

FEDERAL COURT

BETWEEN:

NEIL ALLARD
TANYA BEEMISH
DAVID HEBERT
SHAWN DAVEY

Plaintiffs

and

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Defendant

AFFIDAVIT #2 OF SHANE HOLMQUIST

VOLUME I

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AFFIDAVIT #2 OF SHANE HOLMQUIST

I, Shane Holmquist, Royal Canadian Mounted Police ("RCMP") Constable, of the City of Vancouver, in the Province of British Columbia, AFFIRM THAT:

1. I am a regular member of RCMP stationed at the RCMP headquarters building located at 14200 Green Timbers Way, Surrey, in the Province of British Columbia. I have personal knowledge of the matters hereinafter deposed to by me, except where same are stated to be based on information and belief and where so stated I verily believe them to be true.

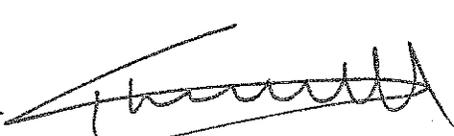
2. I have been retained by the Attorney General of Canada in the above proceeding to provide an expert report for the Court. Attached as **Exhibit "A"** is my expert report.

3. On June 24, 2014, the Attorney General of Canada provided me with an instruction letter to complete my expert report. Attached as **Exhibit "B"** is a copy of the instruction letter.

AFFIRMED before me at the City of Vancouver, in the Province of British Columbia, this 9th day of October, 2014.



Commissioner for Taking Affidavits
within British Columbia



Shane Holmquist

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

Expert Report of Constable Shane Holmquist

Prepared for the Attorney General of Canada in

Allard et al. v. Her Majesty the Queen in right of Canada

This is Exhibit " A " referred to in the
Affidavit of Shane Holmquist
Sworn before me at Vancouver, BC
this 9 day of October, 2014.

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

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Qualifications:

1. I have been a member of the RCMP since April 2005 and have been acting in the rank of Corporal since March 2013.
2. I am seconded to Group 4 of the Federal Serious Organized Crime Section ("FSOC") which consists of the Clandestine Laboratory Enforcement and Response Team ("CLEAR") and the Coordinated Marihuana Enforcement Team ("CMET").
3. The mandate of CMET is to investigate large scale marihuana grow operations, organized crime groups taking advantage of the *Marihuana Medical Access Regulations* ("MMAR"), provide assistance and training to police detachments on the MMAR and the *Marihuana for Medical Purposes Regulations* ("MMPR"), enhance police and public awareness of the dangers of and impact of organized crime, and promote and support changes to legislation and regulations that discourage people from engaging in the illegal activities related to marihuana.
4. During my 9 years as a police officer, I have been involved in over 100 marihuana grow operation investigations that have been located primarily inside residences and have read hundreds of police files related to MMAR grow operations. I have spoken to numerous MMAR growers and other drug experts about production, consumption and diversion of medical marihuana. I have harvested marihuana plants from medical marihuana grow operations and clandestine grow operations to determine the yield of marihuana bud.
5. I have provided training to Health Canada Inspectors, Drug Investigators in Canada, and law enforcement personnel in the United States, regarding the production and trafficking of marihuana, MMAR, MMPR, and marihuana investigational strategies.
6. I have attached a copy of my "*Qualifications to Provide an Expert Opinion (Marihuana)*" as "**Annex A**" to this affidavit that further outlines my experience with the production and trafficking of marihuana, as well as the MMAR and MMPR. Based on my experience as a police officer and, in particular, with the CMET, I am able to speak to the facts set out in this affidavit.
7. I am aware of my duty to the court as an expert witness. Attached to this affidavit as "**Annex B**" is my signed "*Certificate Concerning Code of Conduct for Expert Witnesses.*"

Summary of the Issues:

8. I have been asked by the Attorney General of Canada to address the following issues in my report:
 - a. Issue #1: The criminal abuses associated with the personal production of medical marihuana including, but not limited to, diversion, organized crime, weapons, “grow rips”, and clandestine labs;
 - b. Issue #2: The safety and health concerns faced by law enforcement officers who investigated and/or inspected personal medical marihuana grow operations under the previous medical marihuana regulations, the Marihuana Medical Access Regulations (MMAR);
 - c. Issue #3: The RCMP’s involvement in the screening of applications to become a Licensed Producer under the new medical marihuana regime, the Marihuana for Medical Purposes Regulations (MMPR);
 - d. Issue #4: Your inspections of Licensed Producers, including, but not limited to, your observations regarding security measures and quality controls. How do the observations made during your inspections of Licensed Producers compare to the observations made during your inspection or attendance at personal medical marihuana grow locations? How is the compliance of Licensed Producers under the MMPR enforced?

Summary of Conclusions:

9. With respect to Issue #1, I have found significant evidence of criminal abuses even though there is great difficulty in investigating them. Some of the criminal abuses I have found are the exploitation of the authorization process, forged MMAR licenses, improperly disposing of MMAR waste materials, over production, growing “monster” plants, manufacturing derivatives to traffick, possession for the purpose of trafficking, multiple MMAR licenses and brokers, and organized crime.
10. With respect to Issue #2, law enforcement personnel must often deal with building modifications and confined spaces, high voltage electrical wires, toxic mould and fertilizers, and carbon dioxide and propane tanks. Police officers must also deal with the violence that is associated with personal production sites such as “grow rips”, homicides, and weapons. These sites may also be used as

clandestine labs that utilize volatile chemicals in their operations and pose a danger to first responders and residential neighbourhoods.

11. With respect to Issue #3, Health Canada has contracted the Security Intelligence Background Section ("SIBS") of the RCMP located in Ottawa to conduct criminal record checks of MMPR applicants. These checks are further enhanced by a provincial RCMP Coordinator in each Province. This broad and narrow approach to criminal record checks have identified applicants who have withdrawn from the review process, made false attestations, are associated to sites where MMAR abuses occurred, are associated to organized crime groups, and have used nominees.
12. With respect to Issue #4, based on my inspections, the conditions I have seen at MMPR licensed producer facilities greatly surpass MMAR personal production sites. Licensed producers have comprehensive security systems that endeavor to ensure their product is fully secured from diversion and criminal exploitation. They have also put in place extensive quality control mechanisms to endeavor to ensure that their products are safe for human consumption considering it is for medical purposes and may be consumed by persons with compromised immune systems. Compliance of the MMPR is enforced through persistent Health Canada inspections which have already resulted in the recall of potentially unsafe medical marihuana and the destruction of contaminated plants.

Methodology:

13. In law enforcement, there is no master database used among all municipal police forces and the RCMP. In BC, for example, police forces use a database called Police Records Information Management Environment ("PRIME") and many other provinces use a database called Police Reporting and Occurrence System ("PROS"). Some municipal police forces further use their own records management system which is different from PRIME and PROS. These systems contain varying degrees of confidentiality that require specialized access, additional passwords, and training.
14. Police databases do not flag or track investigations as "*MMAR abuse*," "*Trafficking of Medical Marihuana*" or "*Grow Rip*", however; the databases for example, track offences like, "*Production of Marihuana*" and "*Robbery with a Firearm*", "*Unlawful Confinement*", and "*Break and Enter*". To gather this information, Criminal Intelligence Analysts have to query all policing databases in conjunction with text pages within those files.

15. With the assistance of Criminal Intelligence Analysts in BC, over 18,000 pages of data was extracted from the PRIME database and reviewed to complete this report. In addition, with the cooperation of police jurisdictions across Canada, I received and reviewed thousands of additional pages of police files and photographs, some of which are included in this report.

SECTION A: Background on Cultivation, Strains, Consumption, and Value

Marihuana Cultivation

16. In nature, marihuana is an annual plant that starts out as a seed and completes its lifecycle within a one year period. Over the course of a year, male marihuana plants emit pollen that is attracted to the flowering female marihuana plant. Before the female plant dies in the fall, it develops seeds which drop to the ground. In the following spring, the seeds grow and a new generation of marihuana plants begin.

17. I have found that people routinely cultivate female marihuana plants because of the flowers they develop, known as buds, which contain a psychoactive ingredient called tetrahydrocannabinol ("THC"). When male plants are identified, the cultivator often destroys them because the pollen they emit can cause the female plants to develop seeds rather than buds.

18. THC is a controlled substance under Schedule II of the *Controlled Drugs and Substances Act* ("CDSA"). THC is contained within resinous glands on the buds and associated leaves called trichomes. From a distance, they appear as frost on the marihuana leaves. Attached to this affidavit as "**Annex C**" are photographs of this frosty appearance and a close-up photograph of trichomes on a marihuana bud.

19. To harvest marihuana in short periods of time the cultivator 'tricks' the marihuana plants. This is done by growing the plants under Metal Halide ("MH") lights (that offer a blue light spectrum to mimic the summer sun) for 18 hours a day. The plants 'think' it is summer and will essentially grow forever until there are indications that fall is coming. During this growth period (known as vegetative growth) the marihuana plants can grow up to an inch in height a day.

20. When the cultivator switches to High Pressure Sodium (“HPS”) lights (that offer a red light spectrum to mimic fall sun) for 12 hours a day (with 12 hours of uninterrupted darkness) the plants ‘think’ it is fall and begin to flower in hopes of gaining male pollen to develop seeds before their lifecycle ends. The male marihuana plants are not present so the female flowers don’t get pollinated, they get harvested.
21. If a marihuana cultivator established a crop with seeds he/she will not know if the seeds will develop into a male or female plant. The cultivator will have to let the plant grow roots and alternate the light cycle to identify the sex of the plant. Growing marihuana from seeds is a method commonly used when trying out a new strain of marihuana. If they like the strain, they will take clippings from those plants to grow new marihuana plants.
22. These clippings, known as ‘clones’ or ‘babies’, are then planted, roots develop, and they turn into an identical plant as the donor plant. This is much quicker than starting from seeds and the most common method used to maintain a perpetual supply of marihuana used for medical and/or recreational purposes. Some cultivators maintain “mother plants” which are used for the sole purpose of providing clones to start another crop of marihuana plants. I have learned that some mother plants have been known to supply 100 clones a week.
23. A common method of cultivating marihuana under the MMAR is to grow the plants on a three month cycle resulting in the potential yield of four crops a year. Below is the typical schedule for a three month grow cycle:
- a. 2 weeks for the clones to root;
 - b. 2 weeks of vegetative growth (allowing the plants to grow in height);
 - c. 8 weeks for the plants to flower before harvesting.
24. As the female plants reach maturity, the cultivator usually only waters the plants (known as ‘flushing’) and does not provide any fertilizers. MMAR growers and clandestine growers have told me that the flushing eliminates the ‘chemical taste’ when smoking or vaporizing marihuana that has been subjected to an intensive fertilizer regime. I have found that most people who cultivate marihuana flush the plants before harvest.

25. Once the female marihuana plants reach maturity, the buds are harvested, dried, and cured. I have found that marihuana bud loses 60-80% of its weight in moisture as it dries. Because of the high moisture in the bud, it will develop mould if it is not properly dried and cured. It often takes cultivators some time (trial and error) to learn how to cure marihuana properly. Often when marihuana dries, some buds become drier than other. Cultivators who cure marihuana often undertake a process (known as 'sweating') where the dried marihuana bud is sealed in a garbage bag to obtain an evenly distributed moisture content.
26. I have found that medical marihuana producers do not have the ability to formally test their product. Instead, MMAR producers often assess the quality of dried and cured marihuana by smoking it. Other ways include a visual inspection (sometimes with a magnified glass) to determine if there is any mould, rot, or bugs. Some cultivators squish a small bud to determine the moisture content. There are no provisions under the MMAR for the grower, some of whom have compromised immune systems, to test the marihuana for fungus, mould, or heavy metals before consumption.
27. THC in marihuana bud degrades over time like any other plant material especially when exposed to sunlight and air. The optimal method of storing marihuana is in a cool dark location (such as inside a safe in a garage). Rarely have I found medical marihuana under the MMAR stored in optimal conditions. Often I have found it in Ziploc bags or lying out in the open.
28. Marihuana plants are grown in a variety of grow mediums. The most common method used is a 'soil-less' mix which is 'neutral' and gives the cultivator the ability to regulate the fertilizers at different stages of plant growth. I have found that MMAR producers often use this grow medium.
29. From my experience, the average marihuana cultivator will spend an hour or two every day caring for either medical or clandestine marihuana plants. This includes the turning of plant pots for optimal light exposure, feeding, watering, monitoring the acidity level (pH), monitoring temperature, checking for bug infestations, trimming, replanting in bigger pots, cloning, etc. Depending on the level of sophistication, number of plants, use of timers, and automated watering systems, cultivators may spend more time or less time.

30. One MMAR producer told me that marihuana was not addictive but growing it was. He stated he gets satisfaction from the cultivation process much like a person who grows their own tomato plants.
31. There is a variety of equipment used to cultivate marihuana. This equipment includes grow lights, light shrouds, electrical timers, fertilizers, grow medium, pots, carbon dioxide generators, etc. Attached to this affidavit as “**Annex D**” is a list of equipment that I have commonly observed at MMAR production sites.
32. In 2010, the Regina Integrated Drug Unit built a marihuana grow room at the RCMP Training Academy in Regina, Saskatchewan (Depot Division). The grow room was approximately 25 feet wide by 45 feet long and cost approximately \$15,000 to build. Attached to this affidavit as “**Annex E**” is a breakdown of the costs associated to the grow room construction. Forty marihuana plants were grown in various stages with the first harvest occurring on September 20, 2010. The average dried harvested marihuana bud per plant was 36.85 grams or 1.32 ounces.
33. Prior to the MMAR, the production and sale of marihuana was done illegally. As such, many people who obtained MMAR production licenses relied on information provided to them by people who cultivated marihuana illegally.
34. On February 7, 2014 I attended a meeting with Health Canada representatives and I learned that as of December 3, 2013 there were 3,012,067 marihuana plants authorized to grow under the MMAR. Attached to this affidavit as “**Annex F**” is a breakdown of the number of plants per Province. If each marihuana plant conservatively produced one ounce with 3 crops a year, valued at \$2,000 a pound, it would indicate that \$1.1 billion dollars’ worth of marihuana was being produced for medical purposes in Canada under the MMAR.

[3,012,067 plants x 3 crops a year x \$2,000 a pound = \$1,129,524,000.]

Marihuana strains

35. There is much debate about the types of marihuana plants but there are basically two types of marihuana plants used for medical purposes: Cannabis Sativa and Cannabis Indica. Sativa plants tend to have narrow leaves and indica plants tend to have broader leaves.

36. Marihuana plants are bred together to enhance certain characteristics similar to the way fruits and vegetables are bred to create an optimal product. Some sativa strains are cross bred with other sativa strains and indica strains are cross bred with indica strains. Sativa and indica strains can also be bred together to create a wide variety of marihuana strains often called 'sativa dominant' or 'indica dominant' strains. Attached to this affidavit as "**Annex G**" are two photographs I took at MMPR facilities to show the unique differences between an indica dominant strain and a sativa dominant strain.
37. There are thousands of different strains of marihuana and new ones are being created on a daily basis. A United States based website called "*Leafly*" provides anecdotal information on what strains help with the following symptoms: cramps, fatigue, insomnia, nausea, spasticity, depression, headaches, lack of appetite, pain, stress, eye pressure, inflammation, muscle spasms, and seizures.
38. I am not aware of any Canadian or United States health care database or accredited studies that have been done that explains what strains, in what dosages, and in what THC percentage works for particular ailments.

Marihuana consumption

39. I am aware of numerous expert opinions that have been entered as evidence in courts across Canada that indicates the average consumption of dried marihuana is between 1 to 3 grams a day. Health Canada also came to the same conclusion about marihuana consumption. Attached to this affidavit as "**Annex H**" is a Health Canada document titled, "*Daily Amount Fact Sheet (Dosage)*" that states:
- a. *"Health Canada's examination of the current available information suggests most individuals use an average daily amount of 1 gram to 3 grams of dried marihuana for medical purposes, whether it is taken orally or inhaled or a combination of both."*
40. Marihuana is an organic material and is very light in weight. Attached to this affidavit as "**Annex I**" are two photographs I took to help the reader understand the difference in volume between 1 gram and 3 grams of marihuana. I have also attached to this affidavit "**Annex J**" which is a photograph I took of 3 grams of marihuana rolled into marihuana cigarettes (joints).
41. If a person consumed 3 grams of marihuana a day for 365 days consecutively, they would consume 1,095 grams. Attached to this affidavit as "**Annex K**" is a photograph I took that depicts a breakdown of 3 grams, 90 grams (30 day

consumption) and 1,095 grams (365 day consumption) to help the reader understand the volume of marihuana associated to that level of consumption.

