

No. T-2030-13

**In The Federal Court of Canada**  
(BEFORE THE EXAMINER)

Vancouver, B.C.  
February 28, 2014

**BETWEEN:**

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

**AND:**

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA**  
**Defendant**

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**EXAMINATION FOR DISCOVERY**  
**OF**  
**SHANE HOLMQUIST**

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**Appearing on behalf of the Plaintiffs:**

**John W. Conroy**

**Appearing on behalf of the Defendant:**

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**EXAMINATION FOR DISCOVERY  
OF  
SHANE HOLMQUIST  
FEBRUARY 28, 2014**

**PROCEEDINGS**

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**EXHIBITS**

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None entered

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February 28, 2014  
Vancouver, B.C.

(PROCEEDINGS COMMENCED AT 9:57 A.M.)

SHANE HOLMQUIST, duly affirmed.

EXAMINATION BY MR. CONROY:

1 Q Your Acting Cpl. Shane Holmquist?

A Yes, that's correct.

MR. CONROY: And you sworn an affidavit in these proceedings  
on February in 2014. There was a failure to put  
in the date, but I think it was around --

Maybe yours has the date in it. Maybe the  
4th, was it?

MR. BRONGERS: If it assists, the exhibit stamps have the date  
on it. So it's February 4th.

MR. CONROY: February 4th, 2014.

2 Q And you have a copy of that in front of you?

A Yes, I do.

3 Q So I'm planning to probably try to go through it  
sequentially so it's easy for all of us to follow  
along, but we may have to jump to an exhibit from  
time to time, and I have some other exhibits that  
I want to put to you.

So starting off, you indicate that you're  
RCMP -- Royal Canadian Mounted Police -- Surrey  
since 2005 holding the rank of constable, but

1                   you've been an acting corporal since last March of  
2                   2013; correct?

3           A    Yes.

4       4    Q    So you've been nine years as a constable with the  
5            RCMP and then a year as an acting corporal?

6           A    That acting corporal is included in that nine  
7            years.

8       5    Q    So eight years as a constable, a year as an acting  
9            corporal?

10          A    Yes, that's correct.

11       6    Q    All right. And you're currently seconded to the  
12            Federal Serious Organized Crime section of the  
13            Coordinated Marijuana Enforcement Team. What  
14            is -- you set out the mandate, I believe, in the  
15            next paragraph; correct?

16          A    Yes.

17       7    Q    And so how many people on that team, roughly?

18          A    Currently we have six.

19       8    Q    And are there similar teams for other drugs  
20            compared to marijuana or is this the enforcement  
21            team for this drug only?

22          A    I would have to elaborate on that between the  
23            different sections in the Serious Organized Crime  
24            section.

25       9    Q    Very just generally, yeah.

1 A Generally we have multiple teams that focus on  
2 federal serious organized crime. Part of those  
3 organized crime group involve the trafficking of  
4 different types of drugs. The only other select  
5 team that focuses on a particular substance is a  
6 clandestine lab unit.

7 10 Q All right. Eric Boechler, who I think is referred  
8 to later on as --

9 A Boechler. That's correct.

10 11 Q So it's a focus on organized crime to start off  
11 with; correct?

12 A Yes.

13 12 Q And I take it you don't limit that to traditional  
14 organized crime, well-known groups, but any group  
15 of three or more people who is involved in  
16 committing an offense?

17 A Anything that meets the definition in the criminal  
18 code of organized crime.

19 13 Q So throughout when you use the term "organized  
20 crime," you're referring to that broad group as  
21 opposed to the narrow group like the Hell's Angels  
22 or some others that you referred to?

23 A That's correct.

24 14 Q And then the Coordinated Marijuana Enforcement  
25 Team, as you say in paragraph 3, is to investigate

1 large-scale marijuana grow-ops; correct?

2 A That's correct.

3 15 Q And the focus is on illegal marijuana grow-ops,  
4 isn't it?

5 A It includes large-scale grow operations as well  
6 as -- if you continue on in that paragraph,  
7 it discusses abuses of the MMAR.

8 16 Q I'll be coming through that in detail. But the  
9 primary focus when you say "investigate  
10 large-scale marijuana grow-ops" is illicit  
11 grow-ops, isn't it?

12 A No.

13 17 Q Do you know how many large scale grow-ops there  
14 are amongst the current 38,000 or so of qualified  
15 people who are qualified under the medical  
16 marijuana access regs?

17 A No, I don't.

18 18 Q So really what you're saying is there may be some  
19 that are purportedly legal that are large that you  
20 also investigate if there's allegations of abuse  
21 or misuse or this sort of thing. Fair enough?

22 A Yes.

23 19 Q Because you then say:

24 "Organized crime groups taking advantage of  
25 the Medical Marijuana Access

1 Regulations --"

2 And so, again, the focus there is abusers, people  
3 that are not following -- well, the focus there is  
4 actually others who are coming in and trying to  
5 manipulate or take advantage of legitimate users;  
6 is that correct?

7 A Not necessarily, no.

8 20 Q All right. So you say taking advantage of the  
9 MMAR, simply trying to find out ways to get around  
10 or use the MMAR for their illegal purposes?

11 A That's correct. That's another option.

12 21 Q All right. So the way we can limit it is, it's  
13 still a focus on people trying to do something  
14 illegal, not on the ones who are trying to do it  
15 legally and legitimately; fair enough?

16 A That's correct.

17 22 Q So you say you provide assistance and training to  
18 police detachments on both the Medical Marijuana  
19 Access Regulations and the Marijuana for Medical  
20 Purposes Regulations. Do you have a manual --  
21 a training manual or anything like that -- that  
22 sets out exactly what training you give to other  
23 members?

24 A No.

25 23 Q Okay. Okay. I guess a question I would have for

1           you is, do you instruct members, then, on smell of  
2           marijuana, for example, and how it may now mean  
3           legal as opposed to always illegal?

4           A    Sorry.  Train them on the smell?

5        24    Q    Well, if in -- prior to 2001, if you picked up a  
6           smell of marijuana in an investigation,  
7           you immediately assume that it was somebody  
8           illegally possessing marijuana, didn't you?

9           A    That was often encompassed in the grounds to  
10          obtain a search warrant for a grow operation.

11       25    Q    Or even stopping somebody at the side of the road  
12          if you smell marijuana; correct?

13        A    Yes.

14       26    Q    But since 2001, the smell could be consistent with  
15          doing something legal, not just illegal; isn't  
16          that correct?

17        A    Yes.  That's correct.

18       27    Q    So is that the sort of thing you train the  
19          officers on?  Hey, don't jump the gun when you get  
20          the smell; it might be legal?

21        A    No, it doesn't encompass that.  A lot of the  
22          training I've been doing right now is involving  
23          the transition of what to expect.  For example, on  
24          general duty members in the future on the street,  
25          what the packaging and that sort of thing looks

1           like.

2       28    Q    And so to do with the past, the MMAR, it would be,  
3           again, to focus on looking for abuses, looking for  
4           flaws of ways that people were taking advantage of  
5           it for illegal purposes?

6           A    That's correct.

7       29    Q    And then you say"?

8                    "Enhance police and public awareness of the  
9                    dangers of an impact of organized crime."

10          Again, the groups that we were talking about  
11          earlier.

12          A    Yes.

13       30    Q    How they arise, how they try and reduce them,  
14          those sorts of things.

15          A    Yes.

16       31    Q    And then to promote and support changes to the  
17          legislation and regulations that discourage people  
18          from engaging in illegal activities related to  
19          marijuana, is the other part of the mandate;  
20          correct?

21          A    Yes.

22       32    Q    So you're actually involved in producing  
23          information to try and encourage the government to  
24          change the legislation, to try and plug holes that  
25          you see that illegal folks have been trying to

1 take advantage of?

2 A Yes. If I see indicators of abuse in the system  
3 and there's avenues to correct that abuse, I would  
4 support changes to prevent the trafficking.

5 33 Q Right. But you're -- you do advocate changes in  
6 the legislation in order to try and prevent abuse?

7 A We have made recommendations through some of the  
8 support documents that I have attached here that  
9 outline some of those suggestions that the RCMP  
10 and myself believe could correct some of the  
11 problems that have been identified.

12 34 Q But the overall recommendation is to abolish the  
13 personal production or designated grower  
14 provisions of the MMAR and limit access through  
15 licensed producers under the MMPR; isn't that  
16 correct?

17 MR. BRONGERS: Sorry, Mr. Conroy, just to be clear, whose  
18 recommendation?

19 MR. CONROY: The recommendations of this task force that -- or  
20 coordinated team that he's a member of.

21 THE WITNESS: Sorry, the question is to --

22 MR. CONROY:

23 35 Q Well, you say promote and support changes. So you  
24 advocate changes to the legislation, but the  
25 recommendation or what's being recommended at this

1 point is the abolition of the personal production  
2 licence of the patient or a designated grower for  
3 the patient in the MMAR. That's the first part;  
4 correct?

5 A Okay. Yes.

6 36 Q As opposed to amendments to the regulations to try  
7 and correct the problems that you have seen in  
8 your experience; correct?

9 A My interest -- my personal interest is to ensure  
10 that abuses don't occur. And when those abuses  
11 are recognized, if there's avenues to correct  
12 those abuses, I forward those up through my  
13 management as suggestions.

14 37 Q So you would support or you could support --  
15 do you support amendments to the legislation short  
16 of a person losing their personal production  
17 licence, a patient?

18 A The amendments that I have suggested and that the  
19 RCMP has suggested in a lot of these documents  
20 that are attached to this report support changes  
21 that prevent the trafficking of marijuana.

22 38 Q So do you agree that steps can be taken short of  
23 abolishing a person's personal production licence  
24 to limit those abusers and misusers?

25 A That's out of the scope of something that I can

1 answer.

2 39 Q Well, either you're recommending, as you say here,  
3 to discourage illegal activities related to  
4 marijuana -- either you're recommending the  
5 abolition of the personal production licence or  
6 you accept that some amendments could be made to  
7 allow them to continue that would also help reduce  
8 illegal activities. One or the other.

9 MR. BRONGERS: And again, just to be clear, I think Mr. Conroy  
10 is asking your personal opinion.

11 MR. CONROY:

12 40 Q Arising out of your being part of this Coordinated  
13 Marijuana Enforcement Team.

14 A Yes.

15 41 Q So do you agree?

16 A Yes, I agree that there are health and safety and  
17 organized crime concerns with the current system.  
18 And by moving designated personal production  
19 licences and personal use production licences out  
20 of residences, it has a positive impact.

21 42 Q Are you saying that you don't mind them being in  
22 places other than residences? It's just in  
23 residences that's your concern?

24 A The system that's in place right now, from my  
25 experience, is not working. And by having them in

1 an area where it's treated as medicine, in a  
2 situation where it's tested and there's certain  
3 pharmaceutical guidelines in place that ensure the  
4 quality of that marijuana, I think is a good  
5 thing.

6 43 Q Okay. But you don't know how many of the current  
7 38,000 people with authorizations to possess --  
8 I use that number just roughly. You don't know  
9 how many of them are doing everything perfectly  
10 legally and following all the rules and doing  
11 things to prevent mold and all these things that  
12 you've looked into, do you?

13 A Well, the persons with authorization to possess --

14 44 Q And personal production licences, I should say.

15 A Oh, okay. Because if they're just possession,  
16 they would be purchasing through the Health Canada  
17 system under the MMAR.

18 45 Q Right.

19 A So if you're talking -- you're talking about  
20 designated person and person production licences?

21 46 Q Well, let's just deal with personal production.

22 A Okay.

23 47 Q Your focus has been on misusers or abusers or  
24 people taking advantage of patients; isn't that  
25 right?

1 A That's correct.

2 48 Q And so you don't have much in your material,  
3 if any, about all of the legitimate users that are  
4 doing things to prevent mold, are having their  
5 grows inspected or put together by certified  
6 electricians, these sort of things. You don't  
7 address that at all, do you?

8 A No.

9 49 Q And you agree with me, I take it, that they are  
10 the substantial majority of the people under the  
11 program.

12 A I don't know because I haven't seen those grows to  
13 be able to determine --

14 50 Q All you've seen is the abusers; isn't that right?

15 A That's part of my mandate, is to investigate the  
16 abusers.

17 51 Q Exactly. So nowhere in your material, for  
18 example, do you deal with the fact that there are  
19 this large number of legitimate users that  
20 acquired this right to do this as a result of the  
21 constitution, for example, do you?

22 MR. BRONGERS: Well, Mr. Conroy, I understand what you're  
23 getting at, but adding the constitution and a  
24 legal argument to it, I have a problem with the  
25 question. You can certainly make the point about

1                    what's not in the affidavit.

2    MR. CONROY:

3        52     Q    Well, let's do it this way, then.  You're familiar  
4                    with the Parker case, aren't you?

5                    A    I'm aware of the Parker case, yes.

6        53     Q    And you know that Mr. Parker and his doctor  
7                    worked about his epilepsy and found that  
8                    conventional methods weren't working and that  
9                    cannabis was working for him; correct?

10                    A    Yes.

11        54     Q    At a time when it was illegal to possess or grow  
12                    marijuana.

13                    A    Yes.

14        55     Q    And you know that the courts said, well -- to the  
15                    government -- you've got to provide some sort of  
16                    exemption for this type of a person; correct?

17                    A    Yes.

18        56     Q    And you knew that the court said, because  
19                    otherwise, that person is put in a position where  
20                    they have to choose between using and growing the  
21                    marijuana illegally, therefore, put their liberty  
22                    at risk, to start off with; correct?

23                    A    Yes.

24        57     Q    Or not be able to use the medicine that the doctor  
25                    is supporting him for use, which would then affect

1 his health; correct?

2 A I don't know. I'm not a doctor to say that it's  
3 going to affect his health.

4 58 Q But surely it's a matter of common sense. If the  
5 doctor says, I approve you using this medicine,  
6 and he's not able to use it, that would affect his  
7 health, wouldn't it?

8 A Yes.

9 59 Q So the person is put in a situation where they  
10 have to choose between doing something illegally  
11 or not getting their medicine; fair enough?

12 MR. BRONGERS: Mr. Conroy, at this point, you're just putting  
13 your legal argument to the witness and seeing  
14 whether he agrees with it or not. I know you can  
15 legitimately ask him about what's not in the  
16 affidavit -- that's where this started -- but now  
17 we're moving on to you presenting your legal  
18 argument to the witness and seeing if he agrees  
19 with your legal argument. He won't answer those  
20 questions.

21 MR. CONROY: I want the witness to understand that that was  
22 the situation -- the basis for this entire  
23 program.

24 MR. BRONGERS: I think we can ask the witness whether he knows  
25 the Parker case. If you have the Parker case in

1 front of you and you want to put passages to him,  
2 that's fine. But I don't see where we're getting  
3 with the debate over the law here.

4 MR. CONROY: Okay.

5 60 Q Did you look at the various different approaches  
6 being taken throughout, say, the 20-odd US states  
7 that have legalized medical marijuana?

8 A Yes, I have reviewed some documents.

9 61 Q And did you review the documents that I provided  
10 to your counsel in that regard? I'll show them to  
11 you. I'm producing to you a package that's headed  
12 "Normal." It starts with "Alaska medical  
13 marijuana."

