators:

- 9) A subject accused of a designated drug offence involving the trafficking of controlled substances, still before the courts, should not be able to obtain a MMAR licence until all court proceedings have been dealt with and the accused did NOT receive a conviction for a drug trafficking offence under the CDSA. Alternatively, persons in this category should be given the choice of HC supplier or a designated grower to provide them with medicinal marihuana.
- 10) A MMAR licence holder charged with a designated drug offence involving marihuana trafficking should have his/her licence temporarily suspended until the conclusion of all court proceedings. In the case of an individual with a PPL charged with a marihuana trafficking offence, there should be measures in place to ensure that the user is still able to obtain medicinal marihuana through HC supplier(s) in a timely manner, should his/her growing equipment and marihuana plants be seized by authorities. The same should apply to an individual with an ATP who can no longer be supplied by his/her designated grower who was the subject of a police intervention.
- 11) A regulation should be added to the MMAR to revoke any licences to DPPLs and PPLs who use their licences to further in any way or form, whether directly or indirectly, the operation of compassion clubs where marihuana is sold to the general public under the guise it is for medicinal purposes.
- 12) HC should improve its communication strategy with all law enforcement agencies for educational and awareness purposes. Currently, some law enforcement agencies do not have any knowledge of HC's 24-hour pager system.

Legal Context

Previous court decisions have led the Government of Canada to provide reasonable access to a lawful source of marihuana for medical purposes.

WAKEFORD v. the Queen, 1999

This court ruling prompted Health Canada to initiate a centralized federal medicinal cannabis program.

PARKER v. Canada, 2001

This was a landmark decision which first invalidated the marihuana prohibition under the CDSA. The judge ruled that people must be able to access necessary medical treatment without fear of arrest.

HITZIG v. Canada, 2003

This civil case challenged the constitutionality of the MMAR. The ruling found that the federal program gave the 'illusion of access'. The courts ruled that the Marihuana Medical Access Regulations were unconstitutional because they failed to provide a legal supply of the drug. The Government was given six months to remedy the situation, which prompted Health Canada to begin distribution of marihuana grown under contract by Prairie Plant Systems (PPS).

R. v. LONG, 2007

This decision determined that the current medical marihuana exemption created by the Government of Canada was unconstitutional as reasonable access depended on policy rather than law. The ruling challenged the Government to provide eligible persons with reasonable access to the Government supply of marihuana.

R. v. BODNAR/HALL/SPASIC, 2007

The Ontario Court of Justice followed the R. v. Long, 2007 decision, holding that prohibition against possession of cannabis in the CDSA was invalid.

SFETKOPOULOS v. Canada, 2008

This decision allowed a single designated producer of medical marihuana to be licensed to grow for more than one authorized medical user (which was previously not permitted). This situation created the potential for large scale 'legal' marihuana grow operations. The Federal response was an amendment to the MMAR to limit DPPLs to production for no more than two individuals.

R. v. BEREN and SWALLOW, 2009

The court ruled that the MMAR placed undue limits on access to medical marihuana by restricting production sites. As a result Health Canada amended the regulations so that no more than four production licences are permitted per site.



Appendix A — Yield of Dried Marihuana per Plant

Section 30 of the MMAR allocates a yield of 30 grams of dried marihuana per plant grown indoors, which is significant in determining the maximum number of plants a medical grower is allowed to produce.

Health Canada uses the following formula to calculate the maximum number of marihuana plants allowed to be grown entirely indoors:

$$[(A \times 365) / (B \times 3C)] \times 1.2 = D$$

- Legend:**
- “A” is the daily amount of dried marihuana.
 - “B” is 30 grams expected yield of dried marihuana per plant as set in the MMAR.
 - “C” is a constant equal to 1, representing a growth cycle of a marihuana plant from seeding to harvesting.
 - “D” is the maximum number of marihuana plants allowed for growing.

- Example:**
- A) A medical grower is allowed to use 5 grams a day.
 $[(5 \times 365) / (30 \times 3)] \times 1.2 = 24.33$ or 25 marihuana plants (maximum allowed)
 - B) A medical grower is allowed to use 5 grams a day, but the expected yield per plant in “B” is now 90 grams (just over three ounces).
 $[(5 \times 365) / (90 \times 3)] \times 1.2 = 8.11$ or 9 marihuana plants (maximum allowed)

As noted above, the yield and consumption measurement determines the maximum number of plants allowed to be grown.

Appendix B — Example of the Estimated Profit to be Made in Trafficking Marihuana

Example: A licensed grower is permitted to produce 25 plants for himself, but in this scenario the licensee produces an extra 50 plants for a total of 75 plants. The chart below details what the potential annual revenue would be for this licensed grower if he were to sell his excess dried marihuana for profit.



Estimates with MMAR yield amounts	Estimates with expert yield amounts
Yield: 30 grams of dried marihuana per plant	Yield: 28 to 56 grams dried marihuana per plant (two stage growing method)
3 crops a year	4 to 6 crops a year
Average price of marihuana sold in Canada in the illicit drug market: \$2800.00 per pound	
30 grams x 50 plants = 1500 grams	28 grams x 50 plants = 1400 grams
1500 grams x 3 crops a year = 4500 grams	56 grams x 50 plants = 2800grams
4500 grams / 454 grams (1 lbs) = 9.91 lbs	1400 grams x 4 crops = 5600 grams
9.91 pounds x \$2800 = \$27,753.30 of tax free profits a year if sold at the pound level (profits are higher as you sell in smaller allotments)	2800 grams x 6 crops = 16800 grams
	5600 grams / 454 grams (1 lbs) = 12.33 pounds
	16800 grams / 454 grams (1 lbs) = 37 pounds
	Annual profit potential: \$33,600.00 (12 lb x \$2800) to \$103,600.00 if sold at the pound level.

Appendix C — Sample Yield Amounts of Dried Marihuana

The following table illustrates the yield of dried marihuana per plant sampled by police marihuana enforcement teams at illegitimate marihuana grow operations: (A)

Agency	File #	Plant Height	Yield of Dried Marihuana Per Plant (Indoors)
Edmonton Police Service	2003-36923	3.5 feet	224 grams (8 oz)
Edmonton Police Service	2003-92870	3 feet	68 grams (2.4 oz)
Edmonton Police Service	2003-92870	3 feet	61 grams (2.1 oz)
Edmonton Police Service	2003-174571	4 feet	472.9 grams (16oz+)
Edmonton Police Service	2004-60602	5.5 feet	454.8 grams (16oz+)
Edmonton Police Service	2005-155653	3.5 feet	185 grams (6.6oz)
Edmonton Police Service	2005-19513	2.5 feet	142.9 grams (5.1oz)
Edmonton Police Service	2007-181086	N/A	125 grams (4.4oz)
Edmonton Police Service	2007-181086	N/A	101 grams (3.5oz)
Edmonton Police Service	2007-181086	N/A	233 grams (8.2oz)
Duncan RCMP	2009-1578	6 feet	376 grams (13oz)
Duncan RCMP	2010-288	6.5 feet	703 grams (25oz)
New Brunswick CMET	2010-276011	8 feet	1386.5 grams (49 oz)
Nova Scotia CMET	2009-111060 (MMAR)	4 feet	363 grams (13oz)

Appendix D — Summaries of Experience of Court Recognized Experts in the Field

Sgt. Lorne ADAMITZ

RCMP Regular Member since 1988

- Has attended in excess of 400 active marihuana grow operations.
- Has assisted in growing marihuana in a controlled environment while working at EPS HQ - Det. Pete CHERNYOSKI had a licence.
- Has manicured seized marihuana plants and obtained yields from the plants.
- Has reviewed seized grow records and yields from accused individuals who recorded their yields. Most recently a 2009 case of an indoor marihuana grow operation of minimal sophistication of only 20 plants, in a very northern environment in a confined space. The grower identified the plant and separately dried the manicured marihuana bud from the plant. The yield per plant was 37.67 grams / plant = 1.345 oz / plant. This was not an experienced grower and the grow conditions were not ideal.
- Continues to attend grow operations with the Edmonton Green Team.
- Current duties are Drugs and Organized Crime Awareness Services which also requires he keep current on drug trends, intelligence, and research.