42. In talking with persons who claim to use marihuana for medical purposes, I have found that they often determine their dosage from either their prior recreational use and/or by experimentation (trial and error). I have found that people who consume marihuana often refer to anecdotal information about marihuana and accept that information as facts.

Value of marihuana

43. I have found the street value of marihuana to be approximately \$5 to \$10 a gram in BC (\$1,200 to \$2,000 when purchasing at the pound level). The price is affected by many factors including the quality, quantity purchased, supply/demand, and location in British Columbia. In some areas in BC, marihuana can be purchased for \$900 to \$1,500 a pound). In contrast, there are many communities in Canada where marihuana is worth significantly more. For example, marihuana can sell for \$40 to \$50 a gram in Nunavut. The price disparity makes it very lucrative for drug traffickers to sell marihuana in a market where they can generate 10 times the income for the same product.

44. Marihuana is often referred to as currency without serial numbers and is often grown, sold, and traded in an underground tax-free economy.

SECTION B: Criminal Abuses of the MMAR

45. Marihuana is not regulated like other controlled substances. From my own experience, narcotic prescriptions are often issued by a physician in a tablet form and dispensed by a trained pharmacist in quantified denominations (milligram dosages). Once the narcotic is filled into a child-proof container, the recipient is then provided detailed instructions on consumption.

46. Marihuana is susceptible to criminal abuses, not only because of its value, but because it is a controlled substance that is easy to grow on a perpetual basis (year round) and there is a large populous of people wanting to purchase it for recreational use. The MMAR was unique in that it permitted access to marihuana for medical purposes in three ways (2 of which was the ability to cultivate their own narcotic):

- a. Authorization To Possess (“ATP”) allows a person to possess dried marihuana for personal consumption. It did not matter if the person had a criminal record;
- b. Personal Use Production License (“PUPL”) permits a person to grow marihuana for their own personal use. It did not matter if the person had a criminal record;
- c. Designated Person Production License (“DPPL”) allows one person to grow marihuana for another person. A person could not get a DPPL license if they had a criminal conviction for a designated drug offence within the last 10 years of their application.

47. MMAR producers were given the unmonitored ability to cultivate a high-value controlled substance for their own personal use, to destroy any excess marihuana they grew, and to follow the regulations based on an ‘honour’ system.

48. Attached to this affidavit as “**Annex L**” is a document prepared by the RCMP for the Canadian Association of Chiefs of Police in 2010 entitled, “*An Analysis of National Cases Related to the Marihuana Medical Access Regulations.*” The document stated that medical marihuana is a controlled substance that requires strict oversight mechanisms in order to mitigate criminal abuses. The Canadian Association of Chiefs of Police developed a number of recommendations, some of which are listed below:

- a. Personal Use Production Licenses and Designated Person Production Licenses should be repealed;
- b. Reputable companies should be contracted to provide a variety of medical marihuana throughout Canada to meet the needs and expectations of most medicinal marihuana users as well as the timely and reliable delivery of the product;
- c. The daily amount of marihuana recommended by a physician should be based on recognized training encompassing scientific findings and literature versus the demand of the patient;
- d. Physicians who recommend marihuana to their patients should receive an accreditation from their governing bodies who will in turn provide monitoring and compliance support on dispensation;

- e. Should be meaningful penalties that would include criminal prosecution and the immediate suspension and/or revocation of the license of an individual believed to be committing abuses.

Investigations of criminal abuses

Inability to inspect under the MMAR:

- 49. It was very difficult to detect the criminal abuses of MMAR production licenses because there was no comprehensive monitoring program and few inspections of MMAR production sites. The rapid expansion of the MMAR accompanied with lack of inspections allowed MMAR producers to take advantage of the system.
- 50. There were over 13,000 PUPL and over 2,000 DPPL under the MMAR in the Province of BC alone which made it almost impossible for Health Canada Inspectors to attend these residential MMAR production sites to ensure compliance.
- 51. The MMAR limited the Health Canada Inspectors' ability to conduct inspections of MMAR production sites. Section 52(2) of the MMAR stated, "*An inspector may not enter a dwelling-place without the consent of an occupant of the dwelling-place.*"
- 52. Under Section 31 of the CDSA, a Health Canada Inspector could seek to obtain a search warrant to enter a residential MMAR production site, however; that was not a practical option because of the number of MMAR producers to inspect and the number of Health Canada Inspectors.

Inability to revoke a MMAR license:

- 53. Section 63 of the MMAR stated that MMAR production licenses could be revoked if the holder of a PUPL or DPPL is found guilty of a designated drug offence committed after the date of issue of the license.
- 54. 'Found guilty' is not determined until the completion of a criminal trial. From my experience I have found that people, who have been arrested for designated drug offences in the Province of BC, may not go to trial for a year. This will permit the accused person to continue to produce marihuana, while being charged for trafficking marihuana.

55. There was no section in the MMAR that allowed Health Canada to revoke or suspend a production license if a MMAR producer was caught abusing their production license.
56. I have found that substantially more evidence is required to execute search warrants at MMAR production sites. This evidence is often gained through surveillance that takes police officers away from other investigations. On many occasions I have seen the anger and frustration from people when they learn that police can't action their complaints related to MMAR producers.
57. When search warrants are successfully executed at MMAR production sites, police officers often only seize the excess marihuana plants and the production of marihuana is continued. The cultivator can simply continue to grow large (monster) marihuana plants and/or make additional clones to continue overproducing.
58. During my investigations I have found MMAR producers that have exploited the program for a variety of reasons including:
- a. Hiding illegal grow operations under MMAR production sites;
 - b. Exploiting the authorization process by doctors who issued excessive amounts of production licenses, the continual increase of production license sizes, and the forging of MMAR production licenses;
 - c. Improperly disposing of MMAR waste materials;
 - d. Overproduction of medical marihuana by the growing of monster plants, manufacturing marihuana derivatives for sale, excess production of indoor and outdoor plants, and theft of electricity combined with the overproduction of marihuana plants;
 - e. Utilizing multiple MMAR licenses and brokers;
 - f. Trafficking in medical marihuana including clones and possession for the purpose of trafficking;
 - g. Involvement of Organized Crime.

Hiding illegal grow operations under MMAR production licenses

59. Police investigations into the illegal production of marihuana are fairly straight forward and can be as simple as obtaining a smell of growing marihuana from a property and confirmation from Health Canada that it is not associated to a MMAR production license.
60. Investigating abuses at MMAR sites are much more difficult. Many police officers, including myself, have received complaints from the public regarding noxious odours of growing marihuana and/or drug trafficking from residences in their neighbourhoods. I've started investigations based on these complaints, only to discover a majority of them are MMAR production sites.
61. I have found through investigations that many illegal grow operations became licensed to produce marihuana under the MMAR in order to hide their illegal activities. The illegal cultivators had 'hands on' experience growing marihuana, had an established grow site, and grow equipment. Once the illegal cultivators obtained a physician's endorsement to obtain a MMAR production license it afforded them protection from law enforcement, essentially acting as shield to hide their illegal activities.
62. I have chosen the following six examples to illustrate a person cultivating marihuana illegally and subsequently obtaining a MMAR production license:
- a. On August 4, 2010 police officers from the Chilliwack RCMP detachment executed a search warrant at a residence for the theft of electricity. 1,360 marihuana plants were located and the grower was arrested and convicted in court for Production of a Controlled Substance and sentenced to the Electronic Monitoring Program (house arrest). The grower obtained a MMAR production license to grow 140 marihuana plants while serving a sentence for production of marihuana. I attended the grower's residence on two occasions while he was under house arrest. The grower, although confined to his residence, was cultivating marihuana and using his computer to provide advice on marihuana cultivation and how to avoid police interference by obtaining MMAR licenses;

[Under the MMAR, there was no criminal record check required for persons to obtain a PUPL.]

- b. On September 14, 2012 police officers in Regina, Saskatchewan executed a search warrant for theft of electricity at an illegal marihuana grow operation. Shortly after the execution of the search warrant the accused obtained a MMAR production license along with his family members. Attached to this affidavit as “**Annex M**” is a chart created by a RCMP Criminal Intelligence Analyst depicting the transformation from an illegal grow operation to a family web of multiple MMAR production licenses;
- c. On April 24, 2013 police officers from the Ontario Provincial Police Organized Crime Enforcement Bureau executed a search warrant at a residence as part of an undercover project into the trafficking of cocaine. An undercover police officer had made several purchases of cocaine and on another occasion, purchased marihuana oil from the suspect. During the execution of the search warrant at the suspect’s residence, police seized marihuana bud, price lists of marihuana for sale, cannabis resin, and 400 marihuana plants. The suspect was arrested and held in custody for drug trafficking. During that time, he applied for a MMAR production license and within a few months after his arrest, was issued a MMAR license;
- d. Police officers in Calgary, Alberta executed a search warrant at a residence and located an illegal grow operation containing 1,632 marihuana plants. It was also discovered that the growers were stealing electricity and stealing water to support their illegal grow operation. On November 8, 2013 Calgary building Inspectors and Alberta Health Services conducted a residential compliance inspection to ensure the building had been remediated. It was learned that two MMAR production licenses had been authorized for the property;
- e. On June 8, 2011 police officers from the Winnipeg Police Service executed a search warrant at a restaurant in Winnipeg. Nine males were arrested, 30 pounds of marihuana was seized, and approximately \$30,000 cash. One male was convicted of possession for the purpose of trafficking and listed his residential address as the restaurant. On July 8, 2013 it was learned that a MMAR production license was issued to produce 171 plants at the same address as the restaurant. A second MMAR license was issued to another person that permitted him to store 8,775 grams at the same restaurant which is the same address where the convicted male was residing;

- f. On July 18, 2013 police officers from the Maple Ridge RCMP detachment responded to a report of shots fired at a residence. Police arrived on scene and found broken glass and spent firearm shell casings. Through the investigation it was learned that the occupant had an expired MMAR production license. 1,205 marihuana plants and over 6 pounds of harvested marihuana bud were located at the residence. The resident subsequently renewed his MMAR production license and was authorized to grow 171 marihuana plants.

Exploitation of the authorization process

Excessive MMAR licenses issued by one doctor:

63. Many websites list 'marihuana friendly' physicians. Once these physicians were identified illegal growers could seek out these physicians and obtain MMAR production licenses. Attached to this affidavit as "**Annex N**" is a printout from a website that has been in operation for a number of years that recommends physicians who will endorse the use of marihuana for medical purposes.
64. I believe some doctors saw the opportunity to make a significant amount of money endorsing MMAR production licenses. In one police investigation undertaken by the Ontario Provincial Police Crime Enforcement Bureau and police officers from the RCMP, the following was learned:
 - a. A physician saw undercover police officers, for which he completed the medical physician portion of Health Canada's MMAR application to obtain production licenses. During the process it is alleged that the physician failed to conduct a proper medical assessment and due diligence to determine if the undercover officers had legitimate illnesses. In each instance, the physician charged a fee to be paid directly to him without a receipt being issued.
65. I was involved in an investigation regarding the trafficking of marihuana from a location that was also licensed to produce marihuana under the MMAR. Documents were seized that indicated the MMAR producer paid a doctor in Chilliwack, BC \$1,700 for 'consultation' to endorse a Health Canada MMPR production license.

Continuously increasing license size:

66. MMAR production licenses were issued to people based on their daily personal consumption. Below is a list of consumption amounts corresponded to the number of marihuana plants required to meet the consumption level under the MMAR:

- a. 1 gram a day = 5 marihuana plants;
- b. 3 grams a day = 15 marihuana plants;
- c. 5 grams a day = 25 marihuana plants;
- d. 20 grams a day = 98 marihuana plants;
- e. 50 grams a day = 244 marihuana plants;
- f. 80 grams a day = 390 marihuana plants;
- g. 100 grams a day = 487 marihuana plants;
- h. 200 grams a day = 974 marihuana plants.

67. As previously mentioned in paragraph 39, the recommended consumption is 1 to 3 grams a day which would indicate that production licenses should be only issued for the production of 5 to 15 marihuana plants for personal consumption.

68. The Alberta Law Enforcement Response Team ("ALERT") in Northern Alberta discovered the average plants allotted for MMAR production licenses in their jurisdiction were:

- a. 38 marihuana plants in 2012;
- b. 109 marihuana plants in 2013;
- c. 130 marihuana plants in 2014.

69. I am aware that some MMAR licensed producers sought higher and higher dosages (ability to grow more marihuana plants) when they renewed their MMAR production licenses. I found that most MMAR production licenses were

associated to significantly more than the 5 to 15 marihuana plants (1 to 3 grams a day).

70. Through my investigations, I have found two ways a person could persuade a physician to endorse a large MMAR production license. One way was to present a form titled, "*Release form for Medical Practitioners: Marihuana Medical Access Regulations*" to the physician. The document states in part:

a. "*I release Dr. _____ from any and all actions, causes of action, claims, complaints and demands for damages, loss or injury whatsoever arising directly or indirectly as a consequence of my application under the Marihuana Medical Access Regulations or my use of marihuana. This release from liability is to be binding on my heirs, executors and assigns.*"

71. Another way a person could persuade a physician to endorse the ability to grow more plants is by using an affidavit. One MMAR applicant, who successfully obtained a license to grow 584 marihuana plants (120 grams a day) for his own personal use, wrote a notarized affidavit titled, "*Waiver and Release from All Liabilities and or Claims.*" The document states in part:

a. "*I am writing this affidavit to assist my physician in absolving him from any liability and or responsibility for the ingestion of such medicine at the present levels*";

b. "*I am also writing this affidavit to release my physician from any liability and or responsibility whatsoever arising from his participation in my exemption process*";

c. "*I am prepared to take on whatever risks that may be associated from ingesting my medicine at these levels. I do not intend to hold my physician responsible and or, to hold Health Canada and or, anyone else responsible for ingesting my medicine at these levels.*"

72. During investigations into the trafficking of marihuana I have come across some extremely large MMAR production licenses for personal consumption. Although the following are not indicative of all MMAR production licenses, they were actually authorized under the MMAR program and represent massive amounts of marihuana:

- a. **120 grams a day** which is 40 times more than the 3 grams a day. 120 grams a day permits the production of 584 marihuana plants for one person for personal use. It also permits that person to possess 3,600 grams and store 26,280 grams (57.8 pounds with an estimated value of \$115,000). I have seen the MMAR application form that the physician signed that listed the medical condition requiring medical marihuana was for "*Chronic knee pain*" and "*Hepatitis C*" and the symptoms were listed as "*Chronic pain. Fatigue*";
- b. **200 grams a day** which is 66 times more than the 3 grams a day. 200 grams a day permits the production of 974 marihuana plants for one person for personal use. It also permits that person to possess 6,000 grams and store 43,830 grams (96.3 pounds with an estimated value of \$192,000);
- c. **220 grams a day** which is 73 times more than the 3 grams a day. 220 grams a day permits the production of 1,071 plants for one person for personal use. It also permits that person to possess 6,600 grams and store 48,195 grams (106 pounds with an estimated value of \$212,000).

73. Excessively large MMAR production licenses for personal consumption create obvious opportunities for diversion. If the person who was authorized under the MMAR to consume 200 grams a day but only consumed 3 grams a day and sold the daily excess of 197 grams per day over the course of a year - it would equal 71,905 grams (158 pounds) valued at \$316,000.

74. On July 2, 2014 police officers from the Armstrong Detachment executed a search warrant for theft of electricity. There were three MMAR production licenses that totalled 2,240 plants (974 plants, 974 plants, and 292 plants). The site was authorized to store a total of 100,800 grams (222.2 pounds) of marihuana. Attached to this affidavit as "**Annex O**" is a chart created by a RCMP Criminal Intelligence Analyst that depicts the web of enormous MMAR production licenses associated to one property.

Forged MMAR licenses:

75. MMAR production licenses were issued on a legal size pink piece of paper that was not waterproof and had no visible security features (unlike driver's licenses, passports, etc). Some MMAR license holders found it difficult to fold up and carry around in a wallet.

76. Under the MMAR, license holders were required to keep their licenses with them at all times when in possession of marijuana as they were required to show proof to the police. I have often found that people either carried photocopies of their MMAR production licenses which made it difficult to determine the authenticity of the documents, or simply did not have the documents in their possession.
77. On April 17, 2013 a medical clinic in Pitt Meadows contacted the Maple Ridge RCMP detachment and advised that two doctor signature stamps had been stolen and they had received copies of MMAR production licenses for their patient files from Health Canada for MMAR production licenses they did not authorize. Police initiated an investigation and it was learned that the stamps were used to create seven fraudulent MMAR production licenses. Below is a summary of what police discovered:
- a. It was learned that two fraudulent MMAR licenses were issued to an address in Mission, BC. Each license was for 244 plants. On April 30, 2013 police officers from the Maple Ridge RCMP detachment executed a search warrant at the Mission residence. Police officers seized the fraudulent MMAR production license, 360 marijuana plants, 1 loaded 9mm handgun and over \$18,000 in cash;
 - b. It was learned that a fraudulent MMAR production license was issued to grow 244 marijuana plants at one address in Maple Ridge and store 10,980 grams of marijuana at another address in Maple Ridge. On May 24, 2013 police officers from the Maple Ridge RCMP detachment executed search warrants at both locations and seized the fraudulent MMAR production license and 139 marijuana plants;
 - c. It was learned that a fraudulent MMAR license was issued to grow 98 marijuana plants at an address in Surrey. On May 8, 2013 police officers from the Maple Ridge RCMP detachment executed a search warrant at the Surrey residence and seized the fraudulent MMAR production license and 231 marijuana plants;
 - d. It was learned that a fraudulent MMAR license was issued to grow 244 marijuana plants at an address in Mission, BC. On May 15, 2013 police officers from the Maple Ridge RCMP detachment executed a search warrant at the Mission residence and seized the fraudulent MMAR

production license, 410 marihuana plants, a firearm, 20 grams of magic mushrooms (psilocybin) and approximately 50 ecstasy tablets;

- e. It was learned that a fraudulent MMAR license was issued to grow 244 marihuana plants at an address in Mission, BC. On June 12, 2013 police officers from the Maple Ridge RCMP detachment executed a search warrant at the Mission residence and seized the fraudulent MMAR production license and 157 marihuana plants.

78. In 2012 police officers from the RCMP Island District Drug Section received information regarding a person who was endorsing MMAR applications to grow marihuana in his rental properties knowing it was being grown for the purposes of trafficking. Under the MMAR, an individual who wanted to grow in a residence needed the owner's permission to grow by having them sign a Health Canada MMAR "Form F." Police officers initiated an investigation and an undercover officer met with the male under the disguise of renting a house to set up a MMAR production site to grow and traffick marihuana. The following was learned:

- a. The male owned three properties that were being rented to MMAR producers. One renter was being charged \$2,500 a month rent and the property owner would also receive a pound of medical marihuana every 3 months that was worth about \$2,000. The property owner would then sell the medical marihuana to a buyer (broker) who was capable of transporting 30 pounds of medical marihuana to people in Alberta and Ontario;
- b. The property owner stated that getting a MMAR production license was the way to go because the police could not do anything about it;
- c. The property owner signed the undercover officer's Health Canada "Form F" which permitted the undercover officer to grow marihuana under the MMAR inside the property owner's rental property;
- d. The property owner offered to sell medical marihuana from one of his renters (a MMAR producer) to a second undercover officer;
- e. Surveillance was established on the property owner who met with a female who was confirmed to have a MMAR production license for 73 plants, to possess 450 grams and store 3,285 grams. The property owner then met with the undercover officer and showed him 2 Ziploc bags each containing approximately ½ pound of marihuana that he obtained from his female renter;

- f. Further investigation into the female MMAR producer who trafficked her medical marihuana indicated that she had a criminal record with 3 drug convictions (2008 – production of a scheduled substance, 2009 – trafficking in a scheduled substance and possession of a schedule II substance for the purpose of trafficking);
- g. Multiple search warrants were authorized, including the residence of the property owner and his rental properties.

Improper disposal of MMAR waste materials

79. I have found that MMAR producers often discard their soil medium after every crop primarily because of the difficulty in separating out the roots from the previous crop. These discarded root balls can cause the inadvertent illegal production of marihuana and contaminate forested areas.
80. There is no information within the MMAR that requires the supervision or documentation on the disposal of marihuana waste (leaves, stems, etc.) nor how to deal with excess fertilizers that leach out of plant pots. Attached to this affidavit as “**Annex P**” is a photograph of the discarded soil medium in a forested area at a MMAR production site in Chilliwack, BC.
81. Another example of discarded MMAR production waste is when the Richmond RCMP received a complaint from a business complex on January 9, 2014 that stated unknown person(s) were filling up their dumpsters with bags of marihuana leaves and stems. A few weeks later, on January 27, 2014, a police officer from the Richmond detachment was on routine patrol and observed a minivan depart from a dumpster in an industrial complex. The police officer stopped the vehicle and discovered that each of the two occupants in the vehicle had MMAR production licenses (each for 88 plants) and had dumped their marihuana waste in a business’ dumpster to avoid the costs associated with legal disposal.

Overproduction of medical marihuana

82. A MMAR producer is only permitted to grow the number of marihuana plants and only possess the amount of marihuana authorized by the license. A common abuse of the MMAR is the overproduction of marihuana. I have divided my analysis of the overproduction abuse into the following categories:

- a. Growing monster plants;
- b. Manufacturing derivatives to traffick;
- c. Growing too many indoor plants;
- d. Growing too many outdoor plants;
- e. Theft of electricity.

Growing "Monster" plants:

83. A MMAR producer can grow very large marihuana plants (also known as monster plants) and remain within his/her authorized plant count. Monster plants yield an extraordinary amount of marihuana by extending the vegetative growth period so they grow larger and taller. When the light cycle is then switched to the flowering phase, the large plants yield more bud. These large plants also yield more material that can be converted into derivatives.

84. A MMAR producer is only allowed to possess and store the amount of marihuana listed on their license. It would be impractical to cultivate monster plants if they yield more than authorized. The only logical reason to grow monster plants is to traffick the excess marihuana. To grow monster plants the cultivator would have:

- a. Increased costs associated to electrical consumption and fertilizers;
- b. To utilize additional space to contain the larger plants;
- c. To spend more time watering, maintaining, and harvesting;
- d. Additional plant materials to dispose of.

85. Section 30 of the MMAR indicates the yield of an indoor medical marihuana plant to be 30 grams (1.06 ounces or 0.06 pounds) of marihuana bud. However, in my experience, a marihuana cultivator can achieve a substantially higher yield.

86. There are many books and YouTube videos that show marihuana cultivators how to maximize the yield of marihuana bud per plant. Most people who grow marihuana indoors control the grow environment such as the air, lights, temperature, humidity, grow medium, and nutrients (fertilizers). With some knowledge of the photosynthesis process and by following some techniques such as longer vegetative growth periods, additional lighting, supplementing with carbon dioxide, pruning, and additional nutrients, the cultivator can achieve multiple pounds per plant rather than one ounce per plant.

87. If marihuana is valued at \$5 a gram it would mean that each MMAR medical marihuana plant would be worth approximately \$150 (\$5 a gram x 30 gram yield). I have found, however; MMAR producers can cultivate plants that are worth substantially more. The following is a breakdown of the value of a medical marihuana plant based on its yield and subsequent sale at \$5 a gram:

- a. 2 ounce marihuana yield per plant (approximately 56 grams) that was sold at the gram level could be worth \$280;
- b. 6 ounce marihuana yield per plant (approximately 170 grams) that was sold at the gram level could be worth \$850;
- c. 16 ounce marihuana yield per plant (approximately 1 pound (454 grams)) that was sold at the gram level could be worth \$2,270;
- d. 56 ounce marihuana yield per plant (approximately 3.5 pounds (1,587 grams)) that was sold at the gram level could be worth \$7,935.

88. Sometimes the growing of monster plants involves the following abuses: growing more plants than authorized, stealing electricity, and/or use of other illegal drugs. Below are six examples I have chosen that document the criminal abuses of the MMAR by growing monster plants:

- a. On March 22, 2012 police officers from the Kelowna RCMP detachment executed a search warrant at a residence related to the trafficking of marihuana from a MMAR production site that was authorized to grow 195 medical marihuana plants. Police officers arrested 12 people on scene that were tending 236 monster marihuana plants in a 6,000 square foot building. The marihuana plants were capable of yielding 3.5 pounds of

marihuana bud. During the search, police officers located 175 pounds of harvested marihuana, 2 firearms, ammunition, over \$32,000 cash and other drugs including cocaine and ecstasy tablets. The storage amount associated to the MMAR production license for 195 plants was 8,775 grams (19.3 pounds). 236 plants yielding 3.5 pounds would be 826 pounds worth approximately \$1.6 million. 3.5 pound yield per plant is approximately 53 times more yield per plant. Attached to this affidavit as "**Annex Q**" are photographs of the scene. The first photograph shows a police officer (who is 5'10" tall) standing next to a monster marihuana plant;

- b. On September 24, 2012 I attend a MMAR production site that was authorized to produce a total of 537 medical marihuana plants (195 plants, 146 plants, 98 plants, and 98 plants) in Chilliwack, BC. I attended to assist Bylaws and BC Hydro because there was no permit obtained to build the grow barn and BC Hydro needed to safely read the electrical meter (a sign was posted on the property that stated, "*Kill Zone*"). While on scene I located 247 more marihuana plants than the site was authorized to produce. I seized a marihuana plant that I subsequently harvested, clipped and dried. I found the yield of marihuana bud to be approximately 997 grams (2.2 pounds). This represents 33 times more yield per plant. Attached to this affidavit as "**Annex R**" are two photographs I took at the MMAR production site;
- c. On January 14, 2013 I attended Hope at the request of Integrated Homicide Investigation Team (IHIT) who was processing a scene of a double homicide that was also the site of 3 MMAR production licenses that totalled 293 medical plants (49 plants, 73 plants, and 171 plants). During my search of the property I observed 5 more plants than authorized, however all plants were monster plants capable of yielding 1.5 pounds of bud per plant. The potential yield of the marihuana plants was 447 pounds, however; the combined storage amount was 28 pounds (13,185 grams). This indicates the MMAR growers would be growing 419 extra pounds of marihuana every crop. If 3 crops were produced a year the MMAR producers could grow 1,341 pounds valued at approximately \$2.6 million dollars. While on scene I observed what appeared to be unsafe electrical wiring and requested that BC hydro technician attend. The electrical service was assessed by a BC Hydro technician who stated that the property would have caught fire within the week from the overloaded

consumption and faulty wiring. Attached to this affidavit as “**Annex S**” are photographs I took at this location.

- d. On March 8, 2013 police officers from the Regina Integrated Drug Enforcement Street Team began an investigation into the trafficking of marihuana from a male who had an expired MMAR license to produce 25 plants. In total, 3 search warrants were executed (the male’s business, his residence, and his expired MMAR production location). Some of the monster marihuana plants were over 8 feet tall and touched the ceiling. Attached to this affidavit as “**Annex T**” are photographs from the scene. During the search, the following were found:
 - i. \$52,000 cash;
 - ii. 104 growing marihuana plants;
 - iii. 13 pounds of hash oil;
 - iv. 74 pounds of dried marihuana;
 - v. 13 pounds of psilocybin (magic mushrooms);
 - vi. 12 blotters of Lysergic acid diethylamide (LSD);
 - vii. M1 assault rifle with extended magazines and ammunition;
- e. On May 2, 2013 police officers from the Chilliwack RCMP detachment and CMET executed a search warrant at a residence for theft of electricity. Police located the electrical bypass, a marihuana grow operation along with two MMAR production licenses that totalled 292 plants (each license was for 146 plants). A male was arrested on scene who stated that he tends the MMAR plants for the licensed MMAR producer in exchange for free marihuana and a free place to live. The male further stated that the MMAR licensed producer would stop by once a month and pick up marihuana. During the search 484 plants were located, some of the monster plants were the size of Christmas trees. Also located were 8 bins of marihuana that totalled 44 pounds. Under the MMAR production licenses the site was authorized to store 29 pounds but 44 pounds were located valued at approximately \$88,000 and an excess of 192 marihuana

plants. Attached to this affidavit as “Annex U” are photographs of the scene;

f. On August 14, 2014 the Waterloo Regional Police Service arrested a male who departed a residence smelling like marihuana. The male had a MMAR production license to grow 146 marihuana plants at a different address. This different address was an address where his wife had a MMAR production license for 146 marihuana plants and his mother in law had a MMAR production license for 190 marihuana plants. Police officers executed a search warrant at the residence and discovered 832 plants which are 686 more marihuana plants than he was authorized to possess. Five monster plants were seized, trimmed and dried to determine the yield. All five sample plants were significantly more than a 30 gram (1.06 ounce) yield:

i. 125.6 grams (4.4 ounces);

ii. 128.5 grams (4.5 ounces);

iii. 171.2 grams (6.1 ounces);

iv. 216.3 grams (7.7 ounces);

v. 222.0 grams (7.9 ounces).

89. There are huge financial incentives for MMAR producers to grow monster plants and traffick the excess marihuana. The two examples below illustrates how a MMAR producer can remain within his/her authorized plant count and make a substantial amount of money:

a. If a person received a physician’s endorsement to grow his/her own marihuana under the MMAR at **5 grams a day** – a license to grow 25 plants would be issued. 5 grams a day x 365 days year would result in the consumption of 1,825 grams. If the grower yielded 1 pound per plant x 25 plants x 3 crops a year would produce 34,000 grams (34,000 grams produced – 1,825 grams of consumption = an excess of 32,176 grams). If the MMAR producer sold the over-produced amount he/she could make approximately \$141,574.00;

- b. If a person received a physician's endorsement to grow his/her own marihuana at **200 grams a day** – a license to grow 974 plants would be issued. 200 grams a day x 365 days a year would result in the consumption of 73,000 grams. If the grower yielded 1 pound per plant x 974 plants x 3 crops a year would produce 1,325,397 grams (1,325,397 grams produced – 73,000 grams of consumption = an excess of 1,252,397 grams). If the MMAR producer sold the over-produced amount he/she could make approximately \$5.5 million dollars.

90. Attached to this affidavit as "**Annex V**" is a document titled, "*Examples of attainable over-production from authorized MMAR licenses*" that further illustrates how a person can criminally abuse a variety of MMAR production licenses by growing monster plants.

Manufacturing of derivatives to traffick:

91. MMAR production licenses were issued to persons to consume dried marihuana only, however; some MMAR producers are converting waste materials (trim and leaves) into derivatives that they consume and some MMAR producers are manufacturing derivatives to be trafficked. A MMAR producer can potentially generate an additional 10-20% yield of THC from each plant by turning this waste into derivatives.

92. On October 30, 2012, police officers from RCMP Island District Drug Section executed a search warrant at a residence that was also the storage site of 3,385 grams associated to a MMAR production license. During the search, police officers discovered that a wide variety of THC enriched derivatives were being produced and trafficked. Attached to this affidavit as "**Annex W**" are photographs of these derivatives which included:

- a. 1,500 marihuana infused cookies;
- b. 56 bottles of marihuana infused tinctures;
- c. 7 bottles of marihuana infused cream;
- d. 900 marihuana infused suckers in a variety of colors;
- e. 400 marihuana infused brownies.

93. Medical marihuana is often sold (often referred to as 'donated') to numerous stores in Vancouver that are not authorized by Health Canada to sell marihuana under the MMAR or MMPR, refer to themselves as dispensaries or compassion clubs. These locations often claim that they gather the excess marihuana from MMAR producers, and sell it. Below is a recent example of this:

- a. On September 2, 2014 police officers from the Vancouver Police Drug Section along with police officers from CMET executed a search warrant at a dispensary in Vancouver. Signs posted in the store indicated that marihuana was being sold for between \$5 and \$14 a gram (consistent with street level prices of marihuana and also consistent with the price of marihuana obtained through the MMPR). During the search, I observed a variety of derivatives that claim to contain THC concentrations as high as 89.9%. Attached to this affidavit as "**Annex X**" are photographs that I took while on scene. Some of the strains they claimed to sell for medical purposes included such names as: "*Fuckin Incredible; Green Crack; Rocking Rockstar; Candy Kane; and Pink Kush.*" During the investigation marihuana bud, marihuana derivatives, and approximately \$15,000 cash was seized. I participated in the warned statement with the person who was arrested on scene. I learned the following:
 - i. The marihuana in the store came from MMAR producers who had excess marihuana that was 'donated' to the store;
 - ii. The person did not have an authorization to possess or produce marihuana under the MMAR or MMPR and claimed that he sold marihuana to persons who had endorsements from physicians;
 - iii. Although prices were posted in the store, they did not sell marihuana, but rather received 'donations' that went towards the purchase of marihuana;
 - iv. They provided advice on the consumption of medical marihuana, advice on different medical marihuana strains for specific ailments, but had no formal education or training to make such recommendations.

Growing too many indoor plants:

94. A quandary is created when a person who is authorized to grow a specific number of plants grows more than authorized. Technically, this would be an offence of production of controlled substance contrary to Section 7(1) of the CDSA (for the excess marijuana plants they were cultivating). I have selected the following 25 examples to illustrate MMAR producers who have grown more plants than authorized for the purposes of trafficking:

- a. In 2010 police officers from the RCMP Drug Enforcement Branch in BC were involved in a large-scale cocaine trafficking investigation. During that investigation it was learned that one of the suspect's properties was a MMAR production site. Police officers executed a search warrant at the MMAR production site in Maple Ridge and discovered two MMAR production licenses that totalled 220 medical marijuana plants (122 plants and 98 plants). During the search, police officers discovered the production of 1,490 marijuana plants which are 1,270 more marijuana plants than was authorized to possess and grow. Also located on the property was a helicopter and three trailers that appeared to be set up as mobile grow operations. Attached to this affidavit as "**Annex Y**" are photographs of the marijuana plants and trailers;
- b. On January 26, 2011 police officers from the Toronto Police Service executed a search warrant at a residence that was also the site of an expired MMAR production license for 39 medical marijuana plants. During the search, police officers located a total of 307 marijuana plants which are 268 more marijuana plants than he was authorized to possess and grow;
- c. On January 26, 2011 based on information obtained from the above search warrant, police officers from the Toronto Police Service also executed a search warrant in an industrial complex that was the site of a MMAR production license for 15 medical marijuana plants. During the search, police located 803 plants which are 788 more marijuana plants than he was authorized to possess and grow;
- d. On April 7, 2011 police officers from the Toronto Police Service attended an apartment complex regarding a marijuana grow operation. It was learned that the apartment in a downtown Toronto high-rise had a MMAR production license for 39 marijuana plants. During the search 99

marihuana plants were located which are 60 more marihuana plants than he was authorized to possess and grow;

- e. On June 14, 2011 police officers from the Chilliwack RCMP detachment responded to a residential panic alarm. Upon callback, the police dispatcher heard a male yelling, "Robbers" into the phone and the line was disconnected. Police arrived on scene the homeowner stated that 2 males wearing black clothing approached his house, triggered his alarm, and subsequently fled. Police dog services attended and searched the property for any potential hiding suspects. A marihuana grow operation was located in an outbuilding that was also associated to two MMAR production licenses for a total of 219 medical marihuana plants however, police located 354 plants. In total, the MMAR producers had 135 more marihuana plants than they were authorized to possess and grow. One of the MMAR producers told police that one room of marihuana was for medical purposes and the other grow room was a "mortgage helper";
- f. On October 28, 2011 police officers from the Chilliwack RCMP detachment responded to a complaint of a loud explosion from a residence. Police attended the area of the reported explosion and spoke with a male who stated he was a MMAR producer authorized to grow 88 medical marihuana plants. Police located 271 marihuana plants which is 183 more marihuana plants than he was authorized to possess and grow;
- g. On March 6, 2012 police officers from the Toronto Police Service responded to a report of a break and enter. Police learned that the person who reported the incident had a MMAR production license for 39 medical marihuana plants and 7 unknown males broke into the grow operation and subsequently fled. While police were on scene they observed 1,507 marihuana plants which is 1,468 more marihuana plants than he was authorized to possess and grow;

[Of note, the MMAR producer in this investigation was the subject of a second police investigation on November 27, 2012 for overproduction of his MMAR license. There was no authority to revoke a MMAR production license for overproduction.]

- h. On April 20, 2012 police officers from St. Johns Newfoundland executed a search warrant at a residence that was also the site of a MMAR production license to grow 15 medical marihuana plants, store 675 grams,

and possess 90 grams. During the search of the residence police officers located 62 marihuana plants, 650 grams of dried marihuana, and 13 crates of drying marihuana bud. The MMAR producer was growing 47 more marihuana plants than he was authorized to possess and grow;

- i. On August 10, 2012 police officers from the RCMP Island District Drug Section in Nanaimo established surveillance at a MMAR production site that authorized to grow a total of 144 medical marihuana plants (48 plants, and 96 plants). During surveillance, police officers discovered that the MMAR license holders were not tending the marihuana plants, other people were. A search warrant was executed at a residence and 298 plants were located which are 154 more marihuana plants than what was authorized. A police officer clipped and dried the marihuana bud from a plant and determined the yield to be 378 grams (13.3 ounces);
- j. On September 23, 2012 police officers from the Surrey RCMP detachment responded to a report of a 'grow rip' in progress. The homeowner stated he rented the barn to a male with a MMAR license. Police officers entered the barn to determine if anyone was injured. A search warrant was subsequently obtained and it was learned that there was a MMAR production license to grow 137 medical marihuana plants. 392 marihuana plants were located which are 255 more marihuana plants than he was authorized to possess and grow;
- k. On November 17, 2012 police officers from the Toronto Police Service executed a search warrant at a property that was also the site of a MMAR production license for 369 medical marihuana plants. During the search 1,024 marihuana plants were located which are 655 more marihuana plants than he was authorized to possess and grow;
- l. On January 13, 2013 police officers from the Toronto Police Service executed search warrants in two industrial units. The first site had two MMAR production licenses that totalled 392 medical marihuana plants (196 plants and 196 plants). Police located 952 plants which are 560 more marihuana plants than the MMAR producers were authorized to possess and grow. The second site had 3 MMAR production licenses that totalled 294 medical marihuana plants (each for 98 plants). Police located 945 plants which are 651 more marihuana plants than the MMAR producers were authorized to possess and grow;

- m. On February 12, 2013 police officers from the Abbotsford Police department executed a search warrant at a residence that was also the site of a MMAR production license to grow 35 medical marihuana plants. The MMAR license was only issued a month prior. Police located 295 marihuana plants which are 260 more marihuana plants than he was authorized to possess and grow;
- n. On April 22, 2013 paramedics from the Lake Country Ambulance Service received a report that a male had collapsed at a residence. The paramedics arrived on scene and requested police attendance to force entry into the residence. Police officers from the Lake Country RCMP detachment gained entry to the residence and found the male in his bedroom. The male had a MMAR production license to grow 156 medical marihuana plants, however; 500 plants were located in the residence. The male was an associate of the Hells Angels and the residence was owned by a full patch member of the Hells Angels. The MMAR producer was growing 344 more marihuana plants than he was authorized to possess and grow;
- o. On April 30, 2013 police officers from the Toronto Police Service executed a search warrant at a residence that was also the site of a MMAR production license for 294 medical marihuana plants. In total, police located 2,497 plants which are 2,203 more marihuana plants than he was authorized to possess and grow;
- p. On June 6, 2013 police officers in Alberta executed a search warrant at a residence that was also the site of two MMAR production licenses for a combined total of 150 medical marihuana plants. During the search, police located 455 marihuana plants which are 305 more marihuana plants than he was authorized to possess and grow;
- q. On August 9, 2013 police officers from the 100 Mile House RCMP detachment responded to a 911 phone call regarding a domestic assault at a residence. Police officers arrived at the residence and spoke to a female who had been assaulted by her boyfriend who had fled on foot prior to police arriving on scene. Members searched the property for the male and located a grow operation in the residence and outbuilding. Police learned she had a MMAR production license to grow 49 medical marihuana plants. Police located 1,804 marihuana plants which are 1,755 more marihuana plants that she was authorized to possess and grow. The

MMAR producer stated she could be not be charged because she has a license that is protected by marihuana laws;

- r. On January 6, 2014 police officers from the Okanagan RCMP detachment were called to assist paramedics who responded to a report of a male who had fallen through a roof and was unconscious. While on scene police officers viewed the shed roof the male fell from and discovered it was full of marihuana plants. Through the investigation it was determined he had a MMAR production license to grow 195 medical marihuana plants but never provided any marihuana to the person he was authorized to grow for. In total 409 marihuana plants were located along with a stolen ATV from Alberta. The MMAR producer was growing 214 more marihuana plants than he was authorized to possess and grow;
- s. On January 17, 2014 police officers from the Richmond RCMP detachment attended a residence that was also the site of a MMAR production license to grow 146 medical marihuana plants. 581 marihuana plants were located which are 435 more marihuana plants than he was authorized to possess and grow;
- t. On January 22, 2014 police officers from the West Vancouver Police department executed a search warrant at a residence that was also the site of a MMAR production license to grow 146 medical marihuana plants. During the search 810 plants were seized which are 664 more marihuana plants than he was authorized to possess and grow;
- u. On January 23, 2014 police officers from Duncan RCMP detachment executed a search warrant at a residence that was also the site of a MMAR production license to grow 55 medical marihuana plants. During the search police located 126 marihuana plants ranging from 3 feet to 7 feet tall. The MMAR producer was growing 71 more marihuana plants than he was authorized to possess and grow;
- v. On April 17, 2014 police officers from the Toronto Police Service executed a search warrant in a strip mall complex that was also the site of a MMAR production license for 195 medical marihuana plants. During the search, police located 935 plants which are 740 more marihuana plants than he was authorized to possess and grow. Attached to this affidavit as “**Annex Z**” are photographs of the scene;

- w. On June 13, 2014 police officers from the Powell River RCMP detachment received information on a grow operation and attended the residence that was also the site of an expired MMAR production license to grow 15 medical marihuana plants. During their attendance to the property 71 marihuana plants were located which are 56 more marihuana plants than he was authorized to possess and grow;
- x. On July 16, 2014 police officers in Alberta executed a search warrant at a residence that was also the site of a MMAR production license for 195 medical marihuana plants. During the search 372 marihuana plants were located which are 177 more marihuana plants than he was authorized to possess and grow;
- y. On August 11, 2014 police officers from the Toronto Police Service executed search warrants at neighbouring properties for drug trafficking. The first property had a MMAR production license to grow 342 medical marihuana plants but police located 715 plants which are 373 more marihuana plants than he was authorized to possess and grow. The second property also had a MMAR production license to grow 342 medical marihuana plants but police located 533 plants which are 191 more marihuana plants than he was authorized to possess and grow.

Growing too many outdoor plants:

- 95. Not only were some MMAR producers overproducing indoor plants but some were abusing MMAR outdoor production licenses. Through investigations into outdoor grow operations I have learned that some people were issued MMAR production licenses to grow marihuana in some very remote locations that were not identified by a civic address or had utility services. These locations have made it difficult for police to verify MMAR production licenses associated to parcels of land.
- 96. Below are two examples of MMAR producers who have abused their outdoor production licenses by overproducing marihuana plants for the purposes of trafficking:
 - a. On September 19, 2012 police officers from the Durham Regional Police detachment were utilizing their police helicopter on an unrelated matter when they observed an outdoor marihuana grow operation. An investigation was initiated and it was learned that there were three

licenses to produce a total of 77 medical marihuana plants (12 plants, 19 plants, and 46 plants). The adjacent property had a MMAR license to grow 49 medical marihuana plants. On September 24, 2012 search warrants were executed on both properties. The first property that was authorized to produce 77 marihuana plants had 240 plants which are 163 more marihuana plants they were authorized to possess and grow. The second property was authorized to produce 49 medical marihuana plants but had 193 marihuana plants which are 144 more marihuana plants than he was authorized to possess and grow. Attached to this affidavit as “**Annex AA**” are photographs from the two outdoor grow operations;

- b. On August 22, 2014 RCMP Air Services was looking for a missing person and observed an outdoor marihuana grow operation. The information was forwarded to the Duncan RCMP Detachment. Police officers conducted surveillance and learned that multiple males were tending to and watering the marihuana plants. On August 27, 2014 police officers from the Duncan RCMP detachment executed a search warrant at a residence and 6 males were arrested on scene. The address was the site of a MMAR production license for 195 indoor medical marihuana plants. 351 marihuana plants were located growing outdoors, that were between 6 and 9 feet tall. The MMAR producer was growing 156 more marihuana plants than he was authorized to possess and grow. Attached to this affidavit as “**Annex BB**” are photographs from the MMAR production site that depict unsanitary conditions.

Theft of electricity:

97. There are substantial costs associated with operating a medical grow operation. Firstly, the grow lights consume a significant amount of electricity and operate at a high temperature. Secondly, to offset the heat generated by the grow lights, MMAR producers often utilize air conditioners to keep the room at a steady grow temperature, and oscillating fans to keep the air circulating. Thirdly, there are costs of equipment and grow chemicals. During an investigation into the trafficking of marihuana I discovered a MMAR production site that was paying for an extremely large amount of electricity:

- a. In 2013, I was the affiant in an investigation involving the clandestine operation of a website that was selling marihuana grown at a MMAR production site that was authorized to grow a total of 560 medical marihuana plants (146 plants, 195 plants, and 219 plants). On May 14, 2013 the MMAR production site was billed over \$21,000.000 for 28 days

of electrical consumption (approximately \$760 a day or approximately \$250,000 a year). I obtained an expert opinion from an electrician who has been qualified in BC Supreme Court as an expert witness in calculating electrical consumption and the operation of electrical apparatus pertaining to marihuana grow operations. He reviewed the BC Hydro consumption records I provided him. It was in his professional opinion that the MMAR production site was consuming the equivalent of a residential housing subdivision consisting of 175-190 homes.

98. Some MMAR producers resort to the stealing of electricity and trafficking of medical marihuana. A male was interviewed in the Chilliwack Times newspaper dated March 28, 2013 in an article titled, "*Legal pot growers feel betrayed by gov't.*" Attached to this affidavit as "**Annex CC**" is a copy of the newspaper article. The male interviewed in the article was a MMAR producer quoted as saying, "*I'm sort of legal,*" Hewer conceded, adding that, "the excess" goes to pay for the expensive electricity bills. "*Who else is going to pay for the \$2,800 hydro?*"
99. I have been involved in over 100 investigations related to the theft of electricity. I have observed that electricity enters a residence or building from either overhead or underground wires. These wires travel to a hydro meter and then to a fuse panel where the electricity gets diverted to numerous areas in the residence.
100. Electrical diversions or the theft of electricity is often discovered by BC Hydro personnel when conducting service checks on property. BC Hydro security investigators will place an ammeter on the electrical service line to calculate the amount of electricity flowing to a residence. At the same time another BC Hydro security investigator will determine the amount of electricity that is actually being recorded by the electrical meter. If more electricity is going to the residence than what is be recorded by the electrical meter – a theft is occurring. BC Hydro security personnel will then forward a theft of electricity report to police who would write a criminal code search warrant for theft of electricity.
101. Thomas Jones, the Field Investigations Manager at BC Hydro advised me that between August 2012 and April 2014 BC Hydro lost \$115,515.47 in revenue that was directly associated with the theft of electricity at licensed medical marihuana production sites. Thomas Jones further stated that in a number of cases, BC Hydro was forced to disconnect power of its own accord since law enforcement were unable to obtain a search warrant due to complications associated with the presence of the MMAR production license.

102. Between September 2010 and May 2013 I was able to locate thirteen (13) MMAR production sites where theft of electricity was located. Some MMAR production sites have stolen electricity, primarily to cultivate more marihuana plants than authorized for the purposes of trafficking:

- a. On September 30, 2010 police officers from the Chilliwack RCMP detachment and I executed a search warrant at a residence for theft of electricity which was also a MMAR production license to grow 25 medical marihuana plants. During the search 371 plants located. The MMAR producer was stealing electricity and growing 14 times more or 346 more marihuana plants than he was authorized to possess and grow;
- b. On April 3, 2012 police officers from the Burnaby RCMP detachment executed a search warrant at a residence for theft of electricity. Upon police arrival a male came to door and stated that he had a MMAR production license and police did not need to be there. He produced a MMAR production license to grow 69 medical marihuana plants, possess 420 grams and store 3,105 grams. Police found 197 marihuana plants and 4,352 grams of packaged marihuana. Therefore, the MMAR producer was stealing electricity, had 1,247 grams more of packaged marihuana and was growing 128 more marihuana plants than he was authorized to possess and grow;
- c. On June 22, 2012 police officers from the Squamish RCMP detachment executed a search warrant at a residence for theft of electricity. The residence had a MMAR production license to grow 25 medical marihuana plants, possess 150 grams, and store 1,125 grams. 47 plant pots were located in grow rooms associated to recently harvested plants. 10.5 pounds of marihuana bud was in the process of being dried. The MMAR producer was stealing electricity and growing 22 more marihuana plants and had 8 pounds more than he was authorized to possess and grow;
- d. On June 28, 2012 police officers from the Abbotsford Police department executed a search warrant for theft of electricity which was also a MMAR production site for 39 medical marihuana plants. During the search, 505 marihuana plants were located. The MMAR producer was stealing electricity and growing 466 more marihuana plants than he was authorized to possess and grow;

- e. On August 30, 2012 police officers from the Burnaby RCMP detachment executed a search warrant at a residence for theft of electricity that was also a MMAR production site for 122 medical marihuana plants. During the search 490 plants were located as well as \$3,000 cash. The MMAR producer was stealing electricity and growing 368 more marihuana plants than authorized to possess and grow. A BC Hydro technician attended the scene and stated that the electrical meter was so over-burdened that the insulation inside had melted and a fire was imminent;
- f. On September 7, 2012 police officers from the Powell River RCMP detachment executed a search warrant at a residence for theft of electricity that was also a MMAR production site for 146 medical marihuana plants. During the search police located 1,401 marihuana plants. The MMAR site was stealing electricity and growing 1,255 more marihuana plants than he was authorized to possess and grow. A person arrested on scene, who was not the authorized grower, stated he was paid \$2,500 a month to tend the plants. A media release conducted by the Powell River RCMP stated that the marihuana seized was enough to supply every man, woman and child in Powell River with just over 15 marihuana joints each;
- g. On November 6, 2012 police officers from the Vernon RCMP detachment executed a search warrant at a residence for theft of electricity that was also a MMAR production site for 171 medical marihuana plants and the storage 6,795 grams. 892 marihuana plants were located along with 10,100 grams of dried marihuana (22.24 pounds). The MMAR producer was stealing electricity and growing 721 more marihuana plants and was in possession of 3,305 grams (7.27 pounds) over his authorized possession amount;
- h. On January 23, 2013 police officers from the Penticton RCMP detachment executed a search warrant at a residence for theft of electricity that was associated to a MMAR production license to grow 98 medical marihuana plants. During the search police located 299 marihuana plants. The MMAR producer was stealing electricity and growing 201 more plants than authorized to possess and grow;
- i. On March 5, 2013 police officers from the Chilliwack RCMP detachment executed a search warrant on a rural property for theft of electricity in a heavily forested area that was also associated to a MMAR production

license to grow a total of 368 medical marihuana plants (35 plants, 98 plants, 98 plants and 137 plants). During the search, police located 1,934 marihuana plants, a loaded .357 magnum handgun that was stolen from Richmond, and over \$10,000 in cash. The property was unsanitary and appeared garbage was piling up in multiple locations on the property. Some of the marihuana plants were infected with spider mites (most common bug infestation in marihuana grow operations). They were stealing electricity and growing 1,566 more plants than they were authorized to grow and possess. Attached to this affidavit as “Annex DD” are photographs of all the garbage on the property and bug infested medical marihuana plants;

- j. On April 25, 2013 police officers from the Surrey RCMP detachment executed a search warrant at a residence for theft of electricity that was not a MMAR production site. As police arrived on scene a male took off running. During the search of this illegal grow site 406 marihuana plants were located along with the BC Driver's License of the male who fled the property. Police officers attended the address listed on the suspect male's BC driver's license which was a few blocks away. The suspect male refused to exit from the residence. After a 2 hour standoff, he complied. The male was found to be in breach of a recognizance from a previous investigation involving the production of marihuana and theft of electricity the year prior. His conditions included not to possess firearms, not to possess controlled substances except as prescribed by a physician and not to possess marihuana production equipment. The male also had an unendorsed warrant for his arrest. The residence that the male from the illegal grow ran to was a MMAR production site authorized to grow 146 medical marihuana plants. Police officers obtained another search warrant for the MMAR production site and found 566 marihuana which is 420 more marihuana plants then he was authorized to possess and grow;
- k. On May 2, 2013 a male was found deceased in a MMAR production site. Police officers from the North Vancouver RCMP detachment and paramedics attended the residence. It was learned that the male died of natural causes but was a designated producer to grow 122 medical marihuana plants. During the search of the residence, there were 212 marihuana plants which are 90 more marihuana plants than he was authorized to possess and grow. Electricity was being diverted from another residence to supply power to the grow operation;

- I. On May 9, 2013 police officers from the Sicamous RCMP detachment executed a search warrant at a residence for theft of electricity which was also a MMAR production site to grow 195 medical marihuana plants. During the search police officers located 493 marihuana plants which are 298 more marihuana plants than he was authorized to possess and grow. Police also located and seized 5 insecure firearms;

- m. On May 31, 2013 police officers from the Quesnel RCMP detachment executed a search warrant at a residence for theft of electricity which was also a MMAR production site to grow 98 medical marihuana plants. During the search police located 699 marihuana plants. One of the males arrested on scene had an unendorsed warrant for his arrest for sexual assault and sexual interference. The MMAR producer was stealing electricity and growing 601 more plants than he was authorized to possess and grow.

Multiple MMAR licenses and brokers

103. Some MMAR producers acted as brokers to collect medical marihuana from other MMAR producers and traffick it to buyers locally and across Canada. Below are two examples of this:
 - a. In May 2012, a male posted an ad on Craig's List asking for someone to help him complete a MMAR production license application. A female who had a MMAR ATP license met with the male. The male was really interested in purchasing 10 pounds of excess medical marihuana and not needing help completing a MMAR license application. She phoned her friends who had MMAR production licenses. One of her friends had an excess of 7.5 pounds of medical marihuana and offered to sell it for \$1,800 a pound and give her \$50 on each pound that the male purchased. Her friend left the 7.5 pounds of medical marihuana in her apartment dumpster over the course of the night and she recovered it the following morning. On May 31, 2012 she met with the male who was going to purchase the medical marihuana and at the same time she met with her MMAR designated grower and obtained 2.5 pounds of marihuana to complete the 10 pound transaction. As her designated grower was placing the 2.5 pounds of marihuana in the trunk, unknown males (believed to be associates of the male making the 10 pound purchase) sprayed them with bear spray and stole the 10 pounds of marihuana;

- b. On September 27, 2011 police officers from the RCMP Drug Section in Nunavut executed a search warrant at a compassion club. The male running the compassion club in Nunavut was also the subject of a sexual assault investigation. Documents were seized including a contract between the compassion club and a MMAR producer that stated the MMAR producer would supply 10-25 pounds of marihuana each week to Nunavut. The MMAR producer only a PUPL to grow 44 medical marihuana plants for his own personal use. I initiated an investigation into the trafficking of medical marihuana and discovered the following:
- i. The MMAR producer operated a website that sold marihuana to persons who had an ATP under the MMAR (If a person had an ATP and not a designated grower they could only purchase their marihuana from Prairie Plant System which was Health Canada's only contracted company to supply medical marihuana under the MMAR);
 - ii. A call center was located in Victoria where persons would take orders for the purchase of marihuana on a daily basis. The call centre utilized business cards and company letterhead to mail information to people that made the company appear legitimate;
 - iii. Once the orders were received, the purchase order list would be given to a MMAR producer who was in contact with multiple MMAR producers, and buy their excess medical marihuana and resell it through the company;
 - iv. The medical marihuana from the other MMAR producers would be transported to the MMAR producer's residence who would then package the marihuana and put it in the mail to purchasers across Canada. This MMAR producer mailing the packages had a PUPL that only authorized the production of marihuana for his own personal consumption – nobody else;
 - v. On May 25, 2012, police officers from the RCMP Drug Enforcement Branch and I executed a search warrant at the call center and the MMAR producer's residence. Attached to this affidavit as "**Annex EE**" which contains photographs of the MMAR producers grow site, access to a second grow room, and the packages of medical marihuana that were being mailed across Canada.

Trafficking in medical marihuana under the MMAR

104. The MMAR permitted people to possess specified amounts of dried marihuana and to produce marihuana at specific locations. Through my investigations I have found that some MMAR producers have possessed marihuana for the purpose of trafficking. During one investigation, a MMAR producer stated they were not high level drug dealers but like to 'dabble' (in drug trafficking) and that is just the 'little devil in all of us.'
105. In my review of police investigations related to the abuses of the MMAR I have located numerous examples of MMAR producers who have possessed marihuana clones and excess medical marihuana for the purposes of trafficking. Most of these criminal abuses are inadvertently discovered by police during vehicle stops for traffic infractions.

Marihuana clones:

106. If a person had a MMAR production license for 50 marihuana plants he/she could keep them in the vegetative growth state and clip off 10 clones a week from each medical marihuana plant (each clone is valued between \$5 to \$10 each). The MMAR producer, with minimal effort, could traffic 500 clones a week and make between \$10,000 to \$20,000 a month (tax-free) selling clones.
107. MMAR licenses permitted the production of medical marihuana at specific site locations identified on their licenses but only permitted the possession and transportation of dried marihuana. Below are three examples of people with MMAR licenses who were transporting clones for the purpose of trafficking:
- a. On March 29, 2011 a police officer from the Maple Ridge RCMP detachment stopped a van that smelled of marihuana. The police officer commented on the smell of marihuana emanating from the van and the driver produced a MMAR production license to grow 195 medical marihuana plants for his own personal use. Inside the van, the police officer located 104 marihuana clones, approximately 4 inches tall, and over \$9,000 in cash. The police officer confirmed with Health Canada that the MMAR production license did not permit the transport of plants so they were seized;

- b. On February 7, 2013 a police officer from the RCMP Traffic Section in Alberta stopped a vehicle with two occupants for speeding. Each occupant had a MMAR production license (1 for 98 plants and 1 for 195 plants). The police officer located and seized six boxes that contained a total of 700 marihuana clones;
- c. On April 9, 2014 a police officer from the RCMP Traffic Section in Alberta stopped a rental vehicle for speeding on Hwy 1. The police officer approached the vehicle and obtained a smell of marihuana and arrested the three occupants. One occupant had a MMAR ATP license to possess 1,200 grams of dried marihuana. A search of vehicle resulted in the seizure of 374 marihuana clones, 5 cans of pepper spray and other controlled substances including Ketamine and methamphetamine.

Possession for the purposes of trafficking:

108. The MMAR did not specify how medical marihuana was to be stored, transported, or possessed. From my experience, I have often found persons with MMAR licenses possess marihuana in large Ziploc type bags that have the capacity to contain approximately ½ pound of marihuana. Coincidentally, this type of packaging is often how I came across marihuana that was trafficked at the street level.
109. Most narcotics have a label that denotes the person's legal possession. The marihuana that I have seized from MMAR production sites were never in child proof containers that listed the person's name, physician's name, dosage, THC percentage, packaging date, etc. If there were multiple MMAR production licenses at a property I found it impossible to determine what medical marihuana was associated to what person.
110. Attached to this affidavit as "**Annex FF**" is a RCMP Criminal Intelligence Brief entitled: "*A Review of Cases Related to the Medical Marihuana Access Regulations*", dated April 2009. The document reviewed medical marihuana licensing in 2009 found 70 instances where violations to the licensing were confirmed and of those, 40 were found to be trafficking excess marihuana to make a profit.
111. The MMAR permitted an authorized person to carry a 30-day supply of marihuana on their person, rather than their daily amount. It would be logical to me if a person was authorized to consume 3 grams of marihuana a day and

would be going out for the afternoon; he or she would take 1.5 grams (a half day supply) with them and not carry around 90 grams (their 30 day supply) of marihuana.

112. Some large MMAR production licenses permitted persons to carry extremely large amounts of medical marihuana. For example, a 200 gram a day authorization permitted a person to walk around with 6,000 grams (13.2 pounds) valued at approximately \$26,000. Attached to this affidavit as "**Annex GG**" are photographs of multiple ½ pound piles of marihuana to show the reader the volume associated to that possession amount.

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

114. Below are twenty-one (21) examples of persons with MMAR licenses who have criminally abused the MMAR program by possessing medical marihuana for the purpose of trafficking:

2011:

- a. On July 15, 2011 police officers from the Ontario Provincial Police stopped a male driving a motorcycle based on information they received about the illegal possession of a firearm. The male had a MMAR production license to produce 15 medical marihuana plants and possess 90 grams however, he was found to be in possession of 1 pound of marihuana and approximately \$8,000 cash. Police officers subsequently executed a search warrant at his residence where his 7 children were residing (ages 1 to 15 years old). Police seized 3 firearms (one of which was an unregistered AK-47 style assault rifle), ½ pound of marihuana located in the attic, 600 grams of marihuana from various locations throughout the residence, \$4,000 in cash, and an illegal grow operation containing 446 marihuana plants;

- b. On September 13, 2011 a police officer from the Richmond Airport RCMP detachment received a complaint that a piece of luggage at the Vancouver International Airport smelled of marihuana. The luggage was owned by a male who was travelling to St. Johns, Newfoundland and had a MMAR license to possess 900 grams. A search of the luggage recovered over 74 pounds of marihuana. The marihuana in his possession represents 37 times over his authorized possession amount. The estimated value of the marihuana was approximately \$148,000;
- c. On September 14, 2011 a police officer from the Lake Louise RCMP detachment stopped a vehicle for a driving infraction. The driver stated he was moving to Regina, Saskatchewan for employment. The police officer obtained a smell of marihuana from the vehicle and the driver produced a MMAR PUPL license to consume 20 grams a day, possess 600 grams and store 4,410 grams. The police officer discovered a new suitcase in the trunk that contained 19 (nineteen) Ziploc bags that each contained approximately ½ pound of marihuana with a total weight of 4,336 grams. The driver stated that he was transporting his storage amount and last consumed marihuana by smoking the day prior. The clothing inside the vehicle was indicative of a 2-3 day trip (basically a change of clothing) and not indicative of a person moving to another Province;

2012:

- d. On March 27, 2012 a police officer from the Agassiz RCMP detachment stopped a vehicle and located a ½ pound of marihuana, counterfeit cigarettes, and over \$1,600 cash. The male had an expired MMAR production license that permitted him to grow 88 medical marihuana plants, possess 540 grams, and store 3,960 grams. The male was arrested and his cellular phone was searched. The phone contained messages that indicated marihuana was being sold at the pound level for \$2,250. He was getting people to 'purchase' MMAR production licenses for \$10,000 associated to 96 medical marihuana plant licenses and further discussion that they need keep the licenses under 200 marihuana plants so it does not attract attention, and it is easier to renew;

2013:

- e. On January 14, 2013 a police officer from the Jasper RCMP detachment stopped a rental vehicle for following too close to another vehicle. The police officer obtained a smell of marihuana and arrested the driver. The

police officer found 2 hockey bags full of marihuana that totalled 70 pounds (approximately 31,000 grams). The driver produced a MMAR ATP that permitted him to possess up to 600 grams. The driver provided a warned statement to police that indicated he was being paid as a courier to transport the marihuana from Vancouver to Edmonton. He was given \$2,000 to rent the vehicle and would receive \$5,000 upon delivery. The marihuana in his possession represents approximately 51 times over his authorized possession amount;

- f. On February 6, 2013 a police officer from the Lake Louise RCMP detachment stopped a vehicle for erratic driving. The police officer detected a strong odour of marihuana and requested a police drug dog to attend. A search of the vehicle recovered a duffle bag that contained 20 Ziploc bags of marihuana with a total weight of 4,541 grams. The driver produced a MMAR production license that permitted him to grow 49 medical marihuana plants, possess 300 grams and store 2,205 grams. The marihuana in his possession was approximately 15 times over his authorized possession amount;
- g. On March 27, 2013 a police officer from the Maple Ridge RCMP detachment stopped a vehicle for a seatbelt infraction. The police officer obtained a smell of marihuana, searched the vehicle, and located five Ziploc bags each containing approximately ½ pound of marihuana, and a police radio jamming device. The police officer obtained warned statement from the two occupants and learned that they were not associated to any MMAR licenses but were being paid by a MMAR designated grower to transport the marihuana to a person authorized to possess it;
- h. On March 30, 2013 a police officer from the Canmore RCMP detachment stopped a vehicle for speeding. The driver admitted to recently smoking a joint and produced a MMAR production license allowing him to produce 122 medical marihuana plants and possess up to 750 grams. The police officer arrested the driver, searched the vehicle and seized 3,859 grams (8.5 pounds) of packaged marihuana. The marihuana in his possession was approximately 5 times over his authorized possession amount;
- i. On April 13, 2013 a police officer from the Richmond Airport RCMP detachment located a suitcase in the secure baggage area at the Vancouver International Airport that smelled of marihuana. The luggage was searched and found to contain 13 kilograms of marihuana valued at

approximately \$57,000. Upon further investigation the airport surveillance footage was reviewed and the male who dropped off the suitcase was identified and determined not to possess a MMAR license. The RCMP Forensic Identification Section examined the packages and recovered fingerprints. These fingerprints were identified to a person with a criminal record who also has a MMAR production license;

- j. On May 5, 2013 a police officer from the Fraser Valley RCMP Traffic Section stopped a vehicle with 2 occupants for erratic driving. The police officer obtained a smell of marihuana from the vehicle and arrested the occupants. The driver had a MMAR production license to grow 98 plants, store 4,410 grams and possess 600 grams. A search of the vehicle located 14 Ziploc bags in a cardboard box in the back of the vehicle. Each Ziploc bag contained approximately ½ pound of marihuana with a total weight of 3,597 grams. The marihuana in the driver's possession was approximately 6 times over her authorized possession amount and valued at approximately \$14,000. Attached to this affidavit as "**Annex HH**" are photographs of the seized medical marihuana;
- k. On May 24, 2013 a police officer from the Maple Ridge RCMP detachment conducted a vehicle stop of a van that was emitting a strong smell of marihuana. The driver was arrested and found to possess a MMAR production license that permitted him to grow 195 medical marihuana plants, and possess up to 1,200 grams. The police officer searched the back of the van and located 54 black garbage bags of mature harvested marihuana plants. The estimated yield of marihuana bud was determined to be 160 pounds. The marihuana in his possession was approximately 60 times over his authorized possession amount. Attached to the affidavit as "**Annex II**" are photographs of the excess medical marihuana;
- l. On June 20, 2013 police officers from the Banff RCMP detachment had set up a road block due to a mudslide. Police officers obtained a smell of marihuana from a vehicle with three occupants. Two of the three occupants had MMAR licenses (1 had a MMAR license to possess 1,500 grams and 1 had a MMAR license to possess 630 grams). Police searched the vehicle and located 16 Ziploc bags each containing approximately ½ pound of marihuana with a total weight of 4,010 grams. The marihuana in their combined possession was approximately 2 times over their authorized possession amount;

- m. On July 16, 2013 a police officer from the Port Mann RCMP Traffic Section stopped a vehicle for unauthorized headlights. A smell of marihuana was emanating from the vehicle and the driver produced a MMAR license to possess 990 grams of medical marihuana. The police officer searched the vehicle and found a duffle bag that contained 12 Ziploc bags each containing approximately ½ pound of marihuana each. The total weight seized was 2,880 grams. The marihuana in his possession was approximately 3 times over his authorized possession amount;
- n. On September 21, 2013 a police officer from the Timmons Police Service in Ontario stopped a vehicle. The police officer obtained a smell of marihuana emanating from the vehicle and arrested the driver. The driver produced a MMAR license that permitted him to possess 2,400 grams of medical marihuana. The police officer searched the vehicle and found 14 Ziploc bags each containing approximately ½ pound of marihuana in a cardboard box. The total weight of the marihuana was 3,610 grams (approximately 7 pounds) valued at approximately \$14,000. Also seized were 2 cellular phones and over \$2,500 in cash. The marihuana in his possession was approximately 1.5 times over his authorized possession amount. Attached to this affidavit as “**Annex JJ**” are photographs of the excess medical marihuana;
- o. On October 13, 2013 a police officer from the Fraser Valley RCMP Traffic Section stopped a vehicle with 2 occupants in Abbotsford for a seatbelt infraction. The police officer obtained a smell of marihuana from the vehicle and arrested the occupants. One of the occupants produced a MMAR license that permitted him to possess 1,200 grams of medical marihuana. A search of the vehicle located 9 Rubbermaid containers that had a combined total of 70 Ziploc bags each containing approximately ½ pound of marihuana for a total of approximately 34 pounds valued at approximately \$68,000. Also seized was over \$4,000 in cash. The marihuana in his possession was 12 times over his authorized legal possession amount. Attached to this affidavit as “**Annex KK**” are photographs of the excess medical marihuana;
- p. On October 23, 2013 a police officer from the Saskatchewan RCMP Traffic Section stopped a BC registered vehicle with 2 occupants. During the traffic stop the occupants stated they were planning on staying in Saskatchewan for a couple of days and returning back to BC. The police

officer located a hockey bag in the vehicle that contained 26 Ziploc bags of marihuana each weighing approximately ½ pound each (total of 13 pounds). One of the occupants had a MMAR license that permitted him to possess 6,000 grams (6 kg or 13 pounds valued at \$26,000). The police officer thought it strange for a person who was travelling for 3 days to transport their 30 day supply of medical marihuana. The police officer notified the Saskatoon Police Service Street Gang Unit who established surveillance on the vehicle as it entered Saskatoon, Saskatchewan. The 2 occupants from the BC registered vehicle entered a hotel room and a short time later two Saskatoon residents attended the same hotel room. The occupants from the BC registered vehicle departed from the hotel room without the hockey bag and the 2 Saskatoon males departed the hotel room with the hockey bag full of marihuana;

- q. On November 27, 2013 a police officer from the Fraser Valley RCMP Traffic Section stopped a vehicle in Hope with two occupants for speeding. One male produced a MMAR production license to grow 98 medical marihuana plants, consume 20 grams a day, and possess 600 grams. The police officer seized a garbage bag on the back seat of the vehicle that contained 16 Ziploc bags that each contained approximately ½ pound of marihuana. In total, approximately 8 pounds valued at \$16,000 were located. The marihuana in his possession was 12 times over his authorized legal possession amount. Attached to the affidavit as “**Annex LL**” are photographs of the excess medical marihuana;

2014:

- r. On January 9, 2014 a police officer from the Fraser Valley RCMP Traffic Section stopped a vehicle for speeding. The police officer obtained a smell of marihuana from the vehicle and arrested the driver for possession of a controlled substance. A search of the vehicle located a black garbage bag containing 22 Ziploc bags, each containing approximately ½ pound of marihuana with a total weight of 11.5 pounds valued at approximately \$22,000. The driver stated he was in the process of getting a MMAR license. An incomplete MMAR application document, that had not yet been endorsed by a physician, was found in the vehicle. Attached to this affidavit as “**Annex MM**” are photographs of the seized medical marihuana;

- s. In January 2014 police officers in Alberta received information that a male was trafficking marihuana and using his MMAR PUPL license to cover it up. Police officers conducted surveillance on the male and discovered his behaviour consistent with a 'dial-a-dope' trafficking operation. On July 22, 2014 a search warrant was executed on his vehicle while he was parked in it, at a 7-11 store. He was found in possession of over \$1,000 cash, three cellular phones, and 139 grams of marihuana packaged for resale. A subsequent search warrant was executed at his residence and MMAR production site. A loaded 9mm handgun was located in the kitchen drawer (stolen from a break and enter in 2010), a cash counter, 13 cellular phones, 40 grams of psilocybin (magic mushrooms), and 1,771 grams of packaged marihuana;
- t. On March 14, 2014 a police officer from the Surrey RCMP detachment stopped a vehicle with two occupants for erratic driving. The police officer obtained a smell of marihuana as he approached the vehicle. The driver claimed to have a MMAR license but could not produce it contrary to section 58 of the MMAR. The police officer contacted Health Canada's Law Enforcement Support phone number and verified the driver had a MMAR license to possess 900 grams. A subsequent search of the vehicle located 22 Ziploc bags each containing approximately ½ pound of marihuana for a total weight of 5,408 grams (11 pounds) valued at approximately \$23,500. The marihuana in his possession was 6 times over his authorized legal possession amount;
- u. On May 8, 2014 a police officer from the Revelstoke RCMP detachment stopped a rental car vehicle from BC for speeding. The police officer obtained a smell of marihuana from the vehicle and arrested the two occupants who claimed they had MMAR production licenses but could not produce them, contrary to section 58 of the MMAR. The police officer later learned that one occupant had a MMAR production license to grow 98 medical marihuana plants and possess 600 grams and the other occupant had a MMAR production license to grow 49 medical marihuana plants and possess 300 grams. A search of the vehicle recovered 8,472 grams (18.7 pounds) of packaged marihuana and 73 marihuana joints. One of the occupants provided a warned statement to police that stated that they purchased the marihuana in Vancouver for \$900 a pound and were transporting it to Saskatchewan to sell at \$1,700 a pound. The occupant further stated that she knew it was against the law but saw it as a quick

way to make money. The marihuana in their possession represented 9 times over their authorized legal possession amount.

Involvement of Organized Crime

115. A Criminal Organization is defined in Section 467.1 of the *Criminal Code of Canada*. It indicates a group comprised of more than 3 people which has one of its main purposes the facilitation of a serious offence that would likely result in a material or financial benefit and does not include groups formed for a random act. Many people think that only gangs constitute a criminal organization but that is not the case.
116. The RCMP Criminal Analysis Section completed a document titled, "*The Scope and Impact of Organized Crime in British Columbia*" dated June 2005. The document was written for the Criminal Intelligence Services in BC, and the British Columbia Association Chiefs of Police. Within the document it states:
- a. *"The exact configuration of organized criminal activity within British Columbia cannot be directly identified due to the inherently "unknown" nature of much of the data: criminal organizations typically make it their business to remain undetected. However, based on two factors – consumption of policing resources and involvement of known criminal organizations – marihuana cultivation and trafficking represents the single most common (and most lucrative) activity pursued by organized crime."*
117. I have found that organized crime groups in Canada will associate with other crime groups to further their illicit activities. For example, one organized crime group may have access to a substantial supply of marihuana and trade it to another organized crime group for access to other controlled substances.
118. In order to facilitate large scale criminal abuses of the MMAR such as growing large number of plants, cropping, packaging, and distribution across Canada requires a network of people working together for a financial benefit.
119. Attached to this affidavit as "**Annex NN**" is a RCMP Criminal Intelligence Brief, entitled: "*Criminal Exploitation of Marihuana Medical Access Regulations Licenses*", dated May 2012 which provides the following information on how the MMAR program is exploited by criminal organizations:

- a. Criminal organizations have access to associates with no criminal records and use them to obtain MMAR licenses and exploit the system;
- b. Ineligible individuals such as convicted drug traffickers can circumvent safeguards currently utilized by Health Canada;
- c. Excess production;
- d. Criminal networks active in the production of marihuana for the illegal market to produce illicit marihuana and circumvent law enforcement.

120. On October 17, 2013 police officers from the Coquitlam RCMP detachment received a report of an incident that occurred in Lillooet two months earlier. The victim had employed a number of people to work at his MMAR production site that was authorized to grow a total of 219 medical marihuana plants (146 plants and 73 plants). The victim claimed he never obtained the full names of the people whom he hired nor saw their identifications. The MMAR producer had planned to pay his workers with excess medical marihuana he intended to produce. When the employees were not paid one of them put a gun to his head, tied him up with zap straps, and stole 20 pounds of medical marihuana. The employee further requested the victim produce over \$5,000. When the victim did not produce the money, the employee made death threats to the victim's family which is when he reported the incident to police. An investigation was initiated and the employee was identified and interviewed. The suspect stated he worked at the MMAR production site and was never paid so he stole marihuana, and wanted additional money because he was owed \$15,000 for labour and equipment at the MMAR production site.

121. On August 15, 2013 police officers from the Surrey RCMP Drug Section executed a search warrant in Maple Ridge on a large acreage with multiple chicken barns. The acreage was subdivided into two address but was essentially operating as one address. This permitting eight (8) MMAR production licenses:

- a. 171 plants;
- b. 171 plants;
- c. 171 plants;
- d. 171 plants;

- e. 171 plants;
- f. 195 plants;
- g. 195 plants;
- h. 292 plants.

122. In total, the MMAR permitted the production of 1,537 plants and the combined storage of 60,390 grams or 132 pounds of medical marihuana at the above location. Police officers from the Surrey RCMP Drug Section executed a search warrant on the property and found 25 people on scene who were tending the marihuana plants. The site had 55 more marihuana plants than authorized, however; some of the marihuana plants were over 10 feet tall with an estimated yield of over 1 pound per plant. If the 1,537 plants yielded 1 pound each and produced 3 crops a year this MMAR site was capable of producing \$9.2 million dollars a year. I attended this MMAR site and located a "Hells Angels" medallion on the kitchen table. Attached to this affidavit as "Annex OO" are the photographs I obtained while on scene.

SECTION C: Health and Safety Concerns to Law Enforcement

123. I have found health and safety concerns to law enforcement and first responders who attend MMAR production sites. Under the MMAR, first responders (police and fire) were not apprised of where MMAR production sites were located which creates a heightened level of risk to these individuals. The health and safety concerns extend to those who live in neighbourhoods where MMAR production sites are located and to the MMAR producer. Below is a list of health and safety concerns I have discovered:

- a. Building modifications and confined spaces;
- b. High voltage electrical wires;
- c. Toxic mould and fertilizers;
- d. Carbon dioxide and propane tanks;
- e. Weapons at MMAR production sites;

- f. Grow rips;
- g. Homicides related to grow rips;
- h. Clandestine labs.

Building modifications and confined spaces

124. MMAR producers often modify buildings from their intended use to accommodate the growing of marihuana. To do this, MMAR producers install/remove walls to create size specific grow rooms. From my own experience, I am aware that removing certain walls in the basement of a residence can affect its structural integrity and should only be done in consultation with a building contractor/engineer and building permit.
125. I have observed holes cut into walls, floors, and ceilings to accommodate the air intake/exhaust for grow rooms. These holes may affect the structural integrity but if a fire was to break out in one room it could supply air to further support a fire and permit it to travel to other rooms.
126. Marihuana growers often seal off grow rooms to maintain complete control of the growing environment. This is done to reduce the introduction of bugs and insects and to control carbon dioxide levels, temperature, and humidity. In my experience, sealed off growing room often have one entrance and one exit. Grow rooms often have boarded up windows to prevent light from getting into the grow room, to deter people from seeing the high powered lights, and to keep the windows from dripping with condensation. Sealed rooms create confined spaces that make it impossible to escape in the event of a fire.
127. Confined spaces require first responders to be trained in confined space awareness and some specialized sections are trained to operate in such environments. Confined spaces often contain diminished oxygen levels and people who enter confined spaces are required to develop an evacuation plan should a responder become unconscious and/or the environment become unsafe. Below is an example of police attending a MMAR production site that was a confined space:

- a. On June 27, 2012 police officers from the Duncan RCMP and the RCMP Island District Drug Section executed a search warrant at a residence that was also the site of a MMAR production license for 15 medical marihuana plants. During the search a 3 foot by 3 foot hole in the floor of an outbuilding was located that accessed an underground bunker (buried sea container) that contained 367 marihuana plants. This is 24 times more plants than was authorized. Police officers recognized the MMAR production area was a confined space that contained low levels of oxygen. Police officers used a fan to add oxygen to the underground bunker and wore harnesses should they go unconscious they could be pulled out. Police officers then entered the MMAR production area in pairs wearing oxygen sensors. Attached to this affidavit as “**Annex PP**” are photographs of the underground MMAR production site.

High voltage electrical wires

128. I have found that the lights used to cultivate marihuana consume a significant amount of electricity and often use 220-volt system, the same as an electric stove or clothes dryer. Grow lights also generate significant heat and are often left on for 12-18 hours a day. MMAR producers often utilize air conditioners to regulate the temperature. The combined electrical consumption can be exorbitant, putting a further strain on the residential electrical wires that were not designed for such high loads of consumption.
129. I have often observed high voltage electrical wires that are precariously spliced together at MMAR production sites. From my experience, electrical surges can cause arcing at these spliced locations. Additionally, I have observed electrical devices at MMAR production sites on the floor adjacent to large containers of water which creates electrocution hazards. Attached to this affidavit as “**Annex QQ**” are photographs from MMAR production sites that show the myriad of electrical wires used at MMAR production sites.

Toxic mould and fertilizers

130. Growing marihuana requires a considerable amount of water. The use of high powered grow lights causes evaporation, resulting in high humidity that may cause wooden structures to rot and mould to grow on porous materials. In my experience, marihuana grow operations are often located in basements. The humidity may rise up from the grow area and into the living area.

131. I have observed mould growing on walls and ceilings at MMAR production sites. Within the attachments to this affidavit I have included photographs of mould at MMAR production sites.
132. On one occasion I have observed grow fertilizers mixed together that resulted in a fire. I have seen fertilizers applied to soil after being mixed in water and I have also seen fertilizers sprayed on plant leaves (known as foliar feeding). I believe that the ingestion of these fertilizers into the lungs by either breathing contaminated air or a result of disturbing fertilizer saturated soil creates health risks to police officers. As a member of CMET I am required to get yearly medical testing to determine if my lungs have been exposed to toxic substances.

Carbon dioxide and propane tanks

133. The presence of high levels of carbon dioxide in marijuana grow operations creates health and safety risks. Marijuana plants consume carbon dioxide ("CO₂") and excrete oxygen as part of the photosynthesis process. CO₂ is a colorless and odourless gas. From speaking with MMAR producers and from reading books on the cultivation of marijuana, I understand that supplementing marijuana plants with CO₂ can increase their yield up by 20%.
134. In my experience investigating MMAR grow operations, a common way to introduce CO₂ into a grow room is to use a 'CO₂ generator' or 'CO₂ burner' – essentially, this is the equivalent of operating a BBQ inside a residence. The burning of propane or natural gas causes the release of CO₂ and significant heat. On many occasions I have attended grow operations where I have observed CO₂ burners precariously hanging from the ceiling with open flames burning inside them. I have found that MMAR producers often use propane tanks commonly used for backyard BBQs connected to CO₂ burners.
135. Another way that I have observed MMAR producer introduce CO₂ into a grow operation is by emitting the CO₂ as a gas rather than burning propane or natural gas. On occasion, I have observed MMAR producers utilize very large tanks of CO₂. Attached to this affidavit as "**Annex RR**" are some photographs of commercial scale pressurized tanks that contain large amounts of CO₂.

136. Some of the health and safety concerns of using CO2 at MMAR production sites are:

- a. Having a device burning unattended in a residence;
- b. Creating additional heat inside the grow room by burning a flammable gas can cause a rise in temperature further burdening the electrical system to control the temperature;
- c. CO2 is contained in a pressurized gas cylinder that can act as a torpedo if knocked over and the valve is broken off. In addition, if these cylinders are heated up in the event of a fire, they could potentially explode;
- d. High levels of CO2 can cause unconsciousness and death.

Weapons at MMAR sites

137. Perhaps due to the media attention of grow rips, overall increased awareness of this phenomenon, or the known value of the marijuana plants, some MMAR producers have begun to arm themselves. The presence of these weapons increases, among other things, the chance of a shootout where police could be mistaken for robbers or stray bullets could kill innocent people in the neighbourhood. In one investigation, numerous assault rifles, high capacity magazines, and a bulletproof vest were located at a MMAR production site. Attached to this affidavit as "**Annex SS**" are photographs of the firearms seized at a MMAR production site.

138. Besides some MMAR producers arming themselves to ward off would be robbers, some MMAR producers have resorted to using booby traps. These traps are set to ward off would-be intruders. On October 6, 2011 the Surrey RCMP, Emergency Response Team, RCMP Explosives Disposal Unit, and the RCMP Security Engineering Team executed a search warrant at a residence in Surrey that consisted of a MMAR production site that was stealing electricity. Charges were recommended for theft of electricity and two counts of setting a trap likely to cause death or bodily harm. Attached to this affidavit as "**Annex TT**" are photographs of a variety of lethal booby traps which included: spikes in the grass, blow torches, pressure sensors, and nail and spike guns.

Grow rips

139. The skunk-like odour is a tell-tale sign of a marihuana grow operation, whether legal or illegal. Marihuana plants that reach maturity tend to smell the most. People narrow down the location of the smell, break in and steal the marihuana. This is called a 'grow rip'.
140. Although MMAR producers employ masking techniques such as charcoal filters, ionizers, and cotton balls, however the odour is often still detectable. I have, on many occasions, driven around during the early morning hours and obtained the smell of growing marihuana emanating from properties that have MMAR production licenses. This same technique is also employed by persons who want to steal marihuana.
141. People who conduct grow rips have impersonated police, often use violence, and have access to weapons including firearms. I believe grow rips are under reported to police because MMAR producers who are criminally abusing the program do not want to bring attention to their illegal activities. Attached to this affidavit as "**Annex UU**" is a RCMP Criminal Intelligence Brief entitled, "*Marihuana Grow Operations and Related Violence in Canada*", dated April 2012 that further explains and provides more detailed information on the violence at marihuana grow operations, including medical marihuana grow operations.
142. A person who applied for a MMAR production license was required to provide a description of the security measures that will be implemented at the proposed production site. I found that there were no specific guidelines on what constituted a 'standardized' security requirement. Later in my affidavit, I explain MMAR producers are required to meet stringent security requirements to prevent robberies and thefts.
143. Criminals who conduct grow rips are aware of the number of MMAR production licenses, value of marihuana, and minimum security at MMAR production sites. The below six examples represent feasible targets for grow rips:
- a. In Maple Ridge, two MMAR production licenses were issued at a property. In total, 390 medical marihuana plants were authorized to be produced there (292 plants and 98 plants). The combined storage amount was 17,550 grams (38 pounds) valued at approximately \$77,000;

- b. The neighbour to the property mentioned in "a" also has MMAR production licenses. In total, 560 medical marijuana plants were authorized to be produced there (146 plants, 195 plants, and 219 plants). The combined storage amount was 25,200 grams (55 pounds) valued at approximately \$110,000;
- c. In Richmond, four MMAR production licenses were issued at a property each for 146 marijuana plants. This permitted the production of 415 medical marijuana plants and the storage of 26,280 grams (57 pounds) valued at approximately \$115,000;
- d. In Surrey, three MMAR production licenses were issued at a property. In total, 1,363 medical marijuana plants were authorized to be produced there (487 plants, 438 plants, and 438 plants). The combined storage amount was 61,335 grams (134 pounds) valued at approximately \$265,000;
- e. In Armstrong, three MMAR production licenses were issued at a property. In total, 2,240 medical marijuana plants were authorized to be produced there (974 plants, 974 plants, and 292 plants). The combined storage amount was 100,800 grams (222 pounds) valued at approximately \$440,000;
- f. In Chilliwack, four MMAR production licenses were issued at a property. In total, 2,533 medical marijuana plants were authorized to be produced there (974 plants, 974 plants, 390 plants and 195 plants). The combined storage amount was 113,985 grams (250 pounds) valued at approximately \$500,000.

144. Criminals are often searching out MMAR production sites to conduct grow rips. Below are two examples of where police have intervened before grow rips have occurred:

- a. On May 12, 2012 a police officer from the Mission RCMP detachment stopped a vehicle occupied by 3 people near a medical marijuana grow operation. Inside the vehicle were pliers, crow bar, hammers, screw drivers, gloves. One of the occupants of the vehicle was the subject of a police investigation in 2010 where 45 pounds of marijuana was located along with cocaine, ecstasy, steroids, body armour, six magnetic GPS tracking units, and a 9mm submachine gun;

- b. On November 22, 2012 police officers from the Abbotsford police Department attended a mall parking lot for a complaint. Police learned that the complainant worked for a hydroponic supply store and that a vehicle had been following him because he does deliveries of grow equipment to MMAR production sites. Police stopped the vehicle and identified the driver who is the subject of 250 police files. A search of the vehicle located a Halloween mask, tools, garbage bags, and a list of addresses.

145. Attached to this affidavit as “**Annex VV**” is a document completed by Jessica BEDI, a RCMP Criminal Intelligence Analyst. The document is a collection of grow rip data from 2007 to 2013. It indicates that between 2011 and 2013 there were 170 grow rips in BC. Furthermore, there were more grow rips at MMAR grow operations than at illegal grow operations. For example, in 2013 fifty (50) out of the sixty-three (63) or 79% of the rips occurred at MMAR production sites.

146. Safety concerns arise for law enforcement, and the community in general, when grow rips occur. Suspects are known to utilize firearms that pose the risk of serious injury and occasionally people conducting grow rips break into the wrong residence and traumatize innocent people. The following is a selection of grow rips from July 2011 to September 2014 that were reported to the police, primarily in the Lower Mainland:

- a. On July 12, 2011 police officers from the Maple Ridge RCMP detachment responded to a report of a home invasion. It was reported that 3 suspects broke into a MMAR production residence and stole the marihuana. Members arrived on scene as the suspects were fleeing into the backyard. Police officers directed them to stop but they continued running. Police officers gave chase and one of the suspects discharged a can of bear spray at the police officers. A Police Dog Services unit attended and engaged in the pursuit. Yelling for suspect to stop, the suspects continued and the police dog was unleashed. One suspect ran into traffic with the police dog chasing him. The police dog was accidentally struck and killed by a car passing by. The police dog, ‘bear’ represented the loss of a significant asset as well as a companion. Additional members attended the area and the suspect was apprehended. Police officers located a homemade battering ram and knives that were discarded by the suspects. There were two MMAR production licenses at the property (1 for 73 plants

and the storage of 3,285 grams and 1 license for storage only of 3,285 grams);

- b. On November 23, 2011 police officers from the Mission RCMP detachment responded to a report of shots fired. It was reported that four males entered a residence that contained MMAR production licenses. A suspect shot one of the occupants twice in the leg and told him not to look at him in the face. The suspect further stated, "*One move I'm going to put one in the back of your head.*" One of the bullets went through the victim's ankle and the other bullet broke his femur (large upper leg bone) requiring surgery and a steel rod implant. The occupants were zap-strapped, marihuana stolen, and the suspects deployed bear spray before departing. Through the investigation it was learned that the suspects had been conducting surveillance on the MMAR production site, had drilled holes in outbuilding walls in an attempt to determine what stage the marihuana plants were in to gauge the optimal time to conduct the grow rip;
- c. On June 7, 2012 police officers from the Mission RCMP detachment received a report from a hospital employee that a person was receiving treatment for facial cuts that were sustained from unknown suspects who broke into a MMAR production residence. Police officers attended the hospital and spoke with the victim. It was learned that his residence was a MMAR production site with two licenses totalling 88 medical marihuana plants (39 plants and 49 plants). The victim stated that two days prior, four unknown males entered their residence with a handgun and demanded that the two adults and 3 children tell them where the marihuana was. One of the suspects hit one of the victims in the head with a handgun. They were told not to call police or they were going to return and, "*Spray the place with an AK-47*";
- d. On June 20, 2012 police officers from the Coquitlam RCMP detachment responded to a report of a home invasion. The victim had a MMAR production site inside his basement suite authorizing the production of 35 medical marihuana plants. The victim stated that at 4:00 AM he was in the process of trimming his harvested plants when he heard a noise outside. When he approached the window to look outside unknown males smashed the window in and pointed a handgun at him. They asked him about the upstairs unit which had a MMAR production license to grow 49 medical marihuana plants. The suspects stole his 2 racks of drying marihuana and then broke into the upstairs residence by smashing a

window adjacent to the door. The suspect showed the victim that the revolver was loaded with real bullets. The suspects hit the victim in the head and threatened to cut the victim's ear off if he didn't cooperate. The suspects then stole the medical marijuana from his residence. Numerous police officers attended the MMAR production sites along with RCMP Police Dog Services. The police dog tracked the suspects and located them along with the stolen medical marijuana and a loaded .357 magnum handgun. The victim from the upstairs MMAR production site went to the hospital and received 3 staples to the head to seal the wound, had a bruised and cut lip, and a sprained ankle;

- e. On October 9, 2012 police officers from the Langley RCMP detachment responded to a report of a home invasion where 3 unknown males walked into a MMAR production residence via an unlocked door. The males produced a handgun and hit the victim in the head with a crow bar. The residence was the site of two MMAR production licenses totalling 167 medical marijuana plants (30 plants and 137 plants). RCMP Police Dog Services attended and searched the property for any hiding suspects. A cooler, that smelled of marijuana, was located at the back of the property with over \$55,000 cash inside. The victim claimed only \$600 was stolen however it did not make sense that suspects who were committing a grow rip would bring \$55,000 cash with them. The victim/MMAR producer refused to provide consensual DNA samples for the investigation to compare to the seized exhibits so the investigation was concluded and the money was forfeited;
- f. On March 7, 2013 police officers from the Abbotsford Police department responded to a report of a home invasion at a residence that contained two MMAR production licenses that totalled 196 medical marijuana plants (98 plants and 98 plants). It was learned that three unknown males wearing masks and carrying a shotgun kicked in the front door to the residence yelling "RCMP!" One victim took off running upstairs and the suspect discharged the shotgun. The victim jumped out the 2nd story window. The unknown suspects stole 12 pounds of marijuana;
- g. On May 9, 2013 police officers from the Coquitlam RCMP detachment attended a report of a home invasion at a residence that was also the site of three MMAR production licenses that totalled 440 medical marijuana plants (73 plants, 98 plants, and 269 plants). The combined authorized marijuana storage amount was 12,000 grams valued at approximately

\$52,000. Two unknown suspects entered the residence pointing firearms. The suspects stole 12.5 kg of medical marihuana that was being stored in three garbage bags in the ensuite of the master bedroom. On July 5, 2013 police officers from the Coquitlam RCMP detachment attended the residence to follow up with the victim. Police officers could smell a strong odour of marihuana emanating from the residence and commented that it could lead to another grow rip. The MMAR producers stated that they replaced the door after the rip and have installed a surveillance system but will keep growing marihuana.

Grow Rips in 2014:

147. Most recently in 2014 (between January 9, 2014 and September 2, 2014) there were fourteen (14) serious incidents related to grow rips and/or violence associated to MMAR production sites in the Province of British Columbia. Below is a list of these violent incidents:

- a. On January 9, 2014 police officers from the Abbotsford Police department attended to a report of a domestic assault. Police officers attended the scene and initiated an investigation and learned that the residence was also a MMAR production site to grow 49 medical marihuana plants. An unknown male phoned the residence asking to buy marihuana so they provided their address for the male to attend and purchase medical marihuana. The unknown male suspect attended the MMAR production site, produced bear spray and stated he also had a handgun. The suspect assaulted the victims and stole 16 Ziploc bags of marihuana that totalled approximately 7 pounds and over \$300 cash. On October 13, 2013 Abbotsford attended the same residence on an unrelated matter and learned that there was a MMAR production license to grow 49 medical marihuana plants however 150 plants were located;
- b. On January 17, 2014 police officers from the Richmond RCMP detachment responded to a report of an assault that occurred at a MMAR production site for 149 medical marihuana plants. During the investigation police learned that that the homeowner was doing yard work in his front yard when he was approached by two unknown males who punched him in the face. The suspects entered the residence with a firearm and confronted the victim's son and stole approximately six Ziploc bags of medical marihuana from a garbage bag in the residence as well as a \$9,000 watch. Inside the residence police discovered the production of 250 plants (100 more plants than authorized).

Police officers subsequently located the suspect vehicle, obtained a search warrant, and recovered the suspect's fingerprints and DNA from within the vehicle. During an interview, the victim (and MMAR producer) stated that he was the subject of 4-5 attempted break-ins that were not reported to police;

- c. On March 4, 2014 police officers from the Coquitlam RCMP detachment responded to a report of a home invasion at a residence that was also a MMAR production site for 584 medical marihuana plants (4 licenses each for 146 plants). Unknown suspects attempted to force open the front door to the residence and then threw a large rock through a glass patio door. Later on April 19, 2014 the same incident occurred again;
- d. On March 16, 2014 police officers from the Langley RCMP detachment responded to a report of a home invasion that was also a MMAR production site. During the investigation it was learned that two suspects entered the MMAR production site. One of the suspects shot one of the occupants in the leg and another occupant was 'pistol whipped'. The suspects fled the scene and were subsequently arrested after the deployment of significant policing resources including the Combined Forces Special Investigation Unit, General Duty Section, Langley RCMP Serious Crime Section, Surrey Serious Crime Section, four RCMP Police Dog Service units, and the RCMP Forensic Identification Section;
- e. On March 25, 2014 police officers from the Vernon RCMP detachment received a report of a home invasion at a residence. It was learned that three unknown masked males broke into a MMAR production site in the Lumby area by accessing an air ventilation port. The two occupants managed to chase the suspects away after one was bear-sprayed. Multiple garbage bags of marihuana bud were stolen;
- f. On April 12, 2014 police officers from the Mission RCMP detachment responded to a report of a home invasion at a residence that was also a MMAR production site to grow 98 medical marihuana plants and store 4,410 grams of marihuana. It was learned that two unknown suspects wearing balaclavas entered the residence through an unlocked back door. One of the occupants was hit in the head with a blunt object;
- g. On May 1, 2014 police officers from the Burnaby RCMP responded to a report of a home invasion at a residence that was also a MMAR production site. Three unknown suspects with handguns entered the MMAR production

site that was occupied by 1 female, 2 elderly persons, and 2 children under 10 years old. Two occupants were assaulted, threatened with firearms and zap-strapped to chairs. The suspects were demanding to know where the money was. Extensive police resources were deployed including RCMP Police Dog Services. All three suspects were arrested and police officers located disguises, a police radio jamming device, one handgun stolen from Edmonton, and one replica handgun;

- h. On May 24, 2014 police officers from the Richmond RCMP detachment responded to a report of a break and enter that was also a MMAR production site. When police officers arrived on scene, they observed two suspects throwing bags of cut marihuana plants into a pickup truck. Extensive resources were deployed including the RCMP Emergency Response Team, General Duty members and RCMP Police Dog Services. One of the suspects, who is well known to police, was arrested;
- i. On May 27, 2014 police officers from the Langley RCMP detachment responded to a report of a home invasion in progress that was also a MMAR production site. The suspects told the victim that they were police and smashed out all the windows in the residence. Police officers responded to the scene and located and arrested two of the four suspects. One of the suspects was in possession of six Ziploc bags of marihuana (each containing approximately a half pound of marihuana);
- j. On June 22, 2014 police officers from the Mission RCMP detachment responded to a report of a home invasion at a residence that was also a MMAR production site to grow 20 medical marihuana plants. Three unknown suspects wearing balaclavas kicked in the front door and assaulted the occupant who received a six inch cut to his head. The suspects kept demanding, "*Where is it?, Where is it?*". The suspects deployed bear spray and departed;
- k. On July 16, 2014 police officers from the Abbotsford Police department responded to a report of a break and enter in progress at a property that was also a MMAR production site. Unknown suspects assaulted a male with a baseball bat who employed as a security guard at a MMAR production site. The suspects fled the scene after telling the victim, "*We know where you live;*"

[Of note, example "i" below occurred within a half hour of the above example.]

- I. On July 16, 2014 police officers from the Abbotsford Police department received a report of a female screaming, "*Someone killed my husband!*" Police officers arrived on scene and learned that the residence is also a MMAR production site for a total of 450 medical marihuana plants. Police learned that three unknown males forced entry to the residence and stated they were police. One victim was hit over the head with a baseball bat and another victim was punched in the face;
- m. On August 27, 2014 police officers from the Coquitlam RCMP detachment responded to a report of a male who was admitted to the hospital with a gunshot wound. Police attended the hospital and spoke with the victim who was not cooperative. Through the investigation it was learned that victim attended a residence that was a MMAR production site where he was shot. Police executed a search warrant at the MMAR production site and seized three firearms, including an AK-47 assault rifle;
- n. On September 2, 2014 police officers from the Burnaby RCMP detachment responded to a commercial alarm from a construction business. An employee from the construction company attended the scene prior to police attendance and was assaulted by two males with a pipe. The suspects told the employee they were there for \$50,000 worth of marihuana that was supposedly growing there. The males forced the employee to open the door to the business. Once the suspects learned there was no grow operation, they departed.

Homicides related to grow rips

148. On occasion, violent grow rips result in homicides. Kelly Kinar, a Civilian member of the RCMP and Criminal Intelligence Analyst for the Integrated Homicide Investigation Team in the Lower Mainland of British Columbia reviewed homicide investigations related to grow rips. I learned that between November 2003 and February 2013 there were 14 homicides related to grow rips in the Lower Mainland, the majority were the result of fatal shootings.

Clandestine labs

149. The RCMP CLEAR team attends and dismantles clandestine laboratories when they are discovered. On occasion, they respond to marihuana oil laboratories. A popular marihuana derivative is the production of 'Butane Honey Oil' or 'Butane Hash Oil' ("BHO") that contains extremely high levels of THC (between 40 to 90%). The manufacture of BHO involves the passing of butane through a filtered container of marihuana. The butane 'strips' the trichomes of

THC from the marijuana material that is then passed through the filter and into a container. The butane is evaporated off and the substance left behind can resemble ear wax that can be smoked or added to derivatives. Attached to this affidavit as “**Annex WW**” are some photographs of the manufacture of BHO done by the RCMP CLEAR team in a controlled environment.

150. Butane is highly flammable, highly explosive and is an odourless and colorless gas. The manufacture of BHO is EXTREMELY DANGEROUS. Attached to this affidavit as “**Annex XX**” are photographs depicting a controlled butane explosion of only six canisters of butane done at the San Diego Regional Fire Training Academy.

151. The following four examples are violent explosions that have occurred as a result of the production of BHO at non-MMAR production sites:

- a. On March 6, 2008 police officers from the Coquitlam RCMP detachment received a report of a residential explosion. Glass from the residence was blown all the way across the street. It was learned that the explosion was the result of manufacturing BHO;
- b. On August 11, 2013 police officers from the Houston RCMP detachment received a report of a residential explosion. An explosion occurred in a shed that caused the roof insulation to travel approximately 50 feet from the building. It was learned that the explosion was the result of manufacturing BHO;
- c. On February 24, 2014 police officers from the Surrey RCMP detachment received a report of a residential explosion. Neighbours reported that they heard a loud explosion that causes their homes to shake. Witnesses observed a male exit from the residence who was severely burned and the house then engulfed in flames. The male was using a modified 2 litre pop bottle to make BHO. Attached to this affidavit as “**Annex YY**” are photographs of the residence and number of used butane canisters;
- d. On April 29, 2014 police officers from the Coquitlam RCMP detachment responded to a residential explosion that blew out the ceiling drywall and skylight. One male sustained extensive 2nd and 3rd degree burns using a PVC plastic tube to manufacture BHO.

152. Some MMAR producers manufacture BHO for their own consumption and some to traffick. Production licenses were issued under the MMAR to consume marihuana bud and not derivatives. As such, there was no information provided to MMAR license holders on the dangers associated to the manufacture of BHO. Below is one example of a MMAR producer making BHO at a MMAR production site:

- a. On January 29, 2014 police officers in St. Albert, Alberta executed a search warrant at a MMAR production site. While on scene police officers observed that the MMAR producer was manufacturing BHO. Attached to this affidavit as “**Annex ZZ**” are photographs depicting the extraction device that was being used.

153. Recently this year an explosion occurred in a residence which was also a MMAR production site as the result of making BHO:

- a. On March 10, 2014 police officers from the Oceanside RCMP detachment along with fire department and paramedics attended a report of a house fire that was also a MMAR production site for a total of 560 plants and the storage of 25,200 grams (55 pounds). Three males on scene were severely injured, two of which were airlifted to the hospital. One male was airlifted to hospital with 1st and 2nd degree burns over 50% of his body and the other male was airlifted to the hospital with 1st and 2nd degree burns over 40% of his body. A third male was transported to the hospital with less, but still significant burns to his body. Attached to this affidavit as “**Annex AAA**” are the photographs from the scene.

SECTION D: Screening of licensed producers under the MMPR

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

155. The MMAR permitted people to grow marihuana for themselves if they had a criminal record. The MMPR, on the other hand, does not permit people to be key positions with an MMPR company if they are associated to a criminal record.

156. MMPR applications are received at Health Canada in Ottawa and are subsequently forwarded to the Security Intelligence Background Section ("SIBS") which is a section of the RCMP in Ottawa that provides security screening services to federal departments. SIBS conducts background queries on MMPR applicants and forwards the results to a RCMP MMPR coordinator in each Province.

Role as the Provincial MMPR Coordinator

157. I am the RCMP MMPR coordinator for BC and am involved in the screening of applications to become licensed producers under the MMPR. I receive the background checks from SIBS and conduct additional local police database queries to ensure that organized crime and criminals do not participate in the MMPR. I contact local bylaws, detachments, and conduct open source queries. I have found that many police officers have obtained information about people over the course of their duties that may not be recorded in police data bases. This requires personally contacting members in different police jurisdictions for information.

158. This broad (national queries by SIBS) and narrow (local queries by me) approach to criminal record checks has been successful. I have reviewed approximately twenty MMPR applications for BC and have noticed some MMPR applicants have:

- a. Voluntary withdrawn from the review process;
- b. Made false attestations;
- c. Been associated to sites where MMAR abuses occurred;
- d. Been associated to organized crime groups;
- e. Used nominees to hide the true investors for the company.

159. Below are three examples that I have come across during the review of MMPR licensed producer applications in the province of BC:

- a. In reviewing one application the person signed an attestation on the MMPR application that stated he was the owner of the property when, in fact, they were not and the property owner was unaware that renters wanted to build a marihuana production site on his property;
 - b. In reviewing one application the person stated they had the capacity to produce 10,000 kg of marihuana a month. Based on my knowledge of the production of marihuana and the space of the grow facility – this was physically not possible;
 - c. One applicant wrote a letter to the parole board stating that the person getting released from jail would have a job at his MMPR facility. The male in jail was a known leader of an organized crime group.
160. Information that is gathered by the Provincial Coordinator is forwarded back to SIBS who in turn forwards the background check information to Health Canada. The information gathered by SIBS allows Health Canada to make informed decision on the issuance of MMPR production licenses which are ultimately issued by Health Canada and not the RCMP.

SECTION E: Licensed producer inspections under the MMPR

161. I have been involved in the screening of MMPR applications and also have had the opportunity to participate in inspections and tours of MMPR licensed producer facilities. My experience in MMPR licensed producer inspections comes from attending the following companies:
- a. Canna Farms Ltd in Hope, BC;
 - b. Cannimed (Prairie Plant Systems) in Saskatoon, SK;
 - c. In the Zone Produce Ltd in Armstrong, BC;
 - d. Thunderbird Biomedical Inc in Saanich, BC;
 - e. Tilray in Nanaimo, BC;
 - f. We Grow BC Ltd in Surrey, BC;
 - g. Whistler Medical Marijuana Company in Whistler, BC.

162. I believe the MMPR improves public safety, reduces criminal abuse and diversion, and provides controlled access to a product subjected to stringent testing standards. I have further seen Health Canada Inspectors engaged in the MMPR by routinely attending, monitoring, and inspecting MMPR licensed producer sites.

163. There is a stark difference between the MMAR and MMPR. I have read the differences between them in the legislation but I have also physically seen those differences from my attendance at MMAR production sites and MMPR licensed producer sites. Below are some of the differences I have noticed:

- a. Letter of intent to Police, Fire department, and City provided by MMPR applicants;
- b. Pre-license inspections under the MMPR;
- c. Secured medical marihuana storage under the MMPR;
- d. Extensive record keeping, audits, and inventory records under the MMPR;
- e. Compliance and enforcement of production standards under the MMPR;
- f. Health and safety protocols inside MMPR facilities;
- g. Comprehensive testing of medical marihuana at MMPR facilities;
- h. Destruction of medical marihuana under the MMPR;
- i. Multiple marihuana strains available for sale through MMPR facilities;
- j. Secure packaging of medical marihuana under the MMPR;
- k. Secure and tracked shipping of medical marihuana under the MMPR;
- l. Recall of medical marihuana by MMPR licensed producers.

Letter of intent to Police, Fire department, and City:

164. MMAR production licenses were issued to persons to grow medical marihuana in virtually any location ranging from outdoor plots of land in remote areas to apartments in large metropolitan areas without any consultation with police, fire departments, or city officials. Community officials received numerous complaints when MMAR production sites started infiltrating residential neighbourhoods.
165. The MMPR does not permit the conduct of any activities at a dwelling-place (residence) and requires that the applicant submit a letter of intent to the local police, fire department, and city. This advance notice starts a dialogue between community representatives and the MMPR applicant to ensure they are complying with local bylaws such as zoning and address any public safety concerns. This essentially eliminates MMAR production complaints from residential neighbourhoods.

Pre-license inspections under the MMPR:

166. MMAR production license applications required the applicant to list the security they would incorporate into their production site. The security was not standardized under the MMAR nor was it verified by Health Canada Inspectors primarily because they had no authority to enter a dwelling house without a warrant.
167. Under the MMPR Health Canada Inspectors may enter a MMPR licensed producer site unannounced at any time during their business hours to ensure compliance with the regulations. I have observed Health Canada Inspectors attend a proposed MMPR facility BEFORE a production license is issued to conduct a pre-license inspection.
168. I have found that pre-license inspections have numerous facets, one is education and the other is to ensure adequate security measures are in place and operational before marihuana is permitted to be produced. Health Canada Inspectors will, over the course of 2-3 days (sometimes up to 5 days or longer) cover all aspects of the regulations with the proposed MMPR licensed producer.
169. MMAR production licenses were issued to persons to grow a specific number of plants based on their authorized consumption (for example, a

182. During an inspection at a licensed MMPR licensed producer facility I observed Health Canada Inspectors ask for a plant inventory list and the licensed producer was able to access their computerized database and print off a list which included:
- a. A barcode associated to each plant in the facility;
 - b. What strains were being produced and what stage of growth they were in;
 - c. How many plants were in each grow room;
 - d. Total number of plants in the facility.

Compliance and enforcement of production standards:

183. The MMAR did not permit Health Canada Inspectors to enter residential production sites unannounced, especially if the production site was within a dwelling house. I believe the inability to conduct compliance inspections was a catalyst to the criminal abuses of the MMAR.
184. Most MMAR production sites I have attended or photographs from MMAR sites that I have reviewed have very similar production standards to the clandestine production of marihuana. There was no production standards in the MMAR to ensure that insects, bugs, or debris were introduced into rooms of growing medical marihuana.
185. The MMAR did not have the ability to revoke or suspend a MMAR production license when criminal abuses were found. The MMAR, however; had the ability to revoke a production license if the producer was convicted of a designated drug offence.
186. The MMPR, on the other hand, has the provision to suspend a producer's license without prior notice if there are reasonable grounds to believe it is necessary to protect public health, safety or security, including preventing marihuana from being diverted to an illicit market or use.
187. MMPR producers are required to develop production standards that are subsequently approved by Health Canada. Cannimed, a MMPR licensed producer has a comprehensive 281 point quality control process in place to

ensure they meet high production standards. Attached to this affidavit as “**Annex EEE**” is a flow chart of Cannimed’s production process.

188. I have found that MMPR licensed producers grow marihuana in clean environments and maintain detailed records on the production and after production (sanitization process after the plants are harvested). Attached to this affidavit as “**Annex FFF**” is a photograph of marihuana being grown at Cannimed. The marihuana plants were healthy and being grown in an extremely clean environment that superseded any MMAR production site I have attended.

189. Also attached to this affidavit as “**Annex GGG**” showing Cannimed employees sorting marihuana stems from marihuana bud. I observed that equipment used in the production of marihuana was sanitized like hospital equipment and covered in plastic to prevent any contamination when not in use.

190. I have found that MMPR licensed producer facilities are able to maintain high production standards by preventing the introduction on contaminates. I have observed the following ways they do this:

- a. The wearing of hats, gowns, and/or eye protection;
- b. Having a shower before entering the facility;
- c. Wearing of ‘booties’ ovetop of existing footwear;
- d. Use of sticky floor mats to extract any footwear debris;
- e. Use of chemical trays that a person walks through to sanitize footwear.

191. I have observed Health Canada Inspectors audit MMPR licensed producer video footage (required to be kept for two years) to ensure that proper production standards are being utilized.

192. On one occasion, I observed that poor production standards at a MMPR licensed producer facility had resulted in an insect infestation. Health Canada Inspectors intervned and directed that all the marihuana plants in that room be destroyed and the grow room be remediated. Health Canada Inspectors also requested that the marihuana that was recently harvested from the room also be destroyed because it may also be infected by insects. Health Canada further suspended their ability to sell marihuana pending the remediation. Attached to

this affidavit as “Annex HHH” is a photograph of the potentially infested marihuana before it was destroyed.

Health and safety protocols inside MMPR facilities:

193. At some MMAR production sites I have observed unsafe building modifications, unsafe electrical wires, theft of electricity, items precariously hung from ceilings, excess water on the ground, mould in grow rooms, and confined spaces including boarded up windows and doors.
194. I have spoken with MMAR producers about safety equipment and learned that it is rarely used such as UV rated eyewear, gloves, electrical rated footwear, presences of fire extinguishers, first aid kits, and eyewash stations.
195. During inspections at MMPR licensed producer facilities I have observed the use of lighted exit signs, access to rooms that require either biometric