14 MR. BRONGERS: Mr. Conroy, you sent those documents to us last  
15 week with respect to the other witnesses,  
16 Todd Cain and Jeanine Ritchot. I was not aware  
17 that you wanted to put these documents to this  
18 witness as well, so, no, he has not seen them  
19 before.

20 MR. CONROY: Well, when I sent them, I sent them to be used by  
21 all three witnesses. But unfortunately I got ill  
22 and we couldn't do Officer Holmquist. So the  
23 intention was that these would be looked at by all  
24 of your witnesses so that I can refer to them.

25 MR. BRONGERS: I'm happy, Mr. Conroy, if you want to show them

1                   to the witness and give him a chance to read them  
2                   and indicate to you whether he's familiar with the  
3                   documents. That would be fine.

4 MR. CONROY: Okay.

5       62     Q     And you have a copy, do you, sir?

6             A     Yes, I do.

7       63     Q     So if you would take a look at those.

8 MR. BRONGERS: Just to facilitate matters, do you want him to  
9                   read them all or is there specific documents you  
10                  would like him to look at?

11 MR. CONROY: I will direct him to them in a minute.

12       64     Q     So if we -- just want to look at it very quickly.  
13                   You'll see Alaska sets out, for example, that you  
14                   can possess and cultivate, in the third line  
15                   there. Do you see that?

16                             "Remove state penalties for the use,  
17                             possession, and cultivation of marijuana by  
18                             patients who have written documentation  
19                             from their physician."

20                   Which is the same as the MMAR, essentially, at  
21                   this point.

22 MR. BRONGERS: Again, Mr. Conroy, I think the witness can read  
23                   the sentence, and then if you have a question  
24                   about that sentence, perhaps he can try and answer  
25                   that for you.



1       72     Q   I thought 80 percent is what the US Department of  
2               Justice estimated; isn't that correct?

3               A   I don't know. I'd have to see the numbers to  
4               confirm that amount.

5       73     Q   Well, you looked at the US Department of Justice  
6               statistics. You refer to them, don't you, in some  
7               of your material or some of your exhibits, don't  
8               you?

9   MR. BRONGERS: Perhaps, Mr. Conroy, you can point to those if  
10               you want to ask questions about it.

11   MR. CONROY:

12       74     Q   You don't remember them?

13               A   Not specifically percentage amounts that were  
14               being exported to the United States, no.

15       75     Q   See, some years ago, that was my understanding,  
16               that about 80 percent of the BC or Canadian  
17               product would go to the United States. It was  
18               still only about 5 percent of their market. Does  
19               that sound correct to you based on your knowledge  
20               of supply and demand and so on?

21               A   Approximately.

22       76     Q   And do you agree that when they legalized  
23               medical -- and now with Washington State and  
24               Colorado -- that that has an impact on the demand  
25               for Canadian product?

1 A People illegally exporting, that would have an  
2 impact on their --

3 77 Q Reduces the demand, doesn't it?

4 A Potentially, yes.

5 78 Q Just like people abusing the MMAR and producing  
6 out the backdoor for one reason or another.

7 That also has an impact on the demand, doesn't it?

8 A Yes, it is.

9 79 Q Because there's a greater supply and that reduces  
10 the demand; isn't that right?

11 A That's correct.

12 80 Q And that, in turn, reduces the price, doesn't it?

13 A It has a correlation with the price, yes.

14 81 Q A few weeks ago, I was told that the price had  
15 gone down to somewhere around \$900 a pound.

16 Do you agree with that?

17 MR. BRONGERS: Let's be a bit clear. The price of what and  
18 where?

19 MR. CONROY: A pound of marijuana here in BC.

20 THE WITNESS: Not that I'm aware of.

21 MR. CONROY:

22 82 Q 1,000 bucks a pound?

23 A No.

24 83 Q How low has it gone?

25 A Multiple pound purchases, we're aware of around

1           \$1,200 a pound.

2       84    Q    Which is a substantial reduction, isn't it?

3           A    Compared to ...?

4       85    Q    2,500, which I think you quoted in your materials.

5           A    Compared to -- yeah, \$2,500 a significant time  
6               ago, yes.

7       86    Q    So the trend is downward at the moment, isn't it?

8           A    That's correct.

9       87    Q    So we've got Alaska here.  And if you just look at  
10           the last part of the top paragraph, you'll see it  
11           also deals with primary caregivers for the  
12           patients.  Do you see that?

13          A    Starting with "caregivers," yes.

14       88    Q    "Patients or their primary caregivers may  
15               legally possess no more than an ounce of  
16               usable marijuana and may cultivate no more  
17               than six marijuana plants, which no more  
18               than three may be mature."

19          A    Yes, I see that.

20       89    Q    And they have a confidential state-run registry?

21          A    Yes.

22       90    Q    And so using Alaska as an example, they have a  
23               situation where they limit the number of plants  
24               significantly compared to the -- if I can use MMAR  
25               instead of saying it each time, you know what I

1 mean?

2 A Yes.

3 91 Q And so it's a different model here that limits but  
4 still allows people to produce for themselves or  
5 have a caregiver do it for them; isn't that  
6 correct?

7 MR. BRONGERS: Mr. Conroy, the witness has said he has never  
8 read this before, and we are not agreeing that  
9 this is going to be marked as an exhibit. So I'm  
10 viewing this as a somewhat improper way of  
11 introducing into evidence this document.  
12 I'm going to object to the witness continuing to  
13 answer any of these kinds of questions.

14 MR. CONROY: All right. Well, then, I want to have the  
15 document marked as an exhibit for identification,  
16 and we'll deal with it in front of the court.  
17 Could you mark that, please?

18 You're objecting to the entire exhibit --  
19 objecting to the officer commenting on what is  
20 happening in other states in the United States?

21 MR. BRONGERS: No, Mr. Conroy. Let's be clear what I'm  
22 objecting to. I'm objecting to you putting to the  
23 witness a document that he has not authored or  
24 seen before and then trying to prove the content  
25 of that document by then asking questions of the

1 witness.

2 I'm happy for you to ask questions about his  
3 knowledge of the laws in other countries,  
4 et cetera. What I'm having a problem with is you  
5 going through this document and then saying,  
6 wouldn't you agree that this is, in fact,  
7 the truth. And he has said that he has not read  
8 the document before. He is not familiar with it.

9 MR. CONROY: I don't think I put to him that it's the truth.  
10 I simply put to him that it's an example of  
11 another approach compared to the MMAR.

12 You object to that question?

13 MR. BRONGERS: I do. Certainly. Because, Mr. Conroy, if you  
14 had wanted to bring this into evidence, you would  
15 have attached it to your own affidavits in a  
16 timely manner before the court's deadline. This  
17 is a backdoor method of getting this information  
18 before the court.

19 MR. CONROY:

20 92 Q Are you familiar with Arizona, Corporal?

21 A No, I'm not.

22 93 Q California?

23 A From media reports.

24 94 Q Is that true of all the US states except for  
25 Washington State?

1           A    Except for Washington State, that's correct.

2       95    Q    So you have not looked at what all the other  
3               states are doing in relation to medical marijuana  
4               except for Washington State?

5           A    That's correct.

6   MR. CONROY:  So can I just have that marked for  
7               identification, then, please.  It's a package of  
8               documents pertaining to all US state medical  
9               marijuana provisions.

10  MR. BRONGERS:  And let the record clearly reflect that we  
11               object to the introduction into evidence of these  
12               documents.  But yes, of course they can be  
13               marked for -- assessed for identification purposes  
14               only.

15  MR. CONROY:  Exhibit A For Identification.

16               EXHIBIT A FOR IDENTIFICATION:  Package of  
17               documents pertaining to all US state medical  
18               marijuana provisions

19  MR. CONROY:

20       96    Q    Have you been following what's been going on  
21               internationally?

22           A    I've read one report from -- I think it was  
23               Uruguay.  But around the world, no.

24       97    Q    So you weren't aware of numerous other South  
25               American states that were also thinking of doing

1 the same thing?

2 A No.

3 98 Q You don't get that intelligence in your role with  
4 this enforcement team about what's going on  
5 internationally and how it will affect supply and  
6 demand?

7 A Not in my particular role, no.

8 99 Q Okay. So you're not familiar with what's going  
9 on in -- or what's apparently being considered in  
10 Argentina, Brazil, or Guatemala, for example?

11 A No.

12 100 Q Or other countries like Mexico, Morocco?

13 A No.

14 101 Q The Netherlands? The United States you know,  
15 Washington State and Colorado in terms of  
16 legalization. And you agree with me about 20, 21  
17 medical licensed states?

18 A I don't know the numbers of licensed states,  
19 but I'm aware that other states are looking at  
20 following Colorado and Washington State.

21 102 Q And that the trend is towards legalization.  
22 Would you agree with that?

23 A Yes.

24 103 Q Did you ever read the decision in Regina v.  
25 Malmo-Levine and Caine from the Supreme Court of

1 Canada back in 2003?

2 A No.

3 104 Q You didn't?

4 A I don't recall, no.

5 105 Q Nobody gave you any information to say, you should  
6 read this and look at what the court's findings of  
7 fact were in relation to marijuana?

8 A No.

9 106 Q Are you familiar with an article that was  
10 completed by the Canadian Centre for Substance  
11 Abuse in relation to comparing the perceived  
12 seriousness and actual costs of substance abuse in  
13 Canada?

14 MR. BRONGERS: Perhaps you can show the witness the document  
15 that you're referring to, Mr. Conroy.

16 And I believe Mr. Conroy has asked you, are  
17 you familiar with that document?

18 THE WITNESS: Yes, I've read this document.

19 MR. CONROY:

20 107 Q So you're familiar with the graphs on page 3 that  
21 show the difference between the public perception  
22 with respect to the seriousness of substance abuse  
23 in figure 1, and in figure 2 what the actual  
24 direct social costs of alcohol, illicit drugs,  
25 and cannabis in Canada in 2002?

1 A It's tough to make out in a black-and-white photo  
2 the colour bars for each.

3 108 Q Well, if you look at figure 1, the column to the  
4 left is alcohol, isn't it?

5 A So it would be left to right. So alcohol in the  
6 middle one would be injection drug use and then  
7 the one on the far right would be illicit drugs?

8 109 Q Yes.

9 A Okay.

10 110 Q And so it shows that the perception of the public  
11 in Canada, in a province and in cities and towns,  
12 is that illicit drugs is the major serious  
13 substance abuse problem and alcohol is less so;  
14 fair enough?

15 A Yeah. I don't know what the reference of illicit  
16 drugs is. That includes cocaine and MDMA and --

17 111 Q All drugs.

18 A All drugs.

19 112 Q I mean, they also break down injection drug use in  
20 that graph, don't they?

21 A Yes.

22 113 Q And if we look at the graph below, it represents  
23 the actual direct social costs of these drugs,  
24 doesn't it?

25 A Yes.

1 114 Q So it shows that, from a health care perspective,  
2 alcohol is way off the top compared to illicit  
3 drugs and then cannabis in the column to the  
4 right. Isn't that correct?

5 MR. BRONGERS: Mr. Conroy, do you have questions about this  
6 document, or, again, is this just an attempt for  
7 you to read the document and to get it into  
8 evidence?

9 MR. CONROY: First of all, because the officer had trouble  
10 with the lack of colour, I'm just trying to make  
11 sure he's clear on what it depicts.

12 MR. BRONGERS: And again, he hasn't written this document.  
13 I'm happy to have him answer questions about  
14 propositions that are put in there. He can  
15 provide his own opinion. Otherwise, the document  
16 would speak for itself if it had been properly  
17 introduced into evidence, but it has not.  
18 So that's my concern with you continuing to simply  
19 ask him, doesn't this say X?

20 MR. CONROY:

21 115 Q Well, do you agree with me that the figure 2 shows  
22 quite a distinction between it and figure 1?

23 MR. BRONGERS: We're objecting to answering the questions,  
24 Mr. Conroy. You can ask him his personal opinion  
25 about certain propositions but, again, all you are

1           doing is simply asking him to confirm what is  
2           written in this document, and we're not going to  
3           play that game.

4   MR. CONROY:

5   116    Q   You said that you were familiar with the document?

6           A   I have read this document, yes.

7   117    Q   And you read it in your capacity as part of this  
8           marijuana enforcement team, did you?

9           A   Yes.

10  118    Q   And you agree that it shows that there's a  
11           difference between public perception and actual  
12           reality in relation to the costs of cannabis --  
13           direct health care costs of cannabis in Canada?

14           A   According to this 12-year-old report, yes.

15  119    Q   Would you agree with me that there is generally,  
16           based on your experience, a perception that  
17           marijuana is way more of a problem than what it  
18           really is?

19           A   Perception, no.

20  120    Q   You think it's a bad problem, still?

21           A   No. I think, with the amount of MMAR licences  
22           that are out there currently, that it has brought  
23           attention to the public of marijuana.

24  MR. CONROY: Okay. Can I have that marked as an exhibit.

25  MR. BRONGERS: No, we are objecting to that. It can be marked

1 for identification.

2 MR. CONROY: Okay. So if that could be B. Let's mark that  
3 one because I think it doesn't have any marks on  
4 it. Exhibit B.

5 EXHIBIT B FOR IDENTIFICATION: Article completed  
6 by the Canadian Centre for Substance Abuse in  
7 relation to comparing the perceived seriousness  
8 and actual costs of substance abuse in Canada

9 MR. CONROY:

10 121 Q So you know that cannabis is in schedule 2 of the  
11 Controlled Drugs and Substances Act? And --  
12 sorry. You have to say yes or no just so that she  
13 gets it.

14 A Yes, I'm aware of it.

15 122 Q And you know that last November mandatory minimum  
16 penalties were introduced for people who were  
17 involved in distribution, primarily of marijuana,  
18 possession with the purpose of trafficking and  
19 trafficking these sort of things?

20 A There were aggravating factors for sentencing.  
21 Yes, I'm aware of that.

22 123 Q And you're aware that if somebody produces more  
23 than 200 plants that they're presumed to be doing  
24 it for distribution? Did you know that?

25 A No, I did not know that.

1 124 Q But I take it you also know that if you're charged  
2 or convicted of possession of marijuana that that  
3 can cause you all sorts of problems at borders and  
4 things like that?

5 A It's potentially up to the United States to make  
6 that determination to be let in --

7 125 Q Other countries?

8 A -- to that country or not.

9 126 Q And I take it you're aware that there's a number  
10 of municipalities and so on that are passing all  
11 sorts of bylaws in order to have further penalties  
12 if people continue to produce marijuana in their  
13 residences and things like that?

14 A I'm aware of bylaws that are trying to limit  
15 locations, yes.

16 127 Q And impose substantial penalties if one continues  
17 to do so?

18 A I don't know. I am not aware of any penalties or  
19 the amounts of those penalties.

20 128 Q You didn't know that Langley, for example,  
21 was going to have a fine up to \$10,000 for anybody  
22 who has a current production licence if they  
23 continue to produce after March 31st?

24 A No, I was not aware of that.

25 129 Q You didn't know that?

1 A No.

2 130 Q You weren't aware that there are other  
3 municipalities all suddenly looking at doing  
4 things like that?

5 A No.

6 131 Q But you would agree with me, then, I take it, just  
7 based on your knowledge of the consequences,  
8 that if any licensed people with authorizations to  
9 possess or -- and personal production licences or  
10 that have a caregiver doing -- a designated  
11 caregiver doing it for them that after March 31st  
12 they will be subject to these types of  
13 consequences?

14 A No, not the authorization to possess because the  
15 authorization to possess, you could purchase --  
16 you could use that to purchase from a MMPR  
17 supplier currently and then transition to a  
18 doctor's note to be able to do that purchase.

19 132 Q A medical document?

20 A Yes. So therefore the ATP -- and from your  
21 explanation and my understanding of a fine  
22 system -- is related to the production, not the  
23 possession.

24 133 Q But if a person continues -- the ATP is only good  
25 for purposes of registering with a licensed

1 producer after March 31st, isn't it?

2 A I believe so.

3 134 Q And so if a person continues to possess what they  
4 have produced, they will be committing an offense,  
5 won't they?

6 A Yes.

7 135 Q And if they continued to produce, they will be  
8 committing the offense of production, won't they?

9 A Yes.

10 136 Q And if they transport it because they're going on  
11 a holiday, they'll be trafficking the offense;  
12 isn't that correct?

13 A Potentially.

14 137 Q And so a person with an ATP will still commit an  
15 offense if they possess any marijuana other than  
16 marijuana obtained from a licensed producer that  
17 has the label from the licensed producer on it;  
18 isn't that correct?

19 A After April 1st, yes.

20 138 Q So the consequences to all of these individuals  
21 are that if they don't possess cannabis from a  
22 licensed producer, they commit the offense of  
23 possession; correct?

24 A After April 1st.

25 139 Q If they continue to produce, they commit the

1 offense of production; correct?

2 A Potentially, yes.

3 140 Q And depending upon how much they have on them or  
4 if they're transporting or these sorts of things,  
5 if they fall within the definition of possession  
6 for the purpose of trafficking or trafficking,  
7 then they'll been committing those offenses; isn't  
8 that right?

9 A Yes.

10 141 Q Paragraph 4 of -- let's come back to your --  
11 just before we -- actually before we do that,  
12 I'm going to ask you to look at this newspaper  
13 article. I don't know if my friend showed that to  
14 you.

15 MR. BRONGERS: I did not, no.

16 MR. CONROY:

17 142 Q Okay. If you could have a look at that. And in  
18 particular, I direct you to the second column  
19 where the third full paragraph, it starts, "RCMP  
20 Inspector Dave Fleugel." Do you see that? And  
21 could you read that paragraph, please.

22 A "RCMP Inspector Dave Fleugel told the  
23 provincial council last week that his  
24 detachment will first start to get medical  
25 growers they know are linked to organized

1 crime, but it's difficult to determine  
2 which are legal and which are not.

3 'This is a potential to cripple the  
4 courts,' Fleugel said. 'Something is going  
5 to have to take a back seat if we're going  
6 to go after all of them.'"

7 143 Q Did you know Inspector Fleugel?

8 A No, I do not know him personally.

9 144 Q Do you agree that if these people continue to  
10 produce and so on, as I put to you a moment ago,  
11 that inspector Fleugel says:

12 "It has the potential to cripple the  
13 courts, and something is going to have to  
14 take a back seat if we're going to go after  
15 all of them."

16 Do you agree with that?

17 A If the RCMP made it a strategic priority to  
18 conduct enforcement on MMAR grows, that potential  
19 exists, but I don't think that's what he's getting  
20 at here in his statement. He's indicating that  
21 he's looking at the medical growers that are  
22 linked to organized crime, and that should --  
23 if all the grows were tackled, it has the  
24 potential to cripple the courts.

25 Given the fact that we know that there's over

1           17,000 productions in British Columbia alone,  
2           that would be a logical inference that enforcement  
3           on 17,000 could potentially cause that to happen,  
4           but I don't believe he's saying that. He's saying  
5           that they want to target organized crime.

6    145    Q   He's saying if you went after all of them, it  
7           would have the potential to cripple the courts,  
8           isn't he?

9    MR. BRONGERS: Well, Mr. Conroy, the witness has really tried  
10           to assist you here, but obviously he can't speak  
11           for Inspector Fleugel. He's given you his  
12           personal opinion, and I think you're entitled to  
13           ask that, but you're not entitled to ask him  
14           whether he knows what's in Inspector Fleugel's  
15           mind.

16   MR. CONROY:

17   146    Q   You agree with what Inspector Fleugel says here,  
18           don't you?

19           A   In this context, yes.

20   MR. CONROY: Marked as the next exhibit, please.

21   MR. BRONGERS: No, we are not going to accept that we can mark  
22           newspaper articles as exhibits that he has not  
23           authored. Again, that's an entirely improper way  
24           of trying to enter evidence before the court.  
25           So we will agree that it can be marked for

1 identification but not as an exhibit.

2 MR. CONROY: All right. Let's mark it for identification.

3 EXHIBIT C FOR IDENTIFICATION: Newspaper article  
4 featuring Inspector Dave Fleugel

5 MR. CONROY:

6 147 Q Paragraph 4 of your affidavit, you say over your  
7 nine years as a police officer, you've been  
8 involved in over 100 marijuana grow operation  
9 investigations. So what does that mean? 105?  
10 Could you be more specific?

11 A I've never kept track a log of the investigations  
12 that I've been involved with. Investigations or  
13 search warrants have been executed or  
14 investigations where I've participated in some  
15 form of background queries that I could expand  
16 that number to substantially larger.

17 148 Q All right. So here you say:  
18 "Over 100 investigations located primarily  
19 inside residences."

20 A Yes.

21 149 Q So you're telling me that there have been many  
22 others that weren't in residences; is that --

23 A That's correct.

24 150 Q And the ones that were inside residences,  
25 you don't distinguish here in this paragraph

1                   between those that were legal and those that were  
2                   illegal, do you?

3           A    No.

4    151    Q    And are you able to break it down, your over 100  
5                   estimate in terms of the residences?

6           A    Sorry, in relation to ...?

7    152    Q    You say that you've been involved in these  
8                   investigations. Can you tell me how many of them  
9                   were -- of these over 100 in residences, how many  
10                  were medical marijuana abuse situations?

11          A    Abuse situations, I would say at least half of the  
12                  ones, and more recently we've come across even  
13                  more abuses.

14    153    Q    All right. Well, you see -- you're saying "we,"  
15                  so you're now telling us about information that  
16                  other officers have given you or the force  
17                  generally?

18          A    No, sorry. I'm talking about me. I've become  
19                  aware of more of them.

20    154    Q    All right. So how many? Can you be specific in  
21                  terms of how many specific Medical Marijuana  
22                  Access Regulation grows you have been involved in  
23                  investigating?

24          A    If you clarify "investigating," I'll be able to  
25                  give you a better idea. If you're talking

1 investigations of just conducting queries,  
2 electrical consumption, some surveillance versus  
3 executing search warrants at those locations,  
4 there's a difference.

5 155 Q All right. Well, how many convictions have you  
6 obtained in these investigations that involve  
7 Medical Marijuana Access Regulation cases?

8 A Convictions that I've personally been involved  
9 with ...

10 156 Q Or that you have specific records that the police  
11 force has or your team.

12 A I do have some matters before the court where  
13 informations have been laid against MMAR persons,  
14 and those are pending. I'm also what's part of  
15 the crime task force, which I mention in here,  
16 where medical marijuana grows -- where search  
17 warrants were located and -- sorry, where search  
18 warrants were executed at.

19 157 Q Do you have any conviction obtained involving a  
20 medical marijuana access grow yourself?

21 A Personally, no.

22 158 Q None? In your nine years -- and you know the  
23 program has been in effect for more than your nine  
24 years as a police officer -- you haven't obtained  
25 a single conviction for medical marijuana access

1 abuse; is that correct?

2 A Conviction for access abuse, personally, no.

3 159 Q Are you aware of specific statistics for the  
4 country in relation to medical marijuana  
5 convictions for abuse?

6 A I'm not aware of specific statistics, no.

7 160 Q So you don't know --

8 A It makes it difficult in the sense that having a  
9 licence prohibits police to further investigate  
10 those for abuses without a substantial amount of  
11 resources.

12 161 Q All you have to do is call the Health Canada  
13 number if you suspect that you need to know  
14 whether it's a legal or illegal grow that you're  
15 investigating; correct?

16 A That's correct.

17 162 Q And then you continue to do the same things as you  
18 normally do in an investigation, don't you?  
19 You find out from the neighbours if there's all  
20 kinds of vehicles going in and out at all times of  
21 the night and other indicia to indicate that maybe  
22 the person's abusing the licence; is that right?

23 A Well, abusing the licence is not necessarily the  
24 persons coming and going. We have found --  
25 and some examples that I've attached to this

1 affidavit indicate large scale abuses where  
2 marijuana is produced and then moved from that  
3 location, not trafficking from that location.  
4 So for police to investigate an address that has a  
5 legal site would require multiple months of  
6 surveillance to observe that shipment of marijuana  
7 leave that site to be trafficked on a larger  
8 scale.

9 163 Q Do you have any statistics in terms of convictions  
10 for that type of abuse under the MMAR program?

11 A No, I do not.

12 164 Q Are you aware that there exists such statistics  
13 anywhere to show us how many convictions there  
14 have been for these abuses?

15 A I do not know.

16 165 Q For any of the offenses? For possession, for the  
17 purpose of possessions, trafficking, production,  
18 you have no statistics of convictions for people  
19 abusing the program; is that correct?

20 MR. BRONGERS: Mr. Conroy, the witness has said he doesn't  
21 know. You're perfectly entitled to ask these  
22 questions on discovery, and if they are relevant,  
23 we will produce them to you, but this witness  
24 doesn't have that information.

25 MR. CONROY:

1 166 Q There is nothing in your affidavit to tell us how  
2 many convictions or the lack thereof under the  
3 MMAR program of abuses, is there?

4 A No, there isn't.

5 167 Q I guess another impact that people have, if they  
6 will continue to do this after March 31st, is if  
7 they're doing it on their property, they might get  
8 subjected to forfeiture laws as well; isn't that  
9 right?

10 A Potentially.

11 168 Q And referral to the BC Civil Forfeiture office is  
12 another potential impact, isn't it?

13 A Potentially if we investigate them, yes.

14 169 Q Which under either program could result in the  
15 patient losing their residence; isn't that  
16 correct?

17 A The person producing marijuana illegally after  
18 April 1st, yes, that would --

19 170 Q Even though they may be a medical patient that's  
20 suffering from an illness and is approved by their  
21 doctor, they'll nevertheless be facing those  
22 similar potential consequences; isn't that fair?

23 A Potential. But my mandate here is the organized  
24 crime into large-scale grows; I'm not --  
25 personally our unit is not involved in going after

1 or enforcement on situations where we've got very  
2 small marijuana amounts.

3 171 Q We hear of people that weren't even convicted of  
4 offenses being referred to the civil forfeiture.  
5 Are you aware of that?

6 A Yes, I'm aware of one case that happened in  
7 Chilliwack, and it did not involve medical  
8 marijuana or marijuana at all.

9 172 Q Okay. So you're not familiar with the marijuana  
10 one where that's happened?

11 A It was civil forfeiture and marijuana and the  
12 person wasn't convicted?

13 173 Q Yes.

14 A No, I'm not aware of that one.

15 174 Q You refer people to the civil forfeiture office  
16 when you've done these investigations. Are you  
17 saying you would only do it for a large scale one?

18 A For MMAR investigations, I have personally not  
19 referred any MMAR investigations to civil  
20 forfeiture. The most recent one, I can say,  
21 was two years ago, and it was an illegal grow  
22 operation.

23 175 Q You say in that paragraph that you've talked to  
24 medical marijuana grow -- paragraph 4, spoken to  
25 numerous MMAR growers and then you go on to say

1           that you've harvested some bud. How many MMAR  
2           growers have you talked to?

3           A    Between six to ten.

4    176    Q    And have you talked to them in terms of their  
5           situation, their medical issues, and why they're  
6           doing it and how they're doing it and so on?

7           A    Yes.

8    177    Q    And have you been able to go into their residences  
9           and see how they're looking after such things as  
10          mold or fire risks or these sorts of things?

11          A    Have I talked to them about the mold or fire or  
12          have I been into their house?

13    178    Q    Both.

14          A    Both? Yes, I've been into some MMAR locations.  
15          And specifically about mold, no, I haven't  
16          specifically asked what they're doing to mitigate  
17          that. But going into those houses, I have found  
18          that the grow was often in the basement and  
19          walking into the residence immediately smelling an  
20          overwhelming smell of marijuana.

21    179    Q    But not smelling it outside the residence?

22          A    Not smelling it outside, no.

23    180    Q    You know that smell is easily controllable by  
24          charcoal filters, don't you?

25          A    Not easily controlled, no. As plants get closer

1 to the flowering stage, they tend to smell  
2 substantially more. And we're able to locate MMAR  
3 grows and illegal grows that have used charcoal  
4 filters and ionizers and moth balls and all that  
5 sort of stuff, and we're able to identify smell  
6 from those facilities.

7 181 Q And these are all anecdotes in terms of you and  
8 your fellow officers in terms of investigations;  
9 correct?

10 A Anecdotes?

11 182 Q Well, we don't have any specific statistics,  
12 either on the problem of smell and marijuana  
13 grows, for example, do we?

14 A Not in this affidavit, no.

15 183 Q Or anywhere, do we?

16 MR. BRONGERS: Well, again, Mr. Conroy, we can ask those kinds  
17 of questions on discovery. The witness has  
18 answered your question about whether it's in his  
19 affidavit. Those statistics are not there.  
20 You've got that.

21 MR. CONROY:

22 184 Q I gave my friend some examples of some people  
23 involved in medical marijuana grows, and I wonder  
24 if you've had a chance to look at them, Officer.  
25 This might be an opportune time. I'll produce

1                   them to you.

2   MR. BRONGERS:  For the record, no, we have not gone through  
3                   these documents together before now.

4   MR. CONROY:  Okay.

5   185    Q   I'm going to ask you to -- well, I'm going to put  
6            to you, then, the first one is one from a  
7            Mr. Rick Landin.  Do you have that?

8            A   Yes, I see the name Rick Landin on this document.

9   186    Q   So he describes his background and so on in the  
10           first paragraph and says that he's currently dying  
11           and wasting away from AIDS and that the government  
12           marijuana prices are too expensive for him.  
13           So that's why he received approval to grow his  
14           own.  Do you see that in the second paragraph?

15          A   Yes.

16   187    Q   And he then explains how that helps him in terms  
17           of his appetite and his peripheral neuropathy in  
18           his legs.

19          A   Yes, that's what this says.

20   188    Q   He says that he set it up in a spare bedroom; that  
21           he had an electrician install breaker switches,  
22           one for each light and ballast; put in a portable  
23           air conditioner used in the grow room to keep the  
24           heat under control; and that he grows  
25           hydroponically and gives the plants their optimum

1                   nutrients after doing research online on the  
2                   specifications.

3           A    Yes, that's what the paragraph says.

4   189   Q    And you'll see that he says that he tried to --  
5                   or he sent a letter to Health Canada asking to be  
6                   grandfathered and never got a response.

7           A    That's what this says, yes.

8   190   Q    He says that he's on a disability income and that  
9                   that's why he makes -- baked products from the  
10                  shake that's easier on his lungs instead of  
11                  smoking.

12          A    Yes.

13   191   Q    He says that his licence is for 15 plants,  
14                  90 grams per month, and that his weight has been  
15                  increasing and his neuropathy has decreased.

16          A    Yes.

17   192   Q    And that he received the letter from Health Canada  
18                  identifying himself on April 1st, 2014 [sic], as a  
19                  patient.

20          A    Yes.

21   193   Q    And that he grows the medicine to keep himself  
22                  alive.

23   MR. BRONGERS:  Mr. Conroy, are you just going to read the  
24                  whole letter out and ask the witness to answer  
25                  whether he can read the same words?

1                   Again, we've seen this happen now with  
2                   several documents, you're attempt to enter this  
3                   into evidence through this witness by simply  
4                   having him acknowledge that those words are on the  
5                   page, and that is completely improper. If you  
6                   have a question about what this person has  
7                   written, that's fine.

8   MR. CONROY: I have a question that I'll come to once I've put  
9                   the rest of the document to him, Mr. Brongers.

10   MR. BRONGERS: Continue.

11   MR. CONROY:

12   194    Q   And you see that at the bottom -- second paragraph  
13                   from the bottom, he says that he's willing to pay  
14                   to have his grow room checked on a regular basis.

15            A   Yes, I see that.

16   195    Q   And that he wants to be able to keep living to --  
17                   marijuana keeps him alive, and he wants to provide  
18                   the medicine for himself.

19            A   Yes, this is his opinion in this document.

20   196    Q   Well, he's setting out his situation, isn't he?

21   MR. BRONGERS: Mr. Conroy, we're not going to engage in that  
22                   kind of debate about what Mr. Landin meant when he  
23                   wrote this letter that this witness has never  
24                   seen. The witness has never met Mr. Landin,  
25                   he doesn't know him, and my patience is wearing

1                   thin with this approach.

2   MR. CONROY: I didn't ask him that question; I simply put to  
3                   him what Mr. Landin says.

4   197    Q   That's what he says there, isn't it?

5                   A   Yes.

6   198    Q   Okay. So when you talked with the numerous MMAR  
7                   growers that you mention in paragraph 4, did you  
8                   speak to people like this who describe this type  
9                   of a situation to you?

10                  A   No.

11   199    Q   Okay. So in all of your investigation in terms of  
12                  the problems and so on, you didn't take into  
13                  account, then, I take it, people like Mr. Landin  
14                  who says that they can't afford government prices  
15                  and that they're willing to pay to be inspected  
16                  and all these sorts of things.

17                  A   If someone came forward and offered me to take a  
18                  look in a medical grow, I would have jumped at the  
19                  opportunity if that was given to me. But I  
20                  have -- no one has ever come to the detachment or  
21                  willingly offered for me to go into their medical  
22                  marijuana grow to have a look. I've been --  
23                  on occasion, I've gone with bylaws to assist a  
24                  building inspection, and their lawyer was on scene  
25                  and refused access to the grow.

1 200 Q So none of the people you spoke to that you  
2 mention in paragraph 4 fit into the type of  
3 category of Mr. Landin that I just read to you?

4 A No.

5 MR. CONROY: Okay. Can I ask that Mr. Landin's email be  
6 marked as an exhibit.

7 MR. BRONGERS: I will object to it being marked as an exhibit.  
8 It can be marked for identification. Again, this  
9 is an improper attempt to introduce documentary  
10 evidence.

11 MR. CONROY: Let's mark it for identification, please.

12 EXHIBIT D FOR IDENTIFICATION: Rick Landin's email

13 MR. CONROY:

14 201 Q In paragraph 5, you talk about training Health  
15 Canada inspectors. There aren't very many of  
16 them, are there?

17 A No.

18 202 Q And one of the problems with the entire program  
19 was the lack of inspections by Health Canada.  
20 Wouldn't you agree?

21 A That is one of the contributing factors, yes.

22 203 Q Had they inspected some of the concerns that you  
23 identify, it could have been ameliorated or  
24 remediated. Wouldn't you agree?

25 A On those specific cases, yes. But given the

1 current numbers of 17,000 production sites in BC  
2 alone, the amount of money and resources it would  
3 take for Health Canada to do that would be  
4 astronomical.

5 204 Q That's a resource issue, isn't it?

6 A It is a resource issue, and it's an unmanageable  
7 resource issue, in my opinion.

8 205 Q Well, local governments have people who conduct  
9 inspections of premises on a regular basis for all  
10 sorts of things; isn't that right?

11 A Yes.

12 206 Q And they would normally inspect -- there's  
13 electrical inspectors, for example, to make sure  
14 that you've done things properly.

15 A Yes.

16 207 Q And that's one of the concerns, was that --  
17 electrical issues in these grow-ops; isn't that  
18 right?

19 A Yes.

20 208 Q And similarly people -- local inspectors go in  
21 to see if the thing has been constructed properly,  
22 the house, or if it's in the right zone or any  
23 number of these types of issues. Fair enough?

24 A If there are various reasons to do so, yes.

25 209 Q And so if the privacy issue of the patients,

1 in terms of their health issues and the fact that  
2 they're using marijuana are taken into account,  
3 did you look into whether an arrangement could be  
4 made between Health Canada and local governments  
5 in order to conduct these inspections and make  
6 sure that some of these problems are taken care  
7 of?

8 A I've asked Health Canada to conduct additional  
9 inspections, yes.

10 210 Q In conjunction with local government inspectors so  
11 as to use people who already do these types of  
12 inspections?

13 A Not specifically, no.

14 211 Q Do you agree with me that part of the problem was  
15 patients wanting to maintain their privacy over  
16 their medical condition and the fact that they  
17 were growing marijuana?

18 A Yes.

19 212 Q And that that made good sense to you as law  
20 enforcement, that the less publicity there is  
21 about where the marijuana grow is is better from a  
22 preventing crime perspective?

23 A The answer to that is possibly, in the sense that  
24 yes, that does make sense. But conversely,  
25 knowing -- police, knowing where those locations

1                   are should a grow rip occur, may judge a different  
2                   response by police knowing that it could be a grow  
3                   rip or a home invasion.

4    213    Q    Okay.  Because are you familiar with the  
5                   application form that people -- when they apply to  
6                   become personal producers?

7                   A    Yes.

8    214    Q    And is this a copy of the application form?

9                   A    Yes, there are a variety of forms here;  
10                  an application to produce and an application to  
11                  possess.

12   215    Q    This is the complete package of what people had to  
13                  do under the MMAR; correct?

14                  A    Not everybody, no.

15   216    Q    Well, I mean it allows for, first of all,  
16                  the authorizations to possess or the personal  
17                  production or the designated grower.  Those are  
18                  the different options.

19                  A    Out of those three options, depending on what  
20                  forms are required.  So a person who just wants an  
21                  application to possess, they wouldn't fill out the  
22                  designated personal production part of it nor the  
23                  property ownership aspect.

24   217    Q    And if you go to page 3 of 3, the first part,  
25                  it sets out the limited communication between

1 Health Canada and the police in relation to these  
2 types of licences; correct?

3 A Sorry, which paragraph are you referring to?

4 218 Q The top paragraph.

5 A Very top paragraph?

6 219 Q Yes.

7 A Yes, that's correct. In the context of a police  
8 investigation, it would be disclosed like this,  
9 not proactively.

10 220 Q But clearly if you're doing an investigation of a  
11 potential grow-op in order to determine whether it  
12 has a licence or not, you have a number that you  
13 can call in order to get the answer from Health  
14 Canada.

15 A That's correct.

16 221 Q And you can do that at the commencement of the  
17 investigation, can't you?

18 A Yes.

19 222 Q And you can do that from your squad car,  
20 can't you?

21 A We can do that via cellphone, yes.

22 223 Q So you could get that information fairly quickly  
23 as long as the time -- the offices are open and so  
24 on in the same time zone?

25 A Health Canada has a pager number, and there has

1                   been some delays in getting responses. Sometimes  
2                   it is very quickly, and sometimes it's been the  
3                   following day.

4    224    Q    If you go to page 2 of 3 of the medical  
5                   practitioners form, are you familiar with what's  
6                   there at B1-3, the proposed daily amount?

7                   A    Yes, I am.

8    225    Q    So you knew that Health Canada would provide  
9                   information as set out there and then leave it up  
10                  to the doctor and the patient to figure out what  
11                  was appropriate in the individual circumstances?

12               A    Yes. Health Canada makes the suggestion of 1 to 3  
13                  grams and then it leaves it open for the -- for it  
14                  to be filled in of what the gram amounts should  
15                  be.

16   226    Q    And that arises between the doctor and the  
17                  patient?

18               A    I haven't spoken to a doctor about getting it  
19                  myself, but I believe that's what it means, yes.

20   227    Q    Okay. And then if we go to page 1 of 3,  
21                  an application for licence to produce, first of  
22                  all, the patient has to specify the production  
23                  site, so Health Canada will have that information;  
24                  correct? In C2.

25               A    Yes.

1 228 Q And then if we go to C4, it also requires the  
2 person to specifically put in -- or describe  
3 security measures that they're going to take that  
4 are required; fair enough?

5 A Yes.

6 229 Q So we know that all of the legal medical marijuana  
7 production sites are required to have some sort of  
8 security system in place to prevent against thefts  
9 and things of that -- grow rips, things of that  
10 kind.

11 A Yes. It's for them to describe what efforts  
12 they're making.

13 230 Q But it's required by Health Canada and it's --  
14 they will have, as a result of having the  
15 application form, the details of the security  
16 system available to them; correct?

17 A Whatever they fill out, I believe, yes, they would  
18 have access to that.

19 MR. CONROY: Okay. Perhaps we can mark that as an exhibit,  
20 that application form.

21 MR. BRONGERS: And, again, we will object to that. It can be  
22 marked for identification but not as an exhibit.

23 MR. CONROY: Did you want to take a break? It's just after  
24 11:00 and -- I'll take a few minutes.

25 EXHIBIT E FOR IDENTIFICATION: Application form

1 (PROCEEDINGS RECESSED AT 11:10 A.M.)

2 (PROCEEDINGS RECONVENED AT 11:14 A.M.)

3 MR. CONROY:

4 231 Q Paragraph 5, you indicate that you provided  
5 training to Health Canada inspectors. Can you  
6 tell me how many?

7 A It was Health Canada inspectors and Health Canada  
8 managers. It was two occasions. The training --  
9 I flew to Ottawa and conducted training at the  
10 Canadian Police College for the Health Canada  
11 inspectors and their managers. There was  
12 approximately 15 to 20 people there.

13 232 Q Okay. And training them to -- as to how to  
14 conduct the inspections, what to look for, that  
15 sort of thing, or what?

16 A Not really to inspections, just education on  
17 marijuana itself regarding the strains, the light  
18 cycles, the equipment used to grow marijuana.

19 233 Q Just to touch on that, you mention in part of your  
20 affidavit the grow cycle and how some people can  
21 do it within two months or three months and those  
22 sorts of things. Those are people who are trying  
23 to crank it out in order to sell it; isn't that  
24 correct?

25 A No. A lot of the -- let me rephrase the numbers.

1           There's at least two of the MMAR growers that I  
2           spoke to that run a 90-day cycle with their grow.

3   234    Q   But the people who are -- that -- to whom it's  
4           important to get it out the door and so on are  
5           people who are trying to sell this stuff more than  
6           somebody who is just doing it for themselves [sic].  
7           Wouldn't you agree?

8           A   Someone doing it for themselves to have a  
9           continual supply, they may end up using a short  
10          cycle like that to ensure a fresh supply of  
11          marijuana.

12   235   Q   Or a long cycle because they're working on their  
13          product and they're not anxious to -- they're not  
14          in a hurry to put it out.  Wouldn't you agree?

15          A   Potentially.

16   236   Q   Have you read the affidavit of the plaintiff,  
17          Neil Allard for example?

18          A   I did and it was a while ago.

19   237   Q   But you see how he explains his situation in terms  
20          of how sometimes he messes up and doesn't get  
21          enough and, you know, takes his time doing it,  
22          that sort of thing?

23   MR. BRONGERS:  Why don't we just put Mr. Allard's affidavit to  
24          the witness so that he can actually answer the  
25          question with some knowledge of what was said as

1                   opposed to testing his memory.

2                   Is there a paragraph that you want to point  
3                   to, Mr. Conroy?

4   MR. CONROY:

5   238    Q   All right. Well, first of all, I take it you read  
6            about, paragraph 3, his financial circumstances  
7            and inability to be able to afford or --  
8            basically, in paragraph 3, setting out his  
9            financial circumstances and pensions and so on?

10           A   Yes.

11   239    Q   And the nature of his illness at paragraph 4?

12           A   Yes.

13   240    Q   And that he has a sensitivity to pharmaceutical  
14            medications, paragraph 6?

15           A   Yes.

16   241    Q   And how, paragraph 7, he couldn't afford the  
17            compassion club prices and that's how he learned  
18            to grow it for himself?

19           A   Yes.

20   242    Q   And compassion club prices are essentially black  
21            market prices, aren't they? People call it grey  
22            market, but it's just like the black market, isn't  
23            it? It's illicit prices.

24           A   Illicit prices, although I have found some  
25            compassion prices to be higher than street value.

1 243 Q Even higher than the street. Okay.

2 And then if you drop down to paragraph 10,  
3 you see how he did research about growing and how  
4 to keep the cost down and took a course and  
5 everything, educated himself?

6 A Yes.

7 244 Q And paragraph 13, how he made inquiries of Health  
8 Canada about safety issues and inspections and so  
9 on and didn't get any help from them?

10 A I can't speculate on the conversation he had with  
11 Health Canada, but --

12 245 Q Of course you can.

13 A -- he does say that in his affidavit.

14 MR. BRONGERS: Just to be clear, Mr. Conroy is just asking you  
15 to confirm that you've read these paragraphs,  
16 not that you actually know that they're true or  
17 not.

18 THE WITNESS: Yes.

19 MR. CONROY:

20 246 Q And in paragraph 14 at the end, how he would  
21 produce outdoors in the summer and in a greenhouse  
22 as a way of substantially saving on electrical  
23 costs?

24 A Yes.

25 247 Q You're aware that a number of growers would do

1                   that?

2                   A    No, I'm not, actually.

3    248        Q    You didn't know that?  Put it out on the balcony  
4                   in the summer to save electricity costs?

5                   A    I have seen that, but in greenhouses, we haven't  
6                   seen -- I personally haven't seen a lot of those.

7    249        Q    Okay.  And you're aware, as he says in  
8                   paragraph 15, that he was growing in his basement  
9                   and designed the site and had it properly  
10                  insulated with professional wiring and venting and  
11                  all the rest of it?

12                A    That's what he's saying here, yes.

13   250        Q    And I take it that -- well, and then he continues  
14                  that he had electricians, certified electricians  
15                  and contractors and hydro, and he even attaches  
16                  the electrical inspection report, Exhibit K.

17                A    It looks like it says, "rough wire inspection  
18                  required."

19   251        Q    But my point is you understand that he involved  
20                  certified electricians and contractors and so on  
21                  in doing the whole thing --

22                A    Yes.

23   252        Q    -- not just some fly-by-night jitney sort of  
24                  operation?

25   MR. BRONGERS:  Well, Mr. Conroy, again, let's be careful with

1           this. The witness -- you're certainly entitled to  
2           get the witness to confirm what is said here,  
3           but the witness obviously has no personal  
4           knowledge of Mr. Allard's circumstances.

5   MR. CONROY:

6   253    Q   Do you see in paragraph 16 how he deals with  
7           humidity and risk of mold and these sorts of  
8           things?

9           A   Yes, I see that.

10  254    Q   And to the end of that paragraph, how he uses oils  
11          and tinctures and -- for his own personal use?

12          A   Yes, that's what he says.

13  255    Q   And then, again, how he's grown outdoors and in  
14          greenhouses to keep the cost down?

15          A   Yes.

16  256    Q   And then he deals, to some extent, with his  
17          security in paragraph 17, motion detectors, and at  
18          the bottom, CO2 and smoke alarms.

19          A   Yes.

20  257    Q   And at paragraph 20, how he uses the buds and  
21          leaves, vaporizes them, sometimes chews them,  
22          makes edible oils, topical oils, and has found  
23          that many strains don't work for him and how he's  
24          figured out which ones do.

25          A   He says he's working with 13 different strains.

1 258 Q If you go to the top of page 7, see where he says  
2 he's identified some which he rotates for specific  
3 needs.

4 A Rotates. That's correct.

5 259 Q And his concern about not having access in the  
6 future. That's what he says there?

7 A Yes.

8 260 Q And photograph 21, in particular, how he can't  
9 afford the black market prices. And he goes into  
10 some detail there in terms of the estimated  
11 licensed producer prices and what it would cost  
12 him and so on?

13 A That's what he's claiming.

14 261 Q You never looked into these sorts of situations in  
15 setting out your materials, did you?

16 MR. BRONGERS: Could you be a bit more specific, Mr. Conroy.

17 These types of situations --

18 MR. CONROY:

19 262 Q A situation like Mr. Allard where you've got a  
20 person who has engaged professionals in order to  
21 do -- make sure that his grow-op is done by  
22 certified electricians and, you know, taken into  
23 account mold issues, public safety issues,  
24 and done things in order to avoid or ameliorate  
25 any of the problems that you identified.

1           A    I've also seen that as well in the trafficking of  
2                    marijuana where the product is valuable.  
3                    And organized crime groups -- we have seen through  
4                    investigations and through my attachments here  
5                    where efforts that were made to ensure that  
6                    there's no mold on their plants because it gives  
7                    them a higher value. So the legitimate person  
8                    could go to these extents and also the organized  
9                    crime group could possibly go to those extents as  
10                  well.  
11        263    Q    All right. But the problem that you identify as  
12                  being one of the concerns is mold; isn't that  
13                  right?  
14                  A    That's correct.  
15        264    Q    But you don't have a single medical report or  
16                  hospital admission or other data in your materials  
17                  of one individual suffering from a mold problem  
18                  who's involved in a medical marijuana grow,  
19                  do you?  
20                  A    Suffering from a mold problem. Through my  
21                  investigations, it's never led to the health of  
22                  someone involved in operating a medical grow  
23                  operation. So, for example, I mention a double  
24                  homicide that occurred, and I showed some pictures  
25                  of the molding inside that residence. I wasn't

1           involved in taking the person to the hospital to  
2           determine if they had any respiratory issues from  
3           being in that facility.

4    265    Q   The person didn't even complain about it, did  
5           they?

6           A   Not that I'm aware of.

7    266    Q   You didn't know whether they even suffered from  
8           any mold problems, do you -- or did they?

9           A   Not that I'm aware of.

10   267    Q   So my point is is that you mentioned mold as a  
11          source of health concern, but -- you live in  
12          British Columbia?

13          A   Yes.

14   268    Q   You live in the West Coast rainforest?

15          A   Yes.

16   269    Q   Do you know that if you don't turn the fan on  
17          after you've had a shower that you're going to get  
18          mold in your bathroom?

19          A   Potentially mold could grow, yes, in a humid  
20          environment.

21   270    Q   Yes. So it's all about moisture, isn't it? Too  
22          much moisture. That's what mold -- the source of  
23          mold.

24          A   No.

25   271    Q   You're not an expert on mold, are you?

1 A No, I'm not.

2 272 Q You don't, in your material, deal with all of the  
3 ways that you can deal with mold to correct a mold  
4 problem, do you?

5 A No, I don't.

6 273 Q You simply show us a photograph of mold in a  
7 double homicide investigation, but you don't deal  
8 with how you correct mold problems or can prevent  
9 mold, do you?

10 A No, I don't.

11 274 Q And you know that that can be done?

12 A At a substantial cost, I'm aware that it can be  
13 done to mitigate -- and once mold has been  
14 developed, to go in and basically tape off the  
15 environment, remove the infected material, and  
16 replace --

17 275 Q You're talking once there's been a problem?

18 A Once a problem has been identified and it needs to  
19 be remediated after the fact.

20 276 Q But you know that it can be prevented, mold.

21 A Potentially, yes.

22 277 Q By having a dehumidifier plugged in, for example.

23 A Yes. It does control the mold situation, yes.

24 278 Q A five-dollar thing on your wall that tells you  
25 what the humidity in your room is. You can get it

1 from Home Hardware. You know that, didn't you?

2 A Yes, that does have an effect to control mold in a  
3 residence --

4 279 Q So you --

5 MR. BRONGERS: I wonder if you could let the witness finish  
6 his sentence.

7 MR. CONROY: Sorry.

8 THE WITNESS: However, in marijuana grow operations, the  
9 plants require an excess amount of water, and the  
10 heat from the lights also cause that to evaporate  
11 into the environment.

12 MR. CONROY:

13 280 Q But you know that if a person has one of these  
14 devices on the wall that tell you what the  
15 humidity is and has a dehumidifier plugged in and  
16 properly drained and so on that they can prevent  
17 mold from happening; isn't that correct?

18 A Are you talking about preventing mold from  
19 happening in a residence or in a residence with a  
20 grow operation?

21 281 Q In a residence with a grow operation.

22 A It would have to be a significant amount of  
23 dehumidifiers present to accommodate the excess  
24 water that gets into that environment from  
25 watering those plants.

1 282 Q But you're not an expert on mold, are you?

2 A No.

3 283 Q So how can you say that it would take a special  
4 type of dehumidifier?

5 A I would say it would take a large amount of  
6 dehumidification to get rid of that water that  
7 would be in that environment. You had mentioned  
8 that a bathroom, for example, would have mold  
9 without a dehumidifier. The same thing  
10 potentially happens in a grow except that it's in  
11 a really humid environment.

12 284 Q But it depends on the size of the grow too,  
13 doesn't it?

14 A That has a bearing on it, yes.

15 285 Q So there's a number of different variables that go  
16 into it, but there are available techniques and  
17 pieces of equipment and other things that can  
18 prevent mold from happening in a residence with a  
19 medical grow operation in it, aren't there?

20 A Yes, potentially.

21 286 Q And one of them, the Bloom Box. You familiar with  
22 a Bloom Box?

23 A Are you talking about a portable grow closet,  
24 so to speak?

25 287 Q Yes, a portable grow operation. I'll give this to

1           you, a document. Are you familiar with a Bloom  
2           Box or something similar?

3           A    I'm familiar with it, but I haven't seen one at a  
4           grow operation.

5   288   Q    But you know that they are complete contained  
6           units that are CSA approved that you simply plug  
7           into the wall and they take care of not only  
8           humidity but they're safe electrically and they  
9           prevent smell, don't they?

10          A    I don't know if they prevent smell. I've never  
11          actually seen one in operation with marijuana  
12          plants in it to indicate if there -- if it's smell  
13          proof or not. But I have seen some online  
14          articles regarding this, and they're fairly  
15          expensive. And in relation to some of the  
16          licences that are currently in existence, some of  
17          these are nine apiece. Someone would require 60  
18          of those boxes for some of the licences that exist  
19          right now.

20   289   Q    But it depends on the size of your licence;  
21          correct?

22          A    That's correct.

23   290   Q    So you could have a small licence in a small box  
24          like that that would address all of the issues  
25          that you've identified to do with mold,

1           electrical, and smell; isn't that correct?

2           A    For the small licences, yes.  But we know the  
3           average licence that is in existence with Health  
4           Canada under the MMAR is significantly more than  
5           nine plants.

6    291    Q    Did you know that they cost about \$2,500?

7           A    I was aware there were around that.  Between 25-  
8           and \$5,000.

9    292    Q    All right.  And so you can get bigger ones than  
10          the one that's in the document I've put before  
11          you?

12          A    It's possible but then you're going to the size of  
13          a room, and it would be cost prohibitive to --

14    293    Q    Greater cost.  But it's a question of degree,  
15          isn't it?  If you're able to produce or  
16          manufacturer a box like that for up to nine  
17          plants, it can be -- they can make them bigger to  
18          accommodate more plants, or ultimately you could  
19          make a room like that at considerable cost to  
20          achieve the same solutions to the problems that  
21          you've identified; isn't that correct?

22    MR. BRONGERS:  Mr. Conroy, I'm not sure I understand that.

23                  Could you break that down?  It's a pretty  
24          complicated --

25    MR. CONROY:

1 294 Q You agree that that box addresses all of the  
2 concerns of health, mold, electrical, and even  
3 public safety to the extent of reducing smell,  
4 to some extent, for a small operation?

5 A Yes. But when you're talking health and safety  
6 concerns, it still is -- would be a confined space  
7 in the sense that someone would be in there.  
8 And if it was a larger area, they would be  
9 manoeuvring around those hot lights and be working  
10 in a very humid environment.

11 295 Q Yes, but steps can be taken, as demonstrated by  
12 the Bloom Box. Either on a small or bigger or  
13 even a full room, there are steps that you can  
14 take to address mold, electrical safety, and  
15 smell, and humidity through these systems; isn't  
16 that right?

17 A These mitigate some of the electrical concerns.

18 296 Q Well, they mitigate them substantially, don't  
19 they? If they are CSA approved, then you're just  
20 plugging them in; right?

21 A Potentially.

22 297 Q Well, you agree with me that if somebody has a  
23 certified electrician put everything together for  
24 them, then there's far less likelihood of an  
25 electrical problem than if they try to do it

1           themselves or have some friend do it for them;  
2           correct?

3           A    Yes, in the wall, in that sense.  But it doesn't  
4           prevent someone from plugging in multiple plugs  
5           into a socket and overloading it, causing that to  
6           potentially catch fire.

7   298    Q    Do you have one example of that actually happening  
8           in your nine years?

9           A    I've -- I'm aware of grow operation fires that  
10          have occurred, but I haven't investigated the fire  
11          angle personally to determine what the exact  
12          nature that caused that fire was.

13   299    Q    So if I was to say to you, look, can you give me  
14          the statistics of how many mold problems were  
15          found in illegal grows in 2001, you couldn't tell  
16          us that, could you?

17          A    No, I could not.

18   300    Q    You couldn't tell us how many mold problems have  
19          existed in a legal grow that's been put together  
20          properly, can you?

21          A    No, I can't.

22   301    Q    You can't tell us how many legal grows there are  
23          where people do use dehumidifiers and other things  
24          in order to address mold or moisture concerns,  
25          do you -- can you?

1           A    During investigations, those dehumidifiers have  
2                    been seized in grow operations.  And as for the  
3                    investigating the mold aspect, that -- part of my  
4                    duties is the enforcement of the criminal code and  
5                    not mold enforcement.  So that ultimately falls  
6                    with the bylaws of that jurisdiction.

7    302    Q    But you mention mold in your material as being one  
8                    of the concerns arising of people continually to  
9                    personally produce for themselves; isn't that  
10                  correct?

11           A    Yes.

12    303    Q    But you don't anywhere in your materials provide  
13                  us with any information about how steps can be  
14                  taken in order to prevent mold, do you?

15           A    No, I don't.

16    304    Q    And so you only present one side of the situation  
17                  on the mold issue, don't you?

18    MR. BRONGERS:  Mr. Conroy, now you're just arguing with the  
19                  witness.

20    MR. CONROY:  This is cross-examination, Mr. Brongers.

21    MR. BRONGERS:  No.  Mr. Conroy, we are objecting to engaging  
22                  in that kind of debate.  Asking the question,  
23                  you're only presenting one side of the story,  
24                  and that's a completely improper question.

25    MR. CONROY:

1 305 Q There is nothing in your affidavit that addresses  
2 the things that can be done to prevent mold in a  
3 personal production facility, is there?

4 A No.

5 MR. CONROY: Thank you. Could we have that marked as an  
6 exhibit, please.

7 MR. BRONGERS: And we will object to having it marked as an  
8 exhibit.

9 EXHIBIT F FOR IDENTIFICATION: Printout out from  
10 the website of the Bloom Box V3.0

11 MR. CONROY:

12 306 Q So let's, then, go to fires. Can you give us the  
13 statistics for the number of fires that have  
14 occurred in an illegal grow operation during your  
15 investigations?

16 A No, I can't.

17 307 Q Can you give us the number of fires that have  
18 occurred in a legal grow where the grow was not  
19 put together by a certified electrician?

20 A I don't know what the grower would've -- I haven't  
21 seen any documents that indicate that it was  
22 certified electrically.

23 308 Q So you don't know? You don't have any  
24 information?

25 A No, I don't.

1 309 Q You don't have any statistics to show us what the  
2 number of fires were or anything like that,  
3 do you?

4 A No.

5 310 Q And you don't have any statistics or information  
6 about fires in legal grows that were put together  
7 properly by certified electricians and other  
8 professionals in order to address the concerns  
9 that you have?

10 A No. I am aware, though, of two media reports just  
11 from watching the news of late about a fire that  
12 happened in Langley at a medical grow operation  
13 and an explosion that happened in Surrey as a  
14 result of somebody making oil, marijuana oil.

15 311 Q And when you say you rely on the media accounts,  
16 I take it you accept that the media may not be  
17 telling the whole story?

18 A I actually did speak with the sergeant in charge  
19 of the detachment regarding the fire that happened  
20 last week, and I did speak with the sergeant in  
21 charge who responded to that -- the scene of that  
22 explosion.

23 312 Q But you are aware that there have been some where  
24 fires have happened in a room adjacent to the  
25 medical grow and that the medical grow had nothing

1 to do with the fire? You're aware of that?

2 A No, I'm not.

3 313 Q Specific case in Chilliwack. You're not aware of  
4 it? No? Okay.

5 But in any event, you don't give us --  
6 in your material, you mention fires as one of the  
7 risks, right, in your material?

8 A Yes. I do reference one of my attachments here  
9 that indicate that -- some studies have been done  
10 to indicate that there was a higher risk of fire  
11 in a grow operation versus a regular residence.

12 314 Q And that's an anecdotal account, isn't it? Just a  
13 story somebody's telling you about that; isn't  
14 that right?

15 A I believe it actually is sourced in that document.

16 315 Q Okay. Well, can you tell me how many legal grows  
17 have had fires where the legal grows have been put  
18 together by professionals?

19 A No, I cannot.

20 316 Q You can't tell me of one, can you?

21 A No, not off the top of my head. No.

22 317 Q And you can't tell me of one in a legal grow where  
23 you have the specific stats or anything, even  
24 where the people haven't put it together properly,  
25 can you?

1           A    Sorry.  The question?

2    318    Q    A legal grow that was not put together by  
3           professionals, how many fires?

4           A    I don't know who the electrician was that put any  
5           of these together.  So I couldn't comment on if it  
6           was a legal electrician or illegal electrician.

7    319    Q    How many fires have there been in medical grows,  
8           to your knowledge?  Statistics, not just anecdotes  
9           from other people telling you and watching it on  
10          the news.

11          A    Statistics -- across the country or just in BC?

12    320    Q    Start with across the country.

13          A    From December to now, there is probably three or  
14          four that I'm aware of.  And the ones I just  
15          mentioned of recent in the Lower Mainland, I know  
16          in December we had one in Abbotsford, a barn fire  
17          at a MMAR grow.  Then we had the one in Langley  
18          that I just mentioned and this recent explosion in  
19          Surrey where the occupant will probably succumb to  
20          his injuries.  I don't believe that was a medical  
21          grow operation, but he was still --

22    321    Q    Okay.  So two cases?

23          A    Two in the Lower Mainland that I'm aware of since  
24          December.

25    322    Q    And you say there's 17,000 grows in BC?

1           A    Yes.

2    323    Q    And you're aware of two that you've been told  
3            about?

4           A    Two that I've been told about -- well, that I've  
5            looked at since December until now.

6    324    Q    When you say "looked at" -- sorry.

7           A    So what I've done is I've looked at the media  
8            reports and read the police report.

9    325    Q    Okay. And the matter is still ongoing, is it?

10          A    Yes.

11   326    Q    So you don't have an example of one that was  
12            ultimately -- come to a conclusion and determined  
13            that the fire was as a result of poor wiring or  
14            whatever it might be in a medical grow?

15   MR. BRONGERS: Sorry, Mr. Conroy. What do you mean by "come  
16            to a conclusion"?

17   MR. CONROY:

18   327    Q    That the fire was caused -- that there was a fire  
19            in the medical grow as a result of failing to take  
20            proper steps.

21          A    No.

22   328    Q    So you can't give us any statistics about mold in  
23            specific medical grows, the instances or any  
24            problems people have had, can you?

25          A    Problems people have had in relation to their

1                   medical condition resulting from being at a  
2                   medical grow?

3     329     Q     Just any type of problem from mold in their  
4                   medical grow. You can't give us any statistics on  
5                   that, can you?

6                   A     No.

7     330     Q     Across the country or in BC; isn't that correct?

8                   A     That's correct.

9     331     Q     And the same is true about fires, then, isn't it?  
10                  You can't give us any statistics in terms of the  
11                  number of fires in a properly put together medical  
12                  grow across the country or in British Columbia,  
13                  can you?

14                 A     I haven't researched that, no.

15     332     Q     All of your information about mold and fires has  
16                  been information you've either seen on the news or  
17                  been told by other officers or by other persons;  
18                  am I right?

19                 A     Mostly from my knowledge of fires that occur,  
20                  it's the fire department that does the  
21                  investigation and ultimately determines the cause  
22                  of that, especially if it's a medical grow  
23                  location. Unless there's indicators of  
24                  trafficking or overproduction or things like that,  
25                  then police tend to be involved. But my direct

1                   experience dealing with these has not been a  
2                   result of determining the cause of the fire.

3    333    Q    Okay.  And the same with public health.  You talk  
4                   at different parts of your affidavit about the  
5                   concerns about pesticides and chemicals and so on.  
6                   Do you remember that?

7                   A    Yes.

8    334    Q    And did you grow up on a farm?

9                   A    No.

10   335    Q    You grew up in Chilliwack.  You know there's lots  
11                  of farms and lots of pesticides and chemicals  
12                  around?

13                A    Yes.

14   336    Q    And people on farms have children too, don't they?

15                A    Most likely, yes.

16   337    Q    So can you give me a statistic on how many people  
17                  have had a problem from a pesticide or a chemical  
18                  in a licensed medical grow in Canada?

19                A    No.

20   338    Q    Or in British Columbia?

21                A    No.

22   339    Q    Okay.  You agree with me that the risk in terms of  
23                  pesticides and chemicals is just as great if  
24                  you're living on a farm then if you had a legal  
25                  grow in your basement?

1           A    Most farmers tend to grow product outside or in  
2                   greenhouses and not inside residence where they  
3                   live.

4    340    Q    But the pesticides and the chemicals are in boxes  
5                   and containers around the farm, aren't they?

6           A    I can't speak to how farmers store their  
7                   pesticides, and I don't have a lot of experience  
8                   with how pesticides are stored on a farm.

9    341    Q    All right.  What about your own home and your own  
10                  kitchen, cleaning types of chemicals and so on?  
11                  You have some of those around your home?

12          A    Yes.

13    342    Q    You have children?

14          A    Yes.

15    343    Q    And have you seen the ad on TV about the man with  
16                  the two kids and the cough medicine that he leaves  
17                  on the counter?  Not familiar with that?

18          A    I don't think I have, no.

19    344    Q    And he almost makes a mistake, and the one child  
20                  gets the cough medicine.

21                  I mean, that's what you are talking about  
22                  when you talk about risk of children around  
23                  pesticides and stuff; isn't that right?

24    MR. BRONGERS:  The witness said he hasn't seen the commercial,  
25                  so he can't answer that question.

1 MR. CONROY:

2 345 Q All right. Well, you can't give me an example in  
3 any legal grow throughout the program of an adult,  
4 first of all, having a specific problem with  
5 chemicals or pesticides that they've been using in  
6 their grow, can you?

7 A No.

8 346 Q Or any children suffering as a result of the same  
9 thing in a legal medical grow, can you?

10 A Not confirmed documentation, no.

11 347 Q Do you agree with me that people have other types  
12 of chemicals and things around their homes often  
13 for various different uses that have nothing to do  
14 with legal medical grows? Fair enough?

15 A Yes.

16 348 Q Okay. So public safety. Your focus and primary  
17 involvement in terms of public safety has been the  
18 illicit market, the illegal market; fair enough?

19 A Yes.

20 349 Q People who are abusing, trying to make profit,  
21 taking advantage of the situation.

22 A Yes. And also we have complaints that come into  
23 detachments where they advise me of neighbour  
24 complaints about smells and so forth from medical  
25 grows.

1 350 Q Yes. We have in the materials a package of  
2 complaints that were -- with names blacked out in  
3 terms of privacy of the individuals that complain  
4 about smells and so on.

5 Would Health Canada -- let's put it to you  
6 this way: Health Canada wouldn't contact you when  
7 they got these complaints in order to have you  
8 follow up on them, did they?

9 A No. Not that -- personally --

10 351 Q That you know of?

11 A -- that I know of, that's correct.

12 352 Q And so if you got a complaint of smell and you may  
13 be investigating it, thinking it might be an  
14 illegal grow, that's when you would contact Health  
15 Canada to determine if it was legal or illegal,  
16 first of all?

17 A Yes.

18 353 Q And if the neighbours are complaining about smell  
19 and so on, would you go and talk to the patients  
20 and warn them about that and say, look, you've got  
21 smell, and that would attract, you know,  
22 bad people who want to rip you off, these sorts of  
23 things. Would you go and do that?

24 A I've done that on one occasion, yes.

25 354 Q One occasion.

1                   But there is a substantial number of  
2                   complaints, apparently, to Health Canada about  
3                   smell and so on. But you have only done it once?

4           A    It hasn't been -- I wasn't in the drug section at  
5                   the time when we were getting a lot of complaints.  
6                   I have heard through other detachments, but my  
7                   focus has not been dealing directly with the  
8                   public on complaints like this.

9    355    Q    So you can't give me any statistics or details  
10                   about that either, then?

11           A    For the province or Canada, no.

12    356    Q    Okay. And when you have illegal grows, as some of  
13                   the exhibits and the other material in your  
14                   affidavit shows, many times the people who were  
15                   involved in them are also involved in illegal  
16                   activity; isn't that correct?

17           A    You said "illegal grows." A lot of the exhibits  
18                   mentioned in here are MMAR grows.

19    357    Q    Well, no. You deal with illegal grows too in your  
20                   materials, don't you?

21           A    Illegal grows in -- sorry -- in the exhibits that  
22                   are attached here?

23    358    Q    Yes.

24           A    Most of them are MMAR grows.

25    359    Q    Most of them, but some of them -- I mean, there's

1 all kinds of examples in some of the reports of  
2 non-MMAR investigations and so on. Isn't that  
3 right?

4 A The majority, actually. Criminal expectations of  
5 Medical Marijuana Access Regulations --

6 360 Q This may help you: Do you remember the parts  
7 about where people who are involved in illegal  
8 grows and there's a grow rip and they won't talk  
9 about who did it because they end up getting  
10 charged themselves for being involved in the  
11 cultivation?

12 A Yes.

13 361 Q And how, when people are involved in this type of  
14 illegal activity, they don't call the police in  
15 order to say, hey, I've been ripped off.

16 A We also believe that medical growers that are  
17 growing over their legal limit, when they do  
18 get -- a grow rip occurs, they are probably  
19 reluctant to report it due to the fact that it  
20 would draw attention to their abuse of the system.

21 362 Q Obviously. So they would be involved in illegal  
22 activity, aren't they? They're exceeding their  
23 licences and abusing the process, aren't they?

24 A That's correct.

25 363 Q Okay. But people -- you also have examples in the

1 material of people with legal grows. When they  
2 have this happen, not only have the security  
3 system in place that sometimes provides evidence  
4 to help you catch the crooks; isn't that right?

5 A I'm not aware of one personally where we've had  
6 video footage from an MMAR grow that's resulted in  
7 the arrest of an individual. I know that under  
8 the MMPR, there are extensive security  
9 requirements, including -- 24/7 surveillance is a  
10 minimum requirement.

11 364 Q But you also have examples in your materials there  
12 of people who have been ripped off who then call  
13 the police because they're doing things legally,  
14 and this is the peaceful remedy that they have in  
15 order to try and prevent this from happening.  
16 Isn't that right?

17 A Yes, to bring it to the attention of the police to  
18 find the people that have done that, the grow rip,  
19 yes.

20 365 Q But again, you, then, can't give us any breakdown  
21 in terms of -- let's say the 17,000 that we have  
22 grow medical -- licensed grow operations in  
23 British Columbia, can you tell us how many of them  
24 have had a grow rip?

25 A No, I can't, because due to the amount of people

1 reporting or not reporting -- you had mentioned  
2 that people may not report, so without reporting  
3 to police, I wouldn't have knowledge of those  
4 numbers.

5 366 Q No. But if they're doing everything legally,  
6 then you get reports to the police, don't you?

7 A Yes.

8 367 Q And can you give me the numbers of those?

9 A I haven't researched that, no.

10 368 Q Okay. Can you give us the numbers for illegal  
11 grows?

12 A The number of illegal grows?

13 369 Q No, no. The number of grow rips in illegal grows.

14 A I do attach a document of homicides relating to  
15 that but not of grow rips in particular.

16 370 Q Well, there's -- the association of chiefs of  
17 police document deals with some of them, doesn't  
18 it -- Exhibit H, doesn't it?

19 Do you recall this document dealing with and  
20 giving examples of some public safety illegal grow  
21 situations? Well, I don't want to get bogged down  
22 on it because of the shortness of time, so let's  
23 just carry on.

24 In terms of violations of the MMAR,  
25 you talked specifically about excess production,

1 people growing more than they're allowed. Isn't  
2 that right?

3 A Yes.

4 371 Q And again, I take it you would agree with me that  
5 if the regulations were modified to educate people  
6 who get personal production licences to provide  
7 guidelines for them, like the guidelines that are  
8 provided for physicians, and to provide for  
9 inspection upon construction in terms of  
10 electrical and security systems and -- but also  
11 maintaining privacy, that if those things were in  
12 place, that would substantially reduce the  
13 problems that you've been seeing and that are  
14 referred to in your affidavit. Isn't that fair?

15 A I don't know about substantially. It still is a  
16 controlled substance, and it's going to be subject  
17 to abuse.

18 372 Q But you also agree that that depends upon what's  
19 going on out there in the market in terms of  
20 supply and demand.

21 A It has bearing, yes.

22 373 Q Which is something that you try and stay familiar  
23 with in your occupation.

24 A Yes.

25 374 Q And you agree with me that at that moment,

1 the trend is downwards in terms of price and  
2 demand?

3 A Yes. The amount of licences and, in my opinion,  
4 overproduction has created an influx in the market  
5 which has driven the price down.

6 375 Q And also has driven all kinds of illegal operators  
7 out of business; isn't that right? They're  
8 shutting down left, right, and centre, aren't  
9 they?

10 A No, they've actually converted their illegal  
11 operations into licences.

12 376 Q Well, are you saying all of the illegal grows have  
13 done that?

14 A No.

15 377 Q Is this just a story you have heard from somebody  
16 or do you have statistics on this?

17 A Actually one MMAR grower that I spoke with had an  
18 illegal grow. And when I went and visited him and  
19 spoke with him, he was on the electronic  
20 monitoring program in his residence, and he had  
21 switched his illegal grow into a legal MMAR grow.

22 378 Q So that -- a doctor approved his use of marijuana  
23 so that he could then do that; isn't that correct?

24 A Yes.

25 379 Q It wasn't just a matter of him deciding to do it,

1           was it? He had to have medical approval, didn't  
2           he?

3           A    To get that licence, yes.

4    380    Q    And in the material, you make that concern about  
5           people who are patients who have criminal records  
6           and so on. But if the doctor approves them for  
7           it, should they not be approved simply because  
8           they have a criminal record even though they have  
9           a medical problem?

10          A    No.

11   381    Q    It's the designated growers that, at the moment,  
12           have to have this no record within the last ten  
13           years for a designated drug offense; correct?

14          A    That's correct.

15   382    Q    And what you recommend is simply that there should  
16           be greater scrutiny using the greater security  
17           checks that the RCMP do in other situations.

18          A    Yes. And that's one of the things that is  
19           addressed in the MMPR is the security intelligence  
20           background checks for commercial growers.

21   383    Q    But that could be done for the individual patient  
22           or a designated caregiver type of grower for the  
23           individual patient in order to limit or ameliorate  
24           those concerns, wouldn't you say?

25          A    If we're anticipating, you know, hundreds and

1 thousands of licences if the program was to  
2 continue to expand, it would be way too onerous  
3 and way too much work to try and monitor that type  
4 of intensive screening.

5 384 Q Well, if the licence providers come into play,  
6 which some already exist and more seem to be  
7 coming along, have you looked into assessing that  
8 in terms of supply and demand? What impact that  
9 would have on supply and demand? And would you  
10 agree that that may -- the substantial majority of  
11 patients will probably end up going to licence  
12 producers, at least those that can afford them?

13 A You mean going to the new commercial producers?

14 385 Q Yes.

15 A I've spoken with commercial producers, and --  
16 sorry, the question was that I would ...

17 386 Q Would you expect that most patients will start  
18 going to licensed producers over time?

19 A I'm hoping they will, yes.

20 387 Q And that that will substantially effect the  
21 illicit market as well?

22 A Yes, it would.

23 388 Q So you haven't looked at a scenario where you've  
24 got all these licensed producers producing for the  
25 substantial majority but still allowing a personal

1 producer or a designated caregiver to continue to  
2 be able to do so subject to some changes to the  
3 regulations that address some of the other  
4 concerns that you've identified?

5 A Sorry. You're proposing two systems operating at  
6 the same time as MMAR and MMPR?

7 389 Q I'm putting that to you that if you have the  
8 licensed producers in place -- and you have said  
9 that should affect the black -- the illicit  
10 market -- that you still could have personal  
11 producers or designated caregivers for the patient  
12 continuing to produce for themselves with some  
13 amendments to the regulations to address the  
14 concerns that you've identified.

15 A It would defeat the point given the commercial  
16 producers and the variety of strains being  
17 offered. There would be no reason for someone to  
18 grow for someone else when a commercial facility  
19 can do that.

20 390 Q What if you have a person who can't afford the  
21 licensed producer prices, and they've learnt to do  
22 this over the last 14 years and to produce it for  
23 \$1 to \$4 a gram and to control their quality and  
24 strains and so on, and they simply can't afford  
25 these new estimated prices.

1                   Have you considered that type of person in  
2                   your analysis?

3 MR. BRONGERS: I'm just having a bit of trouble understanding.  
4                   You know, as Cpl. Holmquist's affidavit addresses  
5                   the public safety concerns, and now you're asking  
6                   him to essentially give an opinion on marijuana  
7                   for debility. That's what -- I'm having a little  
8                   trouble understanding why his expertise would come  
9                   into --

10 MR. CONROY:

11     391     Q     One of the problems with the existing regulations  
12                   is the formula, isn't it?

13             A     Yes.

14     392     Q     That allows people to grow according to the  
15                   grams -- depending upon the grams per day  
16                   authorized, it allows them to grow all sorts of  
17                   plants.

18             A     The formula, you're referring to section 30 in the  
19                   MMAR?

20     393     Q     Sure. It's -- do you know how they came up with  
21                   that formula or who came up with the formula?

22             A     No.

23     394     Q     Do you agree with me that if they modified that  
24                   formula to set numbers of plants that that would  
25                   go a long way to addressing some of the concerns?

1 A It has been addressed in the current system,  
2 and there still are concerns with it, because the  
3 doctor prescribes a certain amount and a certain  
4 plant count. Regardless if you adjust it, you can  
5 still grow monster plants that yield substantially  
6 more than what the formula indicates.

7 395 Q Yes, but if you are limited in terms of the number  
8 of plants, if you're told you can only have six  
9 plants instead of a formula that allows for 20 or  
10 100, that would go a long way to addressing your  
11 concern, wouldn't it?

12 A See, if -- under the current system, if they're  
13 anticipating 30-gram yields or 1.06 ounces,  
14 as Health Canada has in their section 30 of the  
15 MMAR -- let's say you reduce those plant counts.  
16 You can still get that plant to yield more than  
17 the 1.06 ounces.

18 396 Q So if you were to design a formula that  
19 depended -- that was focused on lights or lumens  
20 and limited them to the numbers of lights,  
21 that would go and be a solution to the problem,  
22 wouldn't it?

23 A I wouldn't say "solution." I would say it would  
24 have a bearing on limiting the amount that you  
25 could yield with limited lighting. However,

1           it still has the opportunity to abuse and the lack  
2           of the ability to do inspections on 17,000 plus  
3           grow operations.

4    397    Q    But if they were properly monitored with  
5           inspections and with the continued requirement if  
6           they produce more than they're entitled to that  
7           they have to destroy it, that would go a long way  
8           to solving that problem, wouldn't it?

9           A    Well, the problem that we were finding is the  
10          amount that they're growing over, the onus is on  
11          them to destroy it, and it's very tempting for  
12          someone to sell that excess to mitigate their  
13          electrical costs.

14   398    Q    But again, you can't give us any specifics in  
15          terms of statistics of the 17,000 growers in  
16          British Columbia, how many of them are doing that  
17          and how many of them are legitimate medical  
18          patients who are trying to comply with all of the  
19          rules, can you?

20          A    No. If someone was a legitimate medical patient  
21          that wanted to show me the grow, I would be open  
22          to attending and seeing their grow operation.

23   399    Q    But you haven't even gone and looked at the  
24          statistics. All you can say is, we the police  
25          have had these complaints or these problems

1 arising, and that's what you talk about. You have  
2 no information, whether from Health Canada or  
3 otherwise, to show that all of the others that you  
4 haven't dealt with are breaking the law in any  
5 way. You can't give us those --

6 A No. I do have samples that -- it's not just  
7 indicated in BC, but the samples indicate that  
8 nationwide, there are issues with MMAR abuses.

9 400 Q But would you agree that a substantial amount of  
10 your information is what we call "anecdotal  
11 evidence," somebody telling you a story or you  
12 reading it on the newspapers or seeing them on the  
13 television or some other officer telling you about  
14 it?

15 A They're based on police reports from other members  
16 that have been compiled and reports written.

17 401 Q Right. And you agree with me that the numbers  
18 that you've referred to there don't exceed more  
19 than maybe 300 total?

20 A Potentially. I haven't counted them to know  
21 exactly.

22 402 Q Well, you know that they're not much more than  
23 that if they are referred to in your affidavit;  
24 correct?

25 A That's correct. And I've mentioned that a lot of

1 investigations have -- tend to stop once a medical  
2 licence is discovered. And as a result of that,  
3 without spending substantial amount of money to  
4 further those investigations, we're not able to  
5 get into those facilities to be able to determine  
6 those abuses.

7 403 Q Right. But all you're simply saying is --  
8 well, let's just deal with that.

9 I mean, there is provision for administrative  
10 warrants if you think that somebody is abusing the  
11 process, isn't there?

12 A Health Canada has the opportunity to write  
13 administrative warrants to go in and conduct  
14 inspections.

15 404 Q And if you thought that the medical -- if you had  
16 some evidence developed that the medical grower  
17 was abusing the licence, if it gave you grounds to  
18 believe that they were committing an offense, you  
19 could get a warrant, couldn't you?

20 A I'm not aware that I could get a warrant. I know  
21 that Health Canada can. There is a provision in  
22 the CDSA that allows for an administrative warrant  
23 for a health inspector.

24 405 Q If you have reasonable grounds to believe that  
25 somebody is committing an offense, you can get a

1 warrant, can't you?

2 MR. BRONGERS: Mr. Conroy, I guess you're asking about a  
3 warrant pursuant to the criminal code as opposed  
4 to --

5 MR. CONROY: Controlled Drugs and Substances Act. That's what  
6 we're dealing with.

7 THE WITNESS: Okay. You had mentioned administrative warrant.

8 MR. CONROY:

9 406 Q I know I mentioned administrative warrant,  
10 but that's in the regulations for Health Canada;  
11 correct?

12 A No, it's in the regulations in the CDSA.

13 407 Q Yes, for either Health Canada or a police officer  
14 to obtain a warrant if they think that there's a  
15 violation going on.

16 A No. My understanding of the criminal code is that  
17 it has to be someone designated -- I'd have to  
18 refer to the criminal code to get the exact  
19 answer. But someone designated as an inspector to  
20 be able to go -- most likely from the attorney  
21 general. I would have to verify that, but it  
22 doesn't give a police officer the authority to  
23 write an administrative warrant to ensure  
24 compliance with regulations.

25 408 Q I'm not talking about an administrative warrant.

1           You as a police officer have powers under the  
2           Controlled Drugs and Substances Act to obtain  
3           warrants if you have evidence, reasonable grounds  
4           to believe that somebody is committing an offense;  
5           isn't that right?

6           A    That's correct.

7    409    Q    And somebody violating the regulations is  
8           committing an offense, aren't they?

9           A    That's correct.

10   MR. CONROY: Thank you.

11   MR. BRONGERS: Mr. Conroy, it's now a couple -- it's noon  
12           exactly. How long do you want to go?

13   MR. CONROY: Well, let's try for another ten minutes.

14   MR. BRONGERS: Ten would be perfect.

15   MR. CONROY:

16   410    Q    So you're not an expert on mold. You've agreed  
17           with that?

18           A    That's correct.

19   411    Q    Your information about mold is gleaned from  
20           stories from others, but again, we have no  
21           specific statistics in terms of the problem,  
22           do we?

23           A    The first part of the question -- or the first  
24           part of your statement was -- I am aware that  
25           there is mold in medical marijuana grows,

1 specifically the one where I showed the photos of.

2 412 Q But there are mold in places that don't have  
3 medical marijuana grows as well. You know that,  
4 don't you?

5 A There could be mold in any moist environment, yes.

6 413 Q I mean, you haven't looked into how much mold one  
7 finds in a house where there's no medical grow on  
8 a regular basis, have you?

9 A That's not part of my duties, no.

10 414 Q You don't have the expertise on it, do you?

11 A That's correct.

12 415 Q You would have to go to a person like -- have you  
13 been online and seen all the people who do the  
14 mold -- remediate mold? I mean, you're aware of  
15 their existence?

16 A I'm aware that when we've executed search  
17 warrants, in particular at clandestine operations,  
18 non-MMAR grows, that bylaws have attended --  
19 issued a no occupancy, and they've contracted  
20 companies for the remediation with the owner.

21 416 Q You know there's experts out there who know all  
22 about mold and how much mold exists in regular  
23 houses or houses with grows and what to do about  
24 it?

25 A That's correct. It would be interesting to show

1           those photos to one of those people to determine  
2           how serious that mold issue is, if that's the  
3           case.

4   417    Q   Well, I mean, all you've got there is a photograph  
5           of some mold and a double homicide investigation.  
6           One photograph of mold.  Correct?

7           A   That I disclosed here.  I did have a couple of  
8           other photographs in that investigation.

9   418    Q   You have been in other places where there was no  
10          medical grow or any grow of any kind and seen  
11          mold, haven't you, in British Columbia?

12          A   Yes.

13   419    Q   Let's deal with some of your photographs quickly,  
14          then.  First of all, the map on Exhibit C.  
15          Does that mean that you do know where all these  
16          medical grows are located?

17          A   Not addresses, no.

18   420    Q   So it's what -- the source of the information for  
19          these locations, then, is what?

20          A   Due to the Protection of Privacy Act, Health  
21          Canada was unable to disclose exact locations.  So  
22          what they have done is they have provided the  
23          amount based on postal code.  So you can see from  
24          the map it indicates the first three letters of a  
25          postal code which indicates how many licences are

1 in a specific jurisdiction.

2 421 Q And they provided that, then, to you, the police?

3 A Yes.

4 422 Q And Exhibit D is the financial crime,  
5 international operations, drugs, and organized  
6 crime, border integrity, basically a document on  
7 criminal exploitation of Marijuana Medical Access  
8 Regulations [sic]; correct?

9 A That's correct.

10 423 Q And it's this document that deals specifically  
11 with the recommendations to Health Canada -- or in  
12 part, in the beginning?

13 A In part, yes. And the Canadian police chief's  
14 report also makes recommendations which are  
15 consistent with the MMPR.

16 424 Q Can you tell me why it's got a thing at the bottom  
17 that says it's not to be used in an affidavit for  
18 court proceedings and yet that's what it's  
19 attached to, is an exhibit from an affidavit?

20 MR. BRONGERS: I think, Mr. Conroy, that's probably a question  
21 you can address to me. That's -- obviously that  
22 caution has been waived.

23 MR. CONROY:

24 425 Q Do you know what "protected A" means?

25 A We have protected A, B, and C documents; A being

1                   less protected, B being confidential, and C being  
2                   international -- like --

3     426     Q     So A is the least?

4                   A     Yes.

5     427     Q     Okay. That's what I wanted to know. All right.

6                             Exhibit E is from 2009 dealing with criminal  
7                   intelligence on Medical Marijuana Access Regs.

8                   A     That's correct.

9     428     Q     And that's the one that shows us at page 1,  
10                   I guess it is officially, that there were only one  
11                   inspector for every 257 patients.

12                  A     At that particular time, yes.

13     429     Q     There's even less now, isn't there?

14                  A     That's correct. If you're looking at 17,000 grows  
15                   in BC and two inspectors for this province, that's  
16                   roughly one inspector for every 8,500 grows, which  
17                   is currently unmanageable. And obviously if more  
18                   licences were issued, it would be even more  
19                   unmanageable.

20     430     Q     Unless something is worked out with local  
21                   governments and others who are involved in other  
22                   types of inspections, that would also go some way  
23                   to ensuring that these grows are safe; isn't that  
24                   fair?

25                  A     That's beyond the scope of my ability to be able

1 to have input in those decisions.

2 431 Q Well, I mean, if you're looking for something  
3 short of abolition of a personal production  
4 licence, you would have to look at other options  
5 that might be available to address your concerns.

6 A Yes.

7 432 Q You haven't done that, have you?

8 A There are recommendations in this document that  
9 help mitigate those concerns.

10 433 Q But you don't address how they could come into  
11 play instead of abolishing the personal production  
12 licence, do you?

13 A There are some suggestions in here that include  
14 increased checks, and they are the recommendations  
15 on the last page there.

16 434 Q Do you agree, then, that that could be done short  
17 of abolition of the personal production and would  
18 satisfy your concerns?

19 A No.

20 435 Q Because this particular document has a whole  
21 section on the lack of monitoring, doesn't it,  
22 page 3?

23 A Page 3, yes, it does.

24 436 Q And, again, the examples that are given in terms  
25 of public safety risk are all abusers, aren't

1           they?

2           A    I believe so, yes.  They are talking about  
3           production next to schools and that sort of thing.

4   437    Q    And if we look at crime statistical summary at  
5           tab F, we're talking there about 11 out of 40  
6           cases, aren't we?  The column to the far right,  
7           11 licences out of 40 cases.

8           A    That's correct.

9   438    Q    Over a one-year or nine-month period.

10          A    And that's where search warrants were executed at  
11          MMAR grows for abuses.

12   439    Q    Okay.  And then tab H we've addressed  
13          briefly already and -- let's go to I.  
14          Your photographs at Exhibit I are simply  
15          photographs of some electrical wiring at  
16          various -- well, at three grow location -- or four  
17          grow locations; am I right?  Five, maybe.

18          A    Two, three, four, five.

19   440    Q    The top two are the same place and then four  
20          others; fair enough?

21          A    Yes.  So these were photographs -- the bottom 4  
22          were photographs from that crime project out of  
23          those 11.  4 out of those 11 had, in my opinion --  
24          or what I believe the layperson would determine as  
25          electrical wiring of concern.

1 441 Q They were all cases that got file numbers that  
2 were being investigated for abuse, I take it.

3 A Yes. The top two are from that homicide, so the  
4 MMAR grow was discovered as a result of the  
5 homicide.

6 442 Q Can you give me the name of that case, the  
7 homicide?

8 MR. BRONGERS: Just to be careful, is this protected  
9 information or is it something that can be given?

10 MR. CONROY:

11 443 Q Are they charged or is somebody charged as a  
12 public -- it's not public ...

13 A I'd have to look into it. I can tell you it was a  
14 murder-suicide, is the belief of that  
15 investigation.

16 444 Q A murder-suicide?

17 A Yes.

18 445 Q And there was a medical grow?

19 A Yes.

20 446 Q And that's the only one like that that you know of  
21 throughout the country?

22 A That I've had direct involvement in, yes. I don't  
23 know what the statistics are --

24 447 Q No. Again, we don't know. That's the only one  
25 you know of?

1           A    That's right, because I had direct involvement  
2                   with that one.

3   MR. BRONGERS:  So, Mr. Conroy, it's 12:09.

4   MR. CONROY:  I'll just finish off these exhibits, if that's  
5                   okay.

6   448    Q    And so these all are -- four of them are 2012 and  
7                   one of them is 2013; correct?

8           A    Yes.

9   449    Q    Okay.  And then at the next -- we've got the CO2  
10                  burner, and I know you deal with that in your  
11                  affidavit at some point.  This is simply a  
12                  photograph of one, isn't it?

13          A    Yes.

14   450    Q    And I take it it's just like a barbecue, isn't it?

15          A    Very similar, yes.

16   451    Q    And so if people don't look after their barbecues  
17                  and things properly in their houses, that's a risk  
18                  too, isn't it?

19          A    It's a serious risk of fire leaving a burning  
20                  device unattended in a residence.

21   452    Q    And having natural gas as your primary source of  
22                  heating has that potential problem too, doesn't  
23                  it, because there's always a flame burning, isn't  
24                  there?

25          A    Yes.

1 453 Q So there's all kinds of things out there that  
2 people have in their houses and so on that can be  
3 a potential problem in terms of fires and stuff if  
4 they don't do things properly; isn't that correct?  
5 A That's correct.

6 454 Q And there are other ways of people using things in  
7 a grow operation besides a CO2 burner such as the  
8 CO2 buckets. You are familiar with them, aren't  
9 you?  
10 A I haven't seen them in a grow operation, but I'm  
11 familiar with what they are.

12 455 Q They're an alternative to something that uses a  
13 flame in order to try and achieve the same result;  
14 isn't that fair?  
15 A Yes. It's an option that, from the growers and  
16 the reading that I've done, is not a very viable  
17 option.

18 456 Q You've heard that anecdotally, have you?  
19 A No. Actually I did talk to a hydroponic supply  
20 store, and some of their concerns were it doesn't  
21 produce enough CO2. Plants consume CO2 at around  
22 1,250 parts per million, a substantial amount of  
23 CO2 versus the average environment of about 400  
24 parts per million. This hydroponic supply store  
25 had told me that they don't have the output and it

1 requires numerous, numerous buckets in a grow  
2 room. In addition, too, they've stopped carrying  
3 them due to, kind of, sketchy supply. Like,  
4 they have them in and then they won't have them in  
5 sort of thing. Difficult to get ahold of.

6 457 Q This is one supplier you've talked to?

7 A Just one, yes.

8 458 Q And so, again, it's just an anecdote from talking  
9 to this particular supplier. You haven't done any  
10 real investigation of the situation across the  
11 country or specifically in British Columbia, have  
12 you?

13 A No. The grow operations that I have been in,  
14 this tends to be a tried-and-true method that  
15 works. And from all the grows -- clandestine and  
16 the MMAR grows that I have been involved with, I  
17 have never seen one of those inside a grow.

18 In fact, the 11 grow-ops that were done --  
19 grow operations that were done as a result of that  
20 crime project on the Island, those 40 grows, in  
21 addition to 11 of them being MMAR grows, don't  
22 have those.

23 459 Q You can't give us statistics on the number of  
24 problems of CO2 burners in medical marijuana  
25 grows, can you?

1 A No.

2 460 Q Across the country, can you?

3 A No.

4 MR. CONROY: Can I have that marked as an exhibit, please.

5 MR. BRONGERS: We'll --

6 MR. CONROY: Another identification. All right.

7 EXHIBIT G FOR IDENTIFICATION: Document describing  
8 the C02 Boost Bucket Complete

9 MR. CONROY:

10 461 Q Exhibit K is simply the report from Mr. Boechler,  
11 Eric Boechler; correct?

12 A Boechler.

13 462 Q Or Boechler.

14 Now, in terms of these, other than dried  
15 marijuana extracts, you only deal with the oil  
16 making with butane and that those sorts of things  
17 in your affidavit, don't you?

18 A I talk about dried marijuana in my affidavit.

19 463 Q No, no. But in terms of the -- other than dried  
20 marijuana, the extracts, the concerns that you  
21 identify are solely these ones where people are  
22 using butane and things like that to make weed oil  
23 and so on; correct?

24 A Yes, they pose a significant health and safety  
25 concern.

1 464 Q You don't address creams, do you, that people  
2 make?

3 A Not in my affidavit.

4 465 Q You don't address salves that people make?

5 A No.

6 466 Q You don't address juicing raw marijuana?

7 A No.

8 467 Q You've heard of how popular that's become?

9 A I've heard that people are doing that, but I find  
10 it amazing that they would do that. And the MMAR  
11 currently doesn't permit other forms.

12 468 Q Right. It's limited to dried marijuana, isn't it?

13 A Yes.

14 469 Q So you don't address any of the other types of  
15 extracts that people are using in your affidavit  
16 except the weed oil, butane-extraction-type  
17 concerns; isn't that right?

18 A That's correct, plus the production as well.

19 470 Q Because there aren't -- the same risks and  
20 concerns don't arise when you're simply taking the  
21 raw plant and making juice out of it, do they?

22 A No. And it results from the production.

23 471 Q Or even making hashish, bubble hash or whatever.  
24 They don't have to use butane or any of these  
25 concerns, do they?

1 A No, they don't.

2 472 Q So you agree with me that a person could produce a  
3 substantial number of these other types of  
4 extracts, besides the butane extraction thing,  
5 without any concerns in terms of fires and  
6 explosion and so on and so forth; fair enough?

7 A Potentially, yes.

8 473 Q Thank you.

9 The next one deals with the public safety,  
10 and this was the one where it was hard to define  
11 whether it's a grow rip or not. Do you remember  
12 reading that, because the Uniform Crime Code  
13 doesn't give you a home invasion or grow rip  
14 category? Do you recall that in this document?

15 A No. Which page are you referring to?

16 474 Q Well, the key findings at page 2 at the top,  
17 isn't that what it says? "Underreported due to  
18 victim participation," but also the third bullet:  
19 "Does not permit clear analytic judgments"?

20 A Yes. I can't say that our police database --  
21 and I believe it's the same across the country --  
22 is that there is no specific category and an  
23 offense code for grow rip. So it would be break  
24 and enter, subcategory theft, rather than grow  
25 rip. So it makes it difficult for them to pull

1 out the data and put it into a report.

2 475 Q Be you haven't put in your affidavit any of the  
3 statistics simply for break and enter to commit an  
4 indictable offense, have you?

5 A No, I haven't.

6 476 Q And that would be the offense when somebody does  
7 that; isn't that right?

8 A Yes.

9 477 Q And if it's a home invasion, the code provides for  
10 it being an aggravating factor, doesn't it?

11 A Which for being --

12 478 Q Break and enter categorized as a home invasion.

13 A Yes.

14 479 Q Yes.

15 So you haven't provided us with the  
16 statistics in the number of break and enters that  
17 generally occur across the country or in each  
18 province, have you?

19 A General break and enters, no.

20 480 Q And you agree that people break and enter houses  
21 for reasons other than marijuana grow-ops, don't  
22 they?

23 A Yes.

24 481 Q And so we simply don't have, again, any figures  
25 that we can rely upon that would show specifically

1           how many grow rips have occurred in medical  
2           marijuana grow-ops across the country, do we?

3           A   Not specifically, no.  This report does cover some  
4           of those numbers.

5   482   Q   But they say that it's hard to pin them down  
6           because you can't be sure if it was because of the  
7           marijuana grow or not.  Isn't that what they  
8           conclude because of the statistical problem?

9           A   It looks like page 7 there, in the report you're  
10          referring to, appendix B indicates that there was  
11          55 out of 311 cases, which represent 18 percent.

12   483   Q   Over four years?

13          A   Yes.

14   484   Q   And Exhibit M is the grow rips in BC, and it shows  
15          the total in illegal operations and some in MMAR  
16          operations.  And as I understand it, the blue  
17          colour on the graph is an MMAR, and the yellow is  
18          where there's some violence involved; is that  
19          right?

20          A   Well, MMAR grows in the blue represents grow rips  
21          at MMAR operations, yes.  So they do exist.

22   485   Q   And the numbers are simply what's set out on this  
23          document for each year and -- first generally and  
24          then specifically for medical marijuana; correct?

25          A   Yeah.  It does indicate grow-ops at MMAR

1 operations in 2007, there were two. 2008 there  
2 was twice as many, 4; and 2009, there were 11; and  
3 2010, there were 18.

4 486 Q And again, we can go to the statistics that we  
5 have from Health Canada as to the numbers that  
6 existed in each of those years in order to  
7 determine that this is a very small percentage  
8 compared to the number of grows; fair enough?

9 A Yes.

10 487 Q Okay. And then the next, N, you have rifles and  
11 so on -- photographs of weapons at one location.

12 A Yes.

13 488 Q Again, we don't have any statistics overall for  
14 how many weapons are found in grow operations or  
15 braking them down between legal and illegal,  
16 do we?

17 A No.

18 489 Q Have you had an opportunity to read the affidavit  
19 of Susan Boyd?

20 A Susan Boyd --

21 490 Q Who wrote Killer Weed?

22 A Oh, no. I saw that book, and I'll take it upon  
23 myself to read that book.

24 491 Q Okay. Did you -- you rely upon, in the materials,  
25 some of the research conducted by Darryl Plecas,

1           for example, at Fraser Valley -- University of the  
2           Fraser Valley now?

3           A    Am I aware that he's done documents?

4    492    Q    Yes.

5           A    Yes.

6    493    Q    And did you -- you remember the study that said  
7           there were 5 or 6.6 percent of weapons found in  
8           medical -- or in grows? I think it was --

9           A    I'm not aware of the specific stats on that  
10          document, no.

11   494    Q    So again, you can't give us statistics, then,  
12          in terms of how many weapons are found in medical  
13          grows throughout Canada, can you?

14          A    No. This is just an example of one.

15   495    Q    This is just one example of one case. And you  
16          can't give me any more figures?

17          A    No, I can't.

18   496    Q    The Exhibit O is something that was prepared for  
19          you by another officer simply to detail the  
20          violence that has happened in various cases in the  
21          years indicated between 2003 to 2013.

22          A    Homicide is a result of not just violence but  
23          homicides relating to growers.

24   497    Q    Illegal grows; right?

25          A    In this report it doesn't differentiate between

1                   legal and illegal.

2    498    Q    So again, we don't have a statistic as to how many  
3                   of these happened in a medical grow, do we?

4            A    No. It's just -- it grows most likely in  
5                   residences that are causing these homicides to  
6                   occur.

7    499    Q    All right. And the next one is the candies  
8                   enriched with THC photographs.

9            A    Exhibit P?

10   500    Q    Right.

11           A    Yes.

12   501    Q    And I think you raised the concern that children  
13                   might have access to these. Is that why you put  
14                   this photograph in?

15           A    I put this photograph in to show the variety of  
16                   THC available. And I know my child, if they saw a  
17                   sucker like that, would think that it was not  
18                   laced with THC and consume it.

19   502    Q    So a matter of responsibility of the parents to  
20                   make sure that their children don't get into the  
21                   cough medicine or any other dangerous things in  
22                   the household; isn't that correct?

23           A    But it's making a derivative of a psychoactive  
24                   ingredient that appears to look like something  
25                   that a child would consume.

1 503 Q All right. But we also know that the compassion  
2 clubs and dispensaries have been producing these  
3 and marketing them for some considerable time,  
4 don't we?

5 A I've seen baked goods, but I'm not aware or have  
6 seen in dispensaries suckers that look like that.

7 504 Q But you're aware that a lot of people do them in  
8 these different forms because they prefer to do it  
9 instead of smoking, which is not usually good for  
10 their large airways.

11 A I'm aware that they're being produced in a variety  
12 of forms, primarily baked goods.

13 505 Q Primarily, but this is still an edible-type form  
14 or consumable-type form, isn't it?

15 A Yeah. I guess the issue with this is that not  
16 only is it an issue for children, but this was an  
17 MMAR facility that was producing and trafficking  
18 derivatives of marijuana.

19 506 Q Now, your last exhibit simply is, I think,  
20 the certification by -- as to you having read the  
21 Code of Conduct for Expert Witnesses.

22 A Yes.

23 507 Q And it's not set out there, but I believe it is  
24 set out at Exhibit B, the letter of instruction  
25 from BJ Wray to you in terms of your report?

1 A Yes.

2 508 Q And in that doc -- so in page 2 of that sets out  
3 what you should and shouldn't do in terms of your  
4 expert report, doesn't it?

5 A Yes.

6 509 Q And in 9, it says:

7 "To set out any caveats or qualifications  
8 necessary to render the report complete and  
9 accurate including those relating to any  
10 insufficiency of data or research and an  
11 indication of any matters that fall outside  
12 of your field of expertise."

13 Doesn't it?

14 A Yes.

15 510 Q And you haven't done that, have you?

16 A The caveats or qualifications are included in my  
17 CV that is attached to the --

18 511 Q But you haven't set out any caveats about the  
19 material that you presented such as what can be  
20 done about mold. You've only set out a complaint  
21 about mold or an example of mold, haven't you?

22 MR. BRONGERS: Mr. Conroy, the witness has answered the  
23 question to the best of his ability. If you wish  
24 to take issue with the weight of his affidavit,  
25 you're free to do that in argument.

1 MR. CONROY:

2 512 Q So you've only presented one side of the situation  
3 in terms of the problems, haven't you?

4 MR. BRONGERS: You've asked that question before.

5 I've objected to it, and I'm not changing my mind,  
6 Mr. Conroy. You can't argue with the witness that  
7 way.

8 MR. CONROY:

9 513 Q And you haven't set out any specific solutions  
10 short of abolition of the personal production  
11 licence, have you?

12 MR. BRONGERS: Let's be more specific. You haven't set out  
13 more solutions. What are you taking issue with?

14 MR. CONROY:

15 514 Q In your material you point to problems, but you  
16 don't point to specific solutions to those  
17 problems short of taking away the patient's  
18 personal production licence; isn't that correct?

19 MR. BRONGERS: No, Mr. Conroy. We're not answering that  
20 question, and it is now 12:25, so I think this  
21 examination has come to an end.

22 MR. CONROY:

23 515 Q All right. To conclude, then, I'm just going to  
24 suggest to you, sir, that you are an advocate in  
25 these proceedings for the police and the police

1 perspective. You're not an independent unbiased  
2 expert, are you?

3 MR. BRONGERS: We are not answering the question, Mr. Conroy.  
4 That's completely improper.

5 MR. CONROY: Thank you.

6 (PROCEEDINGS ADJOURNED AT 12:25 P.M.)

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10 REPORTER CERTIFICATION

11 I, Alyssa Fontaine, Official Reporter in the  
12 Province of British Columbia, Canada, do hereby  
13 certify:

14 That the proceedings were taken down by me in  
15 shorthand at the time and place herein set forth  
16 and thereafter transcribed, and the same is a true  
17 and correct and complete transcript of said  
18 proceedings to the best of my skill and ability.

19 IN WITNESS WHEREOF, I have hereunto  
20 subscribed my name this 5th day of February, 2014

21

22

23

24 \_\_\_\_\_  
Alyssa Fontaine

25 Official Reporter