Sgt. Vincent J. ARSENAULT

RCMP Regular Member since 1978

- Provide instructional training on the history, horticulture, manufacture, usage, stability, toxicology and pharmacological effects of marihuana and cocaine. This course was being instructed jointly with Mr. Wayne JEFFERY, Forensic Toxicologist from the Vancouver Forensic Laboratory in Vancouver. Candidates are shown how to extract weed oil and manufacture "Freebase" and "Crack" cocaine. Current importation and trafficking trends are also discussed.
- Attended a course instructed by Mr. Richard LAING, Drug Analytical Specialist with the Health Protection Branch Laboratories in Burnaby, B.C. Received hands-on instruction on the scientific methodology for marihuana identification and quantitative analysis. Also conducted marihuana oil extractions using Isopropanol, Methanol, Naphtha and Toluene for marihuana resin yield and THC potency comparisons.
- A three-month training exercise which consisted of growing marihuana under licence from the Bureau of Dangerous Drugs in Ottawa. This involved growing marihuana from seeds and clones to maturity and experimenting with the different elements required for a successful crop, such as lighting, water and nutrients. This exercise also provided "hands on" experience on forcing marihuana plants to flower by modifying light cycles and sources.





- Wrote a paper on marihuana including research conducted on horticulture, cannabis preparations, THC degradation, toxicology, statistics, cultivation and exportation trends, investigative steps/safety procedures and possible solutions to the problem. This document was reviewed and published on the RCMP Infoweb as an educational and investigational tool to Law Enforcement officers nationwide.
- Conducted yield determination experiments and continues to do so on a regular basis by personally removing marihuana buds from plants and weighing the dry bud to determine the average plant yield. Has used this same method to determine the effects of "Lumen Ratio" and CO2 enrichment on marihuana plant yield.
- Weighed seized marihuana cigarettes to determine the average weight in order to ascertain the average number of cigarettes per gram. This has become especially useful in determining the rate of personal consumption.
- Has been involved in over 2,000 investigations of cultivation of Cannabis marihuana from several plants to over 23,000 plants being grown in soil and hydroponically using Rockwood and lava rock for root system support. Has also been involved in approximately 950 investigations involving the exportation and trafficking of marihuana from grams to the multi-pound level.

Cpl. Shawna BAHER

RCMP Regular Member since 1992

- First encountered marihuana, cocaine, and heroin in 1993 as a general duty police officer.
- Has personally been involved in hundreds of investigations concerning cannabis marihuana, cannabis oil (weed oil), cocaine, heroin, lysergic acid diethylamide (LSD), amphetamines (primarily methamphetamine and ecstasy), psilocybin mushrooms, and designer drugs such as GHB and ketamine.
- Has assisted in several undercover operations involving cocaine, heroin, and marihuana. Has personally been involved in the seizures of cocaine from the quarter-gram to the multi-kilogram level, seizures of heroin at the one-tenth of a gram level to the multi-ounce level, seizures of both dried marihuana and growing marihuana in the gram to multi-pound level.
- Has debriefed undercover operators and confidential informants concerning the use of drugs, trafficking trends, availability, prices, trafficking methods and use, packaging concealment methods, and jargon.
- Has and continues to cultivate and debrief confidential informants who specialize in cocaine, heroin, methamphetamine, and marihuana and rave drugs including ecstasy, GHB and ketamine.

- Has been in charge of three Marihuana Grow Operation "Green Teams" and also been involved in a total of five "Green Teams". Has investigated over 500 grow operations and has seen grows in all stages of growth, in all types of growing mediums. Has observed differences between clones and seedlings and have harvested in excess of 30 plants from different grow operations, which include clipping and drying the marihuana bud.

Sgt. Suzanne DE LAROCHELLIÈRE

Police officer with the Sûreté du Québec since 1988

- Has participated in more than 790 drug investigations. Gained extensive knowledge of the drug world by working for the Quebec Provincial Police as an undercover agent for a period of 10 years, from 1989 to 1999 and also as an investigator of organized crime from 1995 to 2006.
- Since 2006, as Drug specialist in the Operational Support Service (OSS), gives advice which requires maintaining a high level of knowledge in the field of drug criminality to support the field of drug investigations.
- Interactions with various police departments and stakeholders as a trainer promotes trade and knowledge of trends in drug use. Participates in conferences both nationally and internationally, in policing as well as for civil partners.
- Has been an expert witness in over twenty different criminal cases in trial before the Court of Quebec and the Superior Court. Has also contributed to/written more than a dozen expert reports on criminal activities in connection with the production and trafficking of narcotics.
- From 2006 has contributed to the development of the Sûreté du Québec in its fight against crime by:
 - Acting as advisor to the Criminal Investigation Branch, in investigations and proceedings related to drugs;
 - Developing internal procedures and tools relative to drug detection, prevention and repression at the Sûreté du Québec;
 - Presenting and attending various conferences nationally and internationally in connection with enforcement of criminal activity related to drugs;
 - Producing and presenting training relative to drugs to officials of the justice system (from judges to attorneys) and other civilian partners. These courses have also been provided to the École nationale de police du Québec and the Canadian Police College (Ottawa), as well as with various police forces in Quebec;
 - Participating in the management of the Provincial Police bank of expert witnesses;
 - Representing the Sûreté du Québec, on different round tables, symposiums, at the level of police services, at different companies or media, at the provincial, federal and international levels.

S/Sgt. Darren DERKO***Edmonton Police Service since 1988***

- Has attended in excess of 400 marihuana grow operations.
- Has grown marihuana in a controlled setting under Health Canada licence #2003/7331.
- Undercover purchases of marihuana in an undercover capacity.
- Has manicured and recorded amounts and potential yields of marihuana plants.
- Qualified as an expert in Provincial and Queen's Bench Courts in marihuana use, packaging, distribution, consumption patterns, paraphernalia, jargon, practices and habits of users and traffickers, observable effects, production including practices and habits of producers.
- Member of the Joint Forces RCMP/Edmonton Police Service "Green Team" (2002-2009)
- Currently assigned to the Edmonton Drug and Gang Unit as the Staff Sergeant i/c drug/gang investigations including the "Green Team".

S/Sgt. Ian SANDERSON***RCMP Regular Member since 1980***

- Has 26 years service with the RCMP, all of it in Northern Alberta. Has a varied background of experience including Drug Prevention Education, Media Relations, Detachment Policing and Forensic Identification. Joined the Edmonton Drug Awareness Service in July 2002, and is responsible for Drug Prevention Education, Awareness Programs and Prevention research and strategies for northern Alberta.
- Currently involved with the development of a methamphetamine prevention strategy, which includes work in the areas of Public Awareness, Community Mobilization, Awareness for Police, First Responders, Chemical Companies and Retailers. Has given in excess of 300 presentations in Alberta and across Canada to Police, Government and Community Leaders, Medical Professionals, Industry, Students and the general public.
- Currently the project leader for the Drug Endangered Children Protocol for Canada, a part of the methamphetamine strategy. Was involved in the development of the Alberta Drug Endangered Children Act, introduced in 2006 at the Alberta Legislature.
- Has studied the methamphetamine issue in Canada and the United States. Spoken on the subject across Canada to Police, Professionals and Community leaders. Was recently appointed to the Alberta Meth Task Force, chaired by Dr. Colleen Klein. Also a member of the Alberta Solicitor General's Inter-departmental working group on methamphetamine, and the First Nations and Inuit Health Branch Meth Task Force.

Cpl. Mike WICENTOWICH***RCMP Regular Member since 2000***

- Has served as an expert witness in several court cases in British Columbia relating to the use, packaging, production, distribution, pricing, and yield from plants of cannabis marihuana between 2007 and 2009.
- Has conducted multiple investigations into indoor marihuana grow operations and been the main investigator in over twenty outdoor marihuana grow operations.
- Has seized over ten thousand marihuana plants including marihuana clones, juvenile plants, mature plants and moulded marihuana plants.
- Has clipped, dried and weighed marihuana bud from mature marihuana plants to gain experience with yields of marihuana bud.
- Has viewed, weighed, and analyzed drugs such as methamphetamine, heroin, cocaine, marihuana plants, marihuana bud, hash oil, marihuana oil, ecstasy, morphine, and prescription pills.
- Is knowledgeable concerning the equipment, supplies, tools, fertilizers, and chemicals that marihuana growers are currently using to produce marihuana plants outdoors.
- Has clipped marihuana bud from budded out marihuana plants and dried the marihuana bud to add to my knowledge on the potentials yields of marihuana bud produced by a single marihuana plant.
- Has attended the following courses related to controlled drug and substances designed and taught by police officers, civilian members of the RCMP and other field and laboratory personnel:

Basic Thermograph Operator Course	October 25, 2001
Drug Expert Witness Workshop	April 18, 2002
Drug Investigation Techniques Course	November 27, 2003
Drug Expert Witness Workshop	January 30, 2004

- These courses are taught by qualified leading experts in the field area of controlled drugs and substances. These courses are designed to enhance the knowledge, abilities, and technical skills of drug investigators. They are also designed to enhance the Drug Expert Witness's qualifications and credentials in order that they can provide well-informed and accurate expert opinions for court purposes.

Appendix E — Case Summary

Washington State medical marihuana incident

These reports of recent U.S. medical marihuana cases are included due to the proximity of these locations to Canada, and the seriousness of the violence involved.

<http://www.nytimes.com/2010/03/17/us/17marihuana.html>

Posted by King 5 News (Seattle, Washington), on March 15, 2010:

ORTING, Wash. — A 38-year-old Orting man died over the weekend while trying to protect his medical marihuana plants.

Michael Howard was hit in the head with a crow bar on March 9 by someone trying to break into a shed in his backyard where he was legally growing medical marihuana, according to his father. He died four days later.

Atkins says Howard grabbed a can of pepper spray and ran out to the shed when he heard his dogs barking.

"The intruder had a large iron crowbar in his hand which he was using to break into the shed," said Atkins. "When Mike came around the corner of his house, the perpetrator was waiting for him. He hit our son square in the head."

Posted by King 5 News (Seattle, Washington) on March 15-16, 2010:

SEATTLE - A well-known Washington state medical marihuana activist traded gunfire with robbers who invaded his home early Monday, suffering minor shotgun pellet wounds and sending one intruder to the intensive care unit of a hospital.

Activist Steve Sarich, 59, runs CannaCare, an organization that provides patients with marihuana plants and advice about Washington's law.

He indicated this was their eighth home invasion since last May.

A spokesman for the King County Sheriff's Office says deputies found 385 marihuana plants at the home of a medical marihuana activist who was in a shootout with robbers.

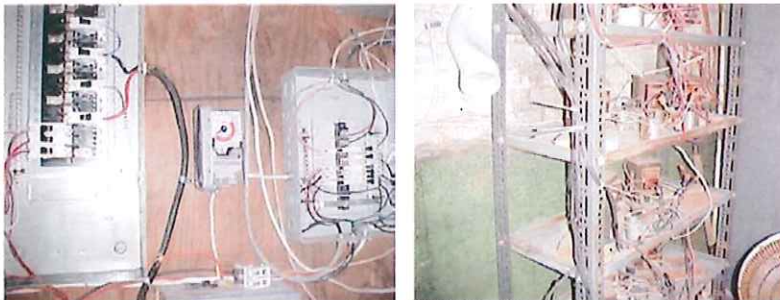
Appendix F — RCMP Policy on Officer Safety

An Excerpt from the RCMP Policy on Officer Safety — Bio-Hazards and Marihuana Cultivation



5. Threat Risk Assessment

1. 5. 1. Before initiating a search of a grow operation, ensure the safety of members and the public by conducting a threat and risk assessment (TRA) of the site.
5. 2. If you are unfamiliar with these types of investigations and dismantling procedures, contact your division drug section for direction or assistance. Be alert and prepared for the following dangers:
 5. 2. 1. contaminated air,
 5. 2. 2. booby traps,
 5. 2. 3. incendiary devices,
 5. 2. 4. volatile/poisonous chemicals,
 5. 2. 5. potential eye damage from the high intensity bulbs,
 5. 2. 6. fire hazards,
 5. 2. 7. unsafe electrical modifications, and
 5. 2. 8. possibly older (manufactured prior to 1978) ballast boxes (power transformers) that may contain PCBs.





6. Health and Safety Precautions

2. 6. 1. General

6. 1. 1. Exercise extreme caution as marihuana cultivation sites can contain improvised explosive devices and booby traps. The traps could include firearms or crossbows rigged to fire as a person enters a room, floors that are cut away to collapse underfoot or explosives set to detonate, causing serious injury or death to an intruder.
6. 1. 2. Marihuana growers often have loaded weapons in their residences to prevent theft by their rivals.
6. 1. 3. If an improvised explosive device or booby trap is discovered or suspected, seal or secure the site, evacuate the area and call the Explosives Disposal Unit (EDU). Depending on the TRA outcome, consider deploying the Emergency Response Team (ERT).
6. 1. 4. Indoor marihuana cultivation poses unique health and safety hazards because of the type of equipment and chemicals used in these operations. All marihuana cultivation site fires and all extraction laboratories must be treated as clandestine laboratories.

For clandestine drug laboratories, see ch. 6.13.

6. 2. Breathing Apparatus

6. 2. 1. Conduct a pre-assessment of hazards of the marihuana cultivation site and consider using an air monitoring device for the detection of hazardous substances or oxygen deficiency. If possible use environmental monitoring devices for carbon monoxide (CO), lower explosive limit (LEL) and oxygen gas (O₂) analyzer.
6. 2. 2. When possible before entering, vent the premises in which marihuana is cultivated and when necessary, wear a respirator to reduce the danger of inhaling hazardous chemicals, airborne toxins, high concentrations of ozone, carbon dioxide (CO₂), insecticides, pesticides or fungicides. For protection equipment, see App. 6-12-1.
6. 2. 3. When grow rooms are not or cannot be properly vented, use a NIOSH approved Self-Contained Breathing Apparatus (SCBA), and turn off any ozone (O₃) and (CO₂) generators found on the premises.

NOTE: *Symptoms of CO₂ poisoning include headache, dizziness, fainting and death. Ozone is used to eliminate odour particles and consume excess oxygen created by plants. Ozone is an oxidizing gas which will damage and can cause fluid buildup in the lungs at high concentration levels. Ozone smells like chlorine.*

6. 2. 4. Some liquids used at indoor marihuana cultivation sites produce vapours. Some gas and vapour molecules can irritate the lungs, while others are easily absorbed through the lungs into the blood stream.

Once in the blood stream, some of these chemicals may cause serious, immediate or future health problems.

6. 2. 5. Use a Half Mask but preferably a Full Face Respirator with cartridges when entering all indoor marihuana cultivation sites. The respirator cartridge and pre-filter must be approved for protection against pesticides, organic vapours, dust, fumes and mists. These masks and combined cartridges can be purchased commercially at most emergency/health and safety outlets.
6. 2. 6. Pesticides are absorbed through the respiratory tract and through the skin and eyes. When entering an indoor marihuana cultivation site, wear eye protection, disposable suits, and Nitrile gloves to prevent contaminating clothing and transferral to a vehicle, detachment, or residence.
6. 3. **Eye Protection**
 6. 3. 1. You must wear UV-blocking sunglasses to protect your eyes from damage by the high intensity metal halide and high pressure sodium lights used in growing rooms. For protection equipment, see App. 6-12-1. Exposure to UV radiation has been associated with cancers and other adverse eye conditions.
 6. 3. 2. All members engaged in any kind of forced entry must use UVblocking sunglasses as protection against injury, blood splatter, saliva, UV radiation, chemicals and other liquids, and possible explosion. See ch. 21.3.5.



6. 4. Electrical Hazards

- 6. 4. 1. Be aware of haphazard electrical wiring when entering indoor marihuana cultivation sites.
- 6. 4. 2. In the cases of suspected electrical by-passes or meter manipulation, before entering, contact your local electrical power company area investigator for assistance in disconnecting electricity and for measurements relating to the theft of hydro.
- 6. 4. 3. Electrical power companies may release customer account information in accordance with the provisions of the provincial freedom of information and protection of privacy act. A search warrant may be required.
- 6. 4. 4. Provincial electrical inspectors will assist in disconnecting electricity where actual or potential electrical hazards exist.



Cultivation Response Team Members

App. 6-12-1 — Protection Equipment for Marihuana

Eyes	Eye protection with non-breakable lenses for prescription wearers, or preferably polycarbonate plastic to provide protection from flying debris, blood, saliva, sharp objects, and UV rays (regardless of tint). You must wear UV-blocking sunglasses to protect your eyes from damage by the high intensity metal halide and high pressure sodium lights used in growing rooms. Exposure to UV radiation has been associated with cancers and other adverse eye conditions.
Gloves	Nitrile, not latex, is a synthetic latex, which has more chemical resistant properties and will not cause an allergic reaction. Over gloves (cut and puncture resistant).
Protective Suit	Tyvek or light-weight saranex type suit prevents contamination from pesticides and fungicides on the members' clothing which may be brought back to a detachment or residence.
Breathing Apparatus	<p>Full-facepiece SCBA: Use National Institute for Occupation Safety and Health (NIOSH) certified self-contained breathing apparatus (SCBA) to protect against hazardous substances or oxygen deficiency when grow rooms are not or cannot be properly vented.</p> <p>Half Mask Respirator: Fitted with cartridges that are equivalent to MSA GME-P100 that filter dust, molds, pesticides, fungicides, and organic vapours. Reusable with replaceable cartridges when plugged, broken or torn. (To be worn with protective eye wear.) Half mask respirators offer no protection against CO₂ or ozone poisoning.</p> <p>Certification: Members must be trained and certified in the use of any respiratory device before entering a marihuana grow operation in accordance with the Canada Labor Code.</p>
Shock Resistant Footwear	Must be Canadian Standards Association (CSA) approved.
Hard Hat	Must be CSA approved and mandatory for low ceilings and confined spaces.
Exceptions	Not everyone entering a grow operation requires all of this equipment. Eye protection must be worn by all members; however, the other equipment need only be worn by persons in close proximity to the plants and equipment especially during the dismantling of the operation. Ventilating the grow rooms will reduce exposure.
Cannabis Extraction Labs	For protective equipment applicable to investigating cannabis extraction and other clandestine labs, see App. 6-13-1.

Equipment

Personal Protection Equipment (PPE)



Air Monitoring Device



Appendix G — Example of a Compassion Club Price List

Price List from 'The Medicinal Cannabis Dispensary',
Vancouver, BC

<http://www.cannabisdispensary.ca/node/13>

Today's Menu

updated 05/17/10 @ 4:32pm

CANNABIS BUDS

1. **Island Purple Kush (\$10/gram)** Indica. **Organic.** Great pain relief, appetite inducer, sleep aid.
2. **Island Haze (\$10/gram)** Sativa. **Organic.** Sweet taste. Very potent. Mood elevator, good for nausea.
3. **OG Kush (\$10/gram)** Sativa. Energizing. Very clean burning and tasty.
4. **Bubba Kush (\$10/gram)** Mostly Indica. By Boodah Budz. Very potent, somatic body effects. Cerebral high.
5. **René (\$10/gram)** Mostly Indica. Good daytime Indica. Pain reliever, appetite inducer.
6. **Happy Dutchman (\$10/gram)** Mostly Indica. An 'up' Indica. Good daytime pain relief.
7. **Medicinal Magic Kush (\$10/gram)** Mostly Indica.
8. **Master Kush (\$10/gram)** Indica. By Magic Gardens. Large nugs, clean burning sedative. Kushy spice flavour.
9. **Captain Jack (\$10/gram)** Mostly Sativa **Organic.** Very clean, uplifting, euphoric. Good mood enhancer.
10. **Nebula (\$9/gram)** Mostly Sativa. Indoor. Haze genetics. Fruity flavour. Transcendental Nebulous high.
11. **Turbo (\$9/gram)** Sativa. Turbo charged Diesel. Very energizing.
12. **Champagne (\$8.50/gram)** Mostly Indica. Good daytime Indica for pain.
13. **Hashplant (\$8/gram)** Mostly Indica. Classic flavour, fullbody relaxation. Great for pain relief.
14. **Pinewarp (\$7.50/gram)** 50/50. Pineberry x Timewarp. Piney taste, energizing high. Nice buds.
15. **007 (\$7.50/gram)** Mostly Sativa. Clean, clear, cerebral high. Good pain relief, easy creeper.
16. **Chernobyl Hybrid (\$7.50/gram)** Functional, good for daytime pain relief. Appetite inducer. Focusing and energizing.
17. **Cherry Hashplant (\$7/gram)** 60/40 Indica. Good for daytime pain relief. Flavourful, Fruity hybrid.
18. **Early Bird Kush Mix (\$6/gram also in \$20, \$40 pre-packs)** Mostly Indica. Clean burning. Does the trick for a low price.

Endnotes

- i Report on the Illicit Drug Situation in Canada — 2008, RCMP
- ii U.S. Department of Justice National Drug Intelligence Center, National Drug Threat Assessment 2009 & 2010 (Washington: NDIC: December 2008 & February 2010)
- iii United Nations Office on Drugs and Crime, World Drug Report 2009 (New York: United Nations, 2009)
- iv 2009 National Criminal Intelligence Estimate on Organized & Serious Crime in Canada, Criminal Intelligence Service Canada.
- v Bouchard, Martin. "A Capture-Recapture Model to Estimate the Size of Criminal Populations and the Risks of Detection in a Marihuana Cultivation Industry," in Journal of Quantitative Criminology, vol. 23 (2007): pp. 221-241.
- vi Criminal Intelligence Brief: A review of cases related to the MMAR, RCMP (April, 2009)
- vii Controlled Drug and Substances Act, <http://laws.justice.gc.ca/eng/C-38.8/index.html>
- viii Staff Inspector Mario DI TOMMASO, Drug Squad, Toronto Police Service
- ix Regulations Amending the MMAR, <http://gazette.gc.ca/rp-pr/p2/2009/2009-05-27/html/sor-dors142-eng.html>
- x Cpl. Mike WICENTOWICH, NCO i/c Kootenay Boundary Regional General Investigation Section, RCMP "E" Division (Appendix D)
- xi Ibid
- xii The MMAR, <http://laws-lois.justice.gc.ca>
- xiii Sgt. Lorne ADAMITZ, Drugs and Organized Crime Services, RCMP "K" Division (Appendix D)
- xiv Dion, Claude, B., and Bouchard, Martin. "Growers and Facilitators: Probing the Role of Entrepreneurs in the Development of the Cannabis Cultivation Industry," in Journal of Small Business and Entrepreneurship, vol. 22, no. 1 (2009): pp. 25-38.
- xv Illicit Drug Price List Canada 2008-2009, Criminal Intelligence, RCMP
- xvi Regulations Amending the MMAR, <http://gazette.gc.ca/rp-pr/p2/2009/2009-05-27/html/sor-dors142-eng.html>
- xvii The MMAR, <http://laws-lois.justice.gc.ca>
- xviii Ibid
- xix Marihuana Grow Operations, RCMP website, <http://www.rcmp-grc.gc.ca/fio-ofi/grow-ops-culture-eng.htm>
- xx The MMAR, <http://laws-lois.justice.gc.ca>
- xxi Residential Indoor Air Quality Guidelines, March 31, 2007, Health Canada.
- xxii Bradley, Francis. "A Growing Danger: The Risks Posed by Marihuana Grow-Ops" Canadian Electricity Association
- xxiii S/Sgt. Ian SANDERSON, Drugs and Organized Crime Awareness Service, RCMP "K" Division (Appendix D)
- xxiv Diplock, Jordan, Garis, Len, and Plecas, Darryl. "Commercially viable indoor marihuana growing operations in British Columbia: what makes them such a serious issue?" Submitted to Prosecution Services Division, The Ministry of the Attorney General, Province of British Columbia, October, 2009.
- xxv Armon, Rick. "OPP and Fire Marshal form community safety partnership to combat clandestine drug labs," in The America's Intelligence Wire, June 16, 2009.
- xxvi Armstrong, Janice, Fassbender, Peter, Garis, Len, Plecas, Darryl, and Watts, Diane. "Disrupting Canada's marihuana grow industry," a submission to the Standing Committee on Justice and Human Rights on April 30, 2009.
- xxvii Plecas, D., Malm, A., & Kinney, B. (2005) "Marihuana growing operations in British Columbia revisited, 1997-2003". Abbotsford, BC: University of the Fraser Valley.
- xxviii Medical marihuana rules used to hide grow-ops, CTVBC, June 7, 2009
- xxix Canadian population data from Statistics Canada. Canadian Criminal Record data from OIC Criminal Records Operations, RCMP.
- xxx Medical marihuana rules used to hide grow-ops, CTVBC, June 7, 2009
- xxxi Marihuana Grow Operations Coordinator, RCMP Headquarters Drug Branch
- xxxii Sgt. Suzanne DE LAROCHELLIÈRE, Drug Specialist, Sûreté du Québec (Appendix D)
- xxxiii Service de police de la Ville de Montréal, Correspondence to Drug Branch, RCMP Headquarters received on May 28, 2010



Royal Canadian Mounted Police Gendarmerie royale du Canada

Canada

This is Exhibit " I " referred to in the
affidavit of Shane Holmquist
sworn before me at Vancouver
this 4th day of February 20 14



EXHIBIT I Photographs of electrical wiring at MMAR grow locations.

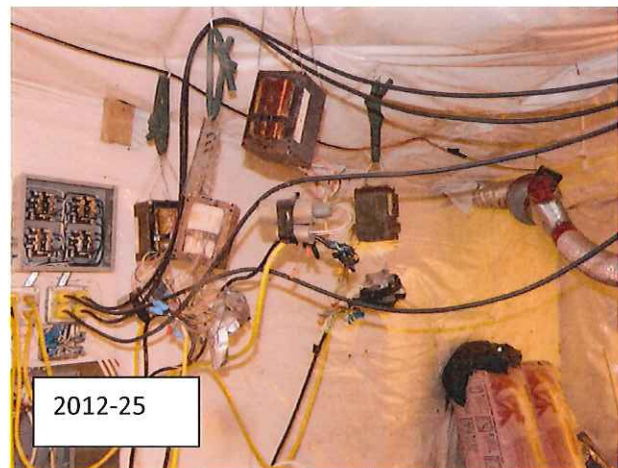
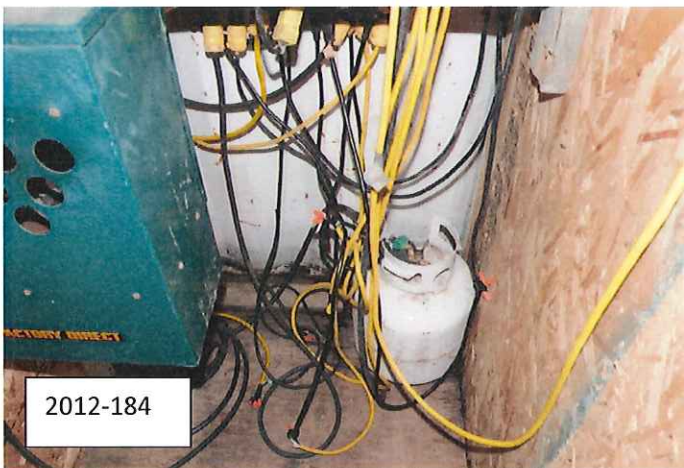
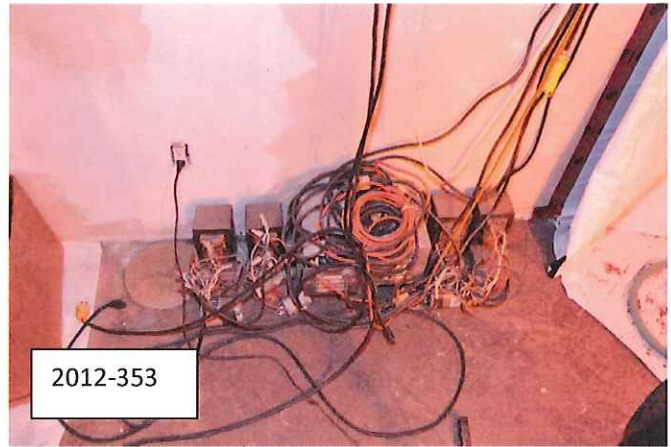
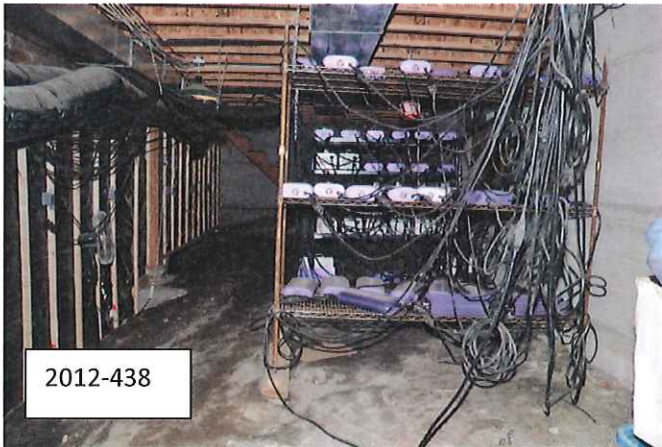
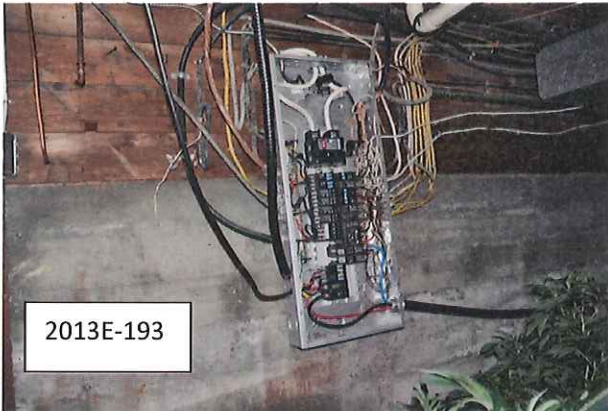


EXHIBIT J Photograph of a CO2 burner/generator inside an MMAR grow operation.

Investigation 2012-310 (photo 63) CRIME Task Force.



This is Exhibit "J" referred to in the
affidavit of Shane Holmquist
sworn before me at Vancouver
this 4th day of February 2014

[Signature]

This is Exhibit "K" referred to in the
affidavit of Shane Holmquist
sworn before me at Vancouver
this 4th day of February 2014

EXHIBIT K

Marihuana Butane Honey Oil aka "Weed Oil"

"Marihuana Weed Oil" aka hash oil and butane honey oil, is a common highly concentrated marihuana derivative used by marihuana users both in a typical inhalation consumption method but also in consumable preparations. The production of weed oil can be done in various manners, however the most common method of production used for marihuana weed oil is to utilize butane to extract the cannabinoids from marihuana bud.

The utilization of butane (or other similar solvents which can include ethanol, isopropyl alcohol, hexane) in the production of marihuana weed oil, often introduces an extremely dangerous form of flammability within the environment where the extraction is taking place. Members of the RCMP "E" Division Clandestine Lab Unit have encountered numerous situations where marihuana weed oil extraction laboratories have resulted in explosions leading to deaths and serious injuries by those persons involved in the extraction process.

Case Studies:

a. Houston, British Columbia (Houston File 2013-1334)

On August 11, 2013, members of the RCMP "E" Division Clandestine Lab Unit were contacted and requested to assist with an explosion associated to an outbuilding on a property. A male associated to the residence sustained major injuries and died within hours of the explosion. Members of the Houston RCMP noted chemicals in the outbuilding where the explosion had occurred and believed that there may be a clandestine drug laboratory located inside the outbuilding.

On August 13, 2013, members of the RCMP "E" Division Clandestine Lab Unit attended the location and donned personal protective equipment to examine the outbuilding. Upon examination, the building was noted to have significant fire/explosion damage with pieces of the building thrown a significant distance into the yard. A marihuana grow operation was located in the back of the outbuilding and evidence of marihuana weed oil extraction lab was found in the front side of the outbuilding where the fire/explosion appeared to have been associated to. Numerous cans of butane along with marihuana was located inside.



- b. Coquitlam, British Columbia – March 6, 2008 (Coquitlam File 2008-7338)
On the morning of March 6, 2008, the Coquitlam Fire/Rescue Department responded to a report of a residential explosion to a large private residence located at 2608 Jade Place, Coquitlam. Upon arrival, the residence was noted to have extreme damage as the front door windows and skylights had been blown out with shattered glass blown across the entire street to the far side walk area. Coquitlam Fire Department believed that the residence was possibly a clandestine drug laboratory and called the Coquitlam RCMP.

Upon attendance to the residence and subsequent examination by trained RCMP clandestine laboratory investigators, the residence was found to contain a marijuana weed oil extraction lab which was located within the garage and basement area of the residence. During the search warrant execution of the residence, numerous cans of butane were identified inside the garage area with bowls which were believed to have contained drying butane oil in them. Evidence from the fire/explosion damage indicated that this area of drying was the location where the fire/explosion had originated from. Numerous locations throughout the house received significant damage from the fire/explosion including structural damage to the floors and walls along with numerous windows blown out.

The person identified to have been producing the marijuana weed oil was located attending a local hospital shortly after the explosion with third degree burns.



Hazards:

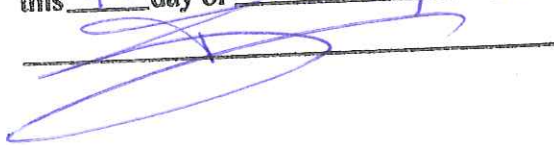
Marihuana grow operations are in fact clandestine drug laboratories which often share similar hazards of illicit synthetic clandestine drug laboratories. The introduction of an extraction process, including weed oil extraction from marihuana, increases the hazards of these facilities with the introduction of dangerous chemicals and reactions. The persons conducting these extraction methods rarely have a chemistry background or are aware of the specific risks associated to these extraction methods. Further, the utilization of proper personal protective equipment and equipment such as ventilation, fume hoods, air monitoring devices, are rarely if ever noted in my experience to be utilized in these extraction processes.

The resulting incidents associated to marihuana extraction based labs can be deadly both to the persons directly involved in the process or to persons in the general area which can include neighbors or people on the street. The utilization and presence of often large volumes of chemicals used in the extraction process often creates an

increased risk of fire/explosion in a residence or location associated to marihuana weed oil extraction.

A/Cpl. Eric BOECHLER #50989 / HRMIS #119997
RCMP Federal Serious and Organized Crime, "E" Division
Clandestine Laboratory Unit

This is Exhibit "L" referred to in the
affidavit of Shane Holmquist
sworn before me at Vancouver
this 4th day of February 2014





Royal Canadian Mounted Police
Criminal Intelligence Brief

Marihuana Grow Operations and Related Violence in Canada

April 2012



Financial Crime
International Operations
Drugs & Organized Crime
Border Integrity
Operational Intelligence



Key Findings

- **Theft or destruction of illegal marihuana crops (grow rips) are under-reported due to the victims' participation in criminal activity. (A)**
- **There is no clear way to categorize a grow rip in the various law enforcement records management systems as it is not a specific offence and does not have a Uniform Crime Reporting code. (A)**
- **The lack of precision in the available reporting does not permit clear analytic judgments regarding the issue of violence in grow rips. However, violence continues to be part of the illegal drug trade and is associated to the presence of marihuana grow operations in Canada. (A)**
- **The risk of violence associated to legal marihuana grow operations in residential settings will continue pending changes to the *Marihuana Medical Access Regulations*. (A)**

Purpose

This assessment is the first review of violent criminal activities linked to marihuana grow operations (MGOs), specifically MGO-associated home invasions and grows rips.¹ (A)

Background

The Canadian Association of Chiefs of Police (CACP) identified the presence of MGOs and their potential threat to public safety as a priority issue and requested an assessment. The significant role of organized crime and violence in MGOs, highlighted in the 2002 RCMP Project SERRE II report examining marihuana cultivation trends in Canada, holds true today.² Accordingly, organized crime's involvement in marihuana production due to its profitability and lack of deterrence renders it a widespread problem in Canada. Violence continues to be a part of the illegal production, trafficking and distribution stages of the drug trade, and is associated with the presence of MGOs. The violence has not however limited itself to illegal MGOs; legal MGOs,³ allowed in Canada since 2001 under the *Marihuana Medical Access Regulations* (MMAR), were also found to increase the risk of home invasions and violence.¹ (A)

Illicit marihuana grow operations are known to be operating in all provinces across the country, but are more common in British Columbia (B.C.), Ontario, and Quebec.ⁱⁱ The dominance of B.C. in the marihuana market was initially reported in 1995 with the dramatic increase in hydroponic marihuana cultivation, and continued in 2000 when nearly half of marihuana cultivation incidents in Canada originated from this province. British Columbia remains at the forefront of this illicit drug activity.ⁱⁱⁱ (A)

¹ Grow rips are defined as MGOs targeted by criminals who commit a home invasion in order to steal or destroy the marihuana crop.

² In 2010, Canadian law enforcement seized approximately 1.9 million plants and 50,000 kilograms of marihuana, which remains the largest illicit commodity seized in the country. (See *Chart 1, Appendix A.*)

³ A legal MGO, allowed in private residences, is licensed by Health Canada to legally grow marihuana for medical purposes. As of June 2009, 3,430 production licenses were granted for personal-use production licence and designated person production licence across the country.

Methodology

In February 2011, at the request of the CACP, RCMP HQ Drug Branch canvassed CACP members to obtain information on all reported MGO-associated home invasions and grow rips that involved incidents of violence between January 2007 and August 2011.⁴ This assessment is based on the analysis of 311 reported police files,⁵ (See Appendix B.) where MGOs (both legal and illegal) were targeted for theft. Of note, 88 percent of the reported files were from B.C., followed by Ontario (7%), while Quebec, Nova Scotia, and Alberta combined accounted for the remaining five percent. (See Chart 2, Appendix A.) (A)

Limitations

This analysis may not be a comprehensive representation of the country as the majority (273) of the files reviewed for this assessment originated from B.C.. (A)

Illegal marihuana grow operations related violence is under-reported (e.g. victims involved are unlikely to report occurrences due to the illegal nature of production), which is a significant challenge for collection and analysis. (A)

Incidents initially classified as a break and enter⁶ could be unreported grow rips as there is no clear way to categorize it in law enforcement records management systems. A grow rip is not a specific Criminal Code offence and does not have a Uniform Crime Reporting (UCR) code,

⁴ The original deadline for submission in this review was January 2011, which was later extended to August 2011.

⁵ Participating Canadian police agencies included: British Columbia – Abbotsford Police Department; Delta Police Force; RCMP E Division; Saanich Police Department; and Vancouver Police Department; Ontario – Hamilton Police; Ontario Provincial Police; Ottawa Police Service; Peel Regional Police; Toronto Police Service; and Waterloo Regional Police; Quebec – Service de Police de la Ville de Montréal and Sûreté du Québec; Nova Scotia – RCMP H Division.

⁶ *Criminal Code, R.S.C., 1985, c. C-46, s.348.*

making it difficult to accurately assess the scope of the problem. (A)

The overall lack of information and intelligence gathered from MGO-associated home invasions and grow rips makes it difficult to identify criminal patterns and the involvement of organized crime (OC) networks. (A)

Analysis

Violence

Some marihuana growers have used weapons/instruments⁷ in their residences to protect their crop and prevent theft by rivals.^{iv} (A)

Illegal MGOs

The presence or involvement of weapons/instruments was reported in 36 percent (113) of the files reviewed, while injury to victims or suspects occurred in 25 percent (77) of the cases. In five percent (16) of cases, victims were shot or stabbed during an MGO-associated home invasion, resulting in five fatalities. Three percent (10) of files reported gunshots fired, but with no apparent injuries. (A)

Legal MGOs - Marihuana Medical Access Regulations (MMAR)

Eighteen percent (55) of reported incidents of violence and home invasions associated to MGOs involved MMAR licensed grow operations.⁸ While the majority of these cases were in B.C. (46), some instances were identified in Ontario (2), Alberta (3), and Nova Scotia (4). (A)

Of these 55 MMAR cases, injuries were sustained in 22 percent (12) while the presence or involvement of weapons/instruments was

⁷ For the purposes of this assessment in addition to what is classified as a weapon (firearms and knives), instruments that can be used as a weapon such as pepper and bear spray, baseball bats, clubs/blunt instruments were included.

⁸ Of these incidents, all but one involved an indoor licensed grow operation.

identified in 47 percent (26) of files. In 40 percent (22) of the MMAR files reviewed, some form of marihuana (either processed bud or plants) was stolen resulting in legal marihuana being diverted to the black market.⁹ (A)

Organized Crime Involvement

In five percent of cases (16), the MGO was known or suspected to be targeted by specific OC groups, including: Independent OC¹⁰ (10), street gangs (3), Hells Angels (2), and Asian OC (1). Organized crime links are frequently not noted or collected during an investigation of an illegal grow operation as suspects are often not identified because victims either do not know or are unwilling to cooperate with police for fear of incriminating themselves. (A)

Offence Type and Charges

Individuals involved in illegal MGOs are unlikely to file a complaint with police if their crop and/or money were stolen, if they were threatened, or if they were victims of violence.^v As victims risk being charged for cannabis cultivation if reported to police, they frequently avoid or delay reporting in order to dismantle the MGO in their residence. In instances where victims did report the crime, some failed to provide complete or accurate information to avoid self-incrimination. As a result, the lack of reporting by victims is reflected in the reviewed files when attempting to ascertain the number of charges. (A)

Victims/complainants were commonly listed as involved in possession or production of cannabis, while suspects were likely listed as involved in a break and enter.¹¹ The majority of MGO-associated home invasions and grow rips

reviewed did not identify suspects, and even fewer resulted in criminal charges.¹² In the reviewed cases, there was a greater number of victims/complainants charged with cultivation offences because they were more frequently identified.¹³ (A)

Threat of MGOs in Residential Locations

The risk to the public can be elevated when criminals target for home invasion either the wrong address or one where a MGO was believed to be active, thus potentially endangering innocent parties. Ten percent (33) of files indicated that home invasions occurred at locations where MGOs are no longer active, or at incorrect addresses. It can be difficult to determine whether these cases involved a failed grow rip or were actually a break and enter, as demonstrated by investigator's comments (noted in the files) indicating some confusion in assessing what had occurred. (A)

Once identified as an MGO location by criminals, an address can be at risk of being the target of a future grow rip. Four percent (12) of files reported locations/addresses that were targets of repeated grow rip attempts. (A)

Impersonating Law Enforcement

Impersonation of law enforcement by suspects attempting to access MGOs could compromise police ability to effectively operate in areas where misrepresentation has occurred, risking public safety. Four percent (11) of the files, all from B.C.,¹⁴ revealed instances of suspects

⁹ The quantity of stolen marihuana was identified in only 12 of the 22 cases.

¹⁰ The independent OC groups include 'ripper' groups, which are organized crime groups known to steal or destroy a rival's crops.

¹¹ Break and Enter is defined as an unlawful entry to a; residential/commercial buildings, entry does not have to be obtained by force but may be accessed through an open or unlocked window/door.

¹² Of the 311 files, 220 cases provided offence type and identified whether there were charges. Suspects were identified in 19 percent (42) of files and only five percent (11) were charged.

¹³ Of the 220 cases, 80 percent (175) identified the victims/complainants and 30 percent (52) were charged with cultivation offences.

¹⁴ B.C. jurisdictions: Abbotsford, Burnaby, Ridge Meadow, Sunshine Coast, Upper Fraser Valley, and Vancouver.

impersonating police officers (e.g. RCMP, other police forces, Grow Busters)¹⁵ in order to gain entry and access to a suspected MGO location. In the cases reviewed, several suspects informed victims they had search warrants and proceeded to gain entry to the residence. In one case, the victim described the suspect as dressed in black and carrying a gun, with flashing red, white and blue lights of a police car behind him. It was assumed the suspect was a police officer and therefore allowed entry into the residence. (A)

An increase in grow rips could potentially result in a corresponding increase in already established defensive tactics (e.g. armed guards, weapons, booby traps) to protect marihuana crops, which pose a threat to front line responders (police, fire, and paramedics) as well as the private sector (hydro workers) and public safety. (A)

An increase in grow rips, similar to increased targeted law enforcement efforts, could result in a displacement of illegal grow operations to other locations. (A)

Strategic Considerations

Most marihuana grow rips are under-reported as it would identify the MGO location and individuals involved, which could lead to criminal charges of the victims. Consequently, grow rips resulting in violence are mainly reported out of necessity for medical and/or police assistance thereby skewing the data set. (A)

It will remain difficult to assess the scope of the problem of grow rips and related violence in Canada without a way to capture relevant information, such as a UCR code, in law enforcement records management systems. (A)

Most of the files pertaining to MGOs and related violence originated from B.C. where the marihuana cultivation market has long been well entrenched. (A)

The risk of violence associated to legal MGOs will continue pending changes in the *Marihuana Medical Access Regulations*, which currently allows legal MGOs in residential households. These pending changes may make future larger scale production of legal commercial suppliers even more attractive targets for organized crime. (A)

¹⁵ The Vancouver Police Department's Grow Busters unit is responsible for identifying, investigating, processing and dismantling marihuana grow operations in the City of Vancouver.

Appendix A

Chart 1 (A)

Canadian Marihuana Seizures by Year, 2007 – 2010		
Year	Number of plants	Marihuana (kg)
2007	1,878,178 plants	49,918 kg
2008	1,828,861 plants	37,169 kg
2009	1,845,734 plants	34,391 kg
2010	1,943,625 plants	50,676 kg

Chart 2 (A)

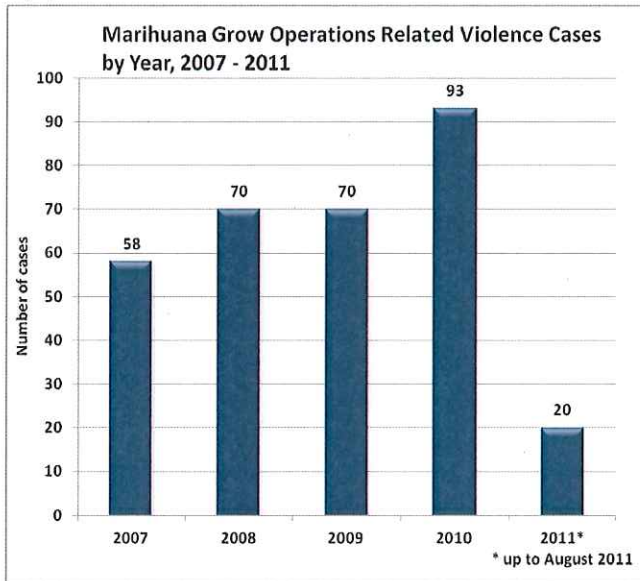
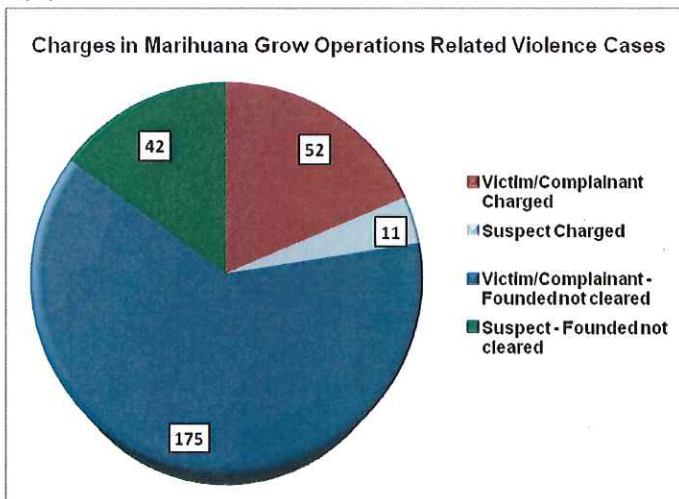


Chart 3 (A)



Appendix B (A)

Marihuana Grow Operations (Illegal and Legal) and Related Violence Cases			
January 2007 – August 2011			
		Number of cases	Percentage
Total number of reported marihuana grow operations cases		311	–
Provincial representation	British Columbia	273	88%
	Alberta	3	1%
	Ontario	23	7%
	Quebec	7	2%
	Nova Scotia	5	2%
Legal Marihuana Grow Operations		55	18%
Provincial representation	British Columbia	46	84%
	Alberta	3	5%
	Ontario	2	4%
	Nova Scotia	4	7%
Marihuana Grow Operations and related Violence			
Illegal Marihuana Grow Operations	Weapons/instruments	113	36%
	Injury	77	25%
	Fatalities	5	2%
Legal Marihuana Grow Operations	Weapons/instruments	26	47%
	Injury	12	22%
	Fatalities	0	0
	Marihuana theft	22	40%
Organized Crime Involvement		16	5%
Offence Type and Charges			
		220	71%
Suspects	Identified	42	19%
	Charged	11	5%
Victims/complainants	Identified	175	80%
	Charged with cultivation offences	52	30%
Errors in targeting MGO locations (wrong address, or no longer active MGO)		33	10%
Repeated target location for grow rips			
		12	4%
Impersonating law enforcement			
		11	4%

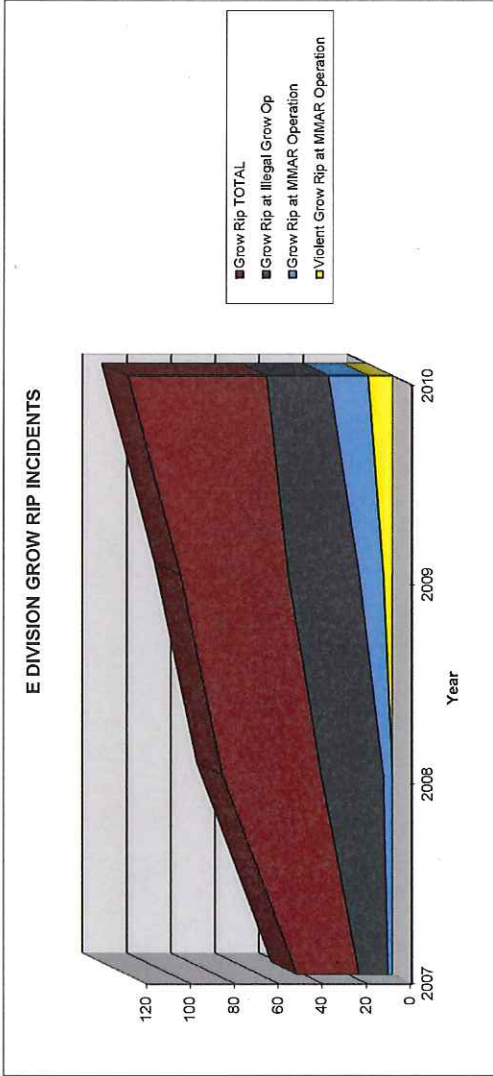
Endnotes

- ⁱ *An Analysis of National Cases Related to the Marihuana Medical Access Regulations*, prepared by the RCMP on behalf of the CACP. November 2010, Protected A.
- ⁱⁱ RCMP Criminal Intelligence, *Drug Situation Report - 2009*, Unclassified.
- ⁱⁱⁱ RCMP Criminal Intelligence, *Project SERRE II – Marihuana Cultivation in Canada: Evolution and Current Trends*. 2002, Protected A.
- ^{iv} RCMP, *Policy on Officer Safety – Bio-Hazards and Marihuana Cultivation*. Unclassified
- ^v RCMP Criminal Intelligence, *Project SERRE II – Marihuana Cultivation in Canada: Evolution and Current Trends*. 2002, Protected A.

GROW RIPS IN BC: 2007-2010

INCIDENTS	2007	2008	2009	2010
Violent Grow Rip at MIMAR Operation	0	0	4	11
Grow Rip at MIMAR Operation	2	4	11	18
Grow Rip at Illegal Grow Op	13	28	32	28
Grow Rip TOTAL	28	45	49	63

MARIJUANA MEDICAL ACCESS REGULATIONS (MIMAR)	Feb/10	Feb-11
Authorization to Possess Marijuana Licensees in BC	1294	2995
Marijuana Production Licenses in BC	351	819
Health Canada Inspectors in BC	3	



GROW RIP TACTICS

Grow rip tactics include impersonating Police and BC Hydro personnel, and wearing their respective uniforms. One BC group enters residences forcefully, 4 to 7 at a time, with firearms drawn.

Occupants are often tied with zip-straps while the marijuana crop is harvested. Crime groups gather intelligence on grow ops by following individuals from hydroponic stores or other locations, and have been known to conduct surveillance on suspected grow ops.

Sophisticated grow rip perpetrators are known to determine the stage of the grow op by drilling holes through walls to insert fibre-optic cameras.

This is Exhibit " M " referred to in the affidavit of Shane Holmquist sworn before me at Vancouver this 4th day of February 2011

CACP Report: BC Cases Related to the Marijuana Medical Access Regulations (November 2010)

- On May 26, 2009, Surrey RCMP received a call from a subject reporting that he had been attacked by masked intruders at his residence. The complainant was walking towards his truck behind his home when he was confronted by three masked men. One of them claimed to be police and was holding a piece of nylon rope. The other two men came around him and the complainant fled. The complainant's girlfriend observed the events unfold from inside the house and reported that one of the masked men was holding a black handgun. The three suspects fled on foot. Police followed the tracks and recovered a backpack filled with break and enter tools, and a pack of three foot zap straps. Police did not locate the suspects. The complainant was uncooperative other than mentioning he had a MIMAR license to grow marijuana which was located in his rear outbuilding, the same direction as where the suspects had been. The complainant did not want police near his residence or the outbuilding. (Surrey RCMP 2009-61224) (A)
- On March 15, 2010, Chilliwack RCMP responded to a report of a home invasion at a residence. The homeowner was a MIMAR licence holder with a marijuana grow operation of approximately 50 plants. Two unknown males entered the licence holder's residence stating they were the RCMP and threatened to shoot the victim who fled to the neighbour's. The suspects fled in a vehicle driven by a third male. (Chilliwack RCMP 2010-7517) (A)
- On April 2, 2010, Langley RCMP responded to a home invasion involving five suspects wearing black clothing, balaclavas, and gloves. The male victim awoke to his house alarm and when he went to investigate he found five males in his home. The victim was ordered to kneel on the floor and a gun was put to his head. The individual's wife and seven year old daughter were located by the suspects and ordered to sit by the victim. The suspects then went searching through the residence. Several males remained in the residence and several more tried to gain entry into a shed located at the rear of the residence. This shed contained three medicinal grows each licensed for 50 plants. Attempts to force entry into the shed failed and the alarm to the shed went off, the suspects then fled. The victims had just moved into the residence and had no ties to the shed containing the grow. (Langley RCMP 2010-9910) (A)

RECENT MEDIA ATTENTION

CBC: Rip-offs at legal BC grow-ops a growing concern
 THE PROVINCE: Thieves targeting legal medical marijuana operations

SOURCE

<http://www.cbc.ca/news/canada/british-columbia/story/2011/03/09/bc-legal-grow-op-rips-prevention.html>
<http://www.theprovince.com/news/Thieves-targeting-legal-marijuana-operations/4406042/story.html>

This is Exhibit "N" referred to in the
affidavit of Shane Holmquist
sworn before me at Vancouver
this 4th day of February 2014



EXHIBIT N **CRIME FILE 2012-381**

Bulletproof vest, assault rifles and high capacity magazines located at an MMAR grow location.



Shane HOLMQUIST - Re: Fwd: Request for information

From: Keely KINAR
To: DELAGORGENDIERE, Graham
Date: 2014/01/21 4:00 PM
Subject: Re: Fwd: Request for information

Hi Graham,

See below:

#	File Date	IHIT File #	Cause of Death	City
1	2003-11-09	2003-13264	Shooting	Abbotsford
2	2003-11-18	2003-140044	Stabbing	Coquitlam
3	2005-08-01	2005-96310	Shooting	Coquitlam
4	2007-12-01	2007-38159	Blunt Force Trauma	Surrey
5	2008-01-20	2008-585	Shooting	Surrey
6	2008-07-22	2008-5594	Shooting	Abbotsford
7	2009-11-25	2009-11597	Shooting	Surrey
8	2010-05-22	2010-2260	Shooting	Surrey
9	2010-10-07	2010-4245	Shooting	Surrey
10	2010-11-08	2010-4695	Holdback	Chilliwack
11	2012-02-27	2012-537	Shooting	Surrey
12	2012-03-09	2012-660	Shooting	Langley
13	2012-05-24	2012-1345	Stabbing	Maple Ridge
14	2013-02-26	2013-0592	Holdback	Langley

This is Exhibit "0" referred to in the affidavit of Shane Holmquist sworn before me at Vancouver this 4th day of February 2014

Let me know if you require any changes,

Keely

C/M Keely KINAR, MA
 Criminal Intelligence Analyst
 Integrated Homicide Investigation Team
 Tel: (778) 290-4905
 Cell: (604) 655-2973 / PIN: 28BBBBAD

keely.kinar@rcmp-grc.gc.ca

Pro Inique Mortuis Justitia

(Justice for Those Who Have Died Unfairly)

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>>> Graham DELAGORGENDIERE 2014/01/21 2:17 PM >>>

Hi Keely,

As discussed, can you have a look at this for Shane. It will just be very generic information for the affidavit without specific details.

Graham

S/Sgt. Graham de la Gorgendiere
Team Commander
Integrated Homicide Investigation Team

office (778)290-4879
mobile(604)991-0546

This is Exhibit "P" referred to in the
affidavit of Shane Holmquist
sworn before me at Vancouver
this 4th day of February 2014



EXHIBIT P Candies enriched with THC seized from a MMAR grow operation investigation.



FEDERAL COURT

BETWEEN:

NEIL ALLARD
TANYA BEEMISH
DAVID HEBERT
SHAWN DAVEY

PLAINTIFFS

and

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

DEFENDANT

Certificate Concerning Code of Conduct for Expert Witnesses

I, Shane Holmquist, having been named as an expert witness by the Defendant, Her Majesty the Queen in Right of Canada, certify that I have read the Code of Conduct for Expert Witnesses set out in the schedule to the *Federal Courts Rules* and agree to be bound by it.

Date: February 4, 2014



Cst. Shane Holmquist
Federal – Serious Organized Crime Section
Coordinated Marihuana Enforcement Team
RCMP Headquarters, Surrey, British Columbia
Tel: 778-290-4609
Fax: 778-290-6084

This is Exhibit "Q" referred to in the
affidavit of Shane Holmquist
sworn before me at Vancouver
this 4th day of February 20 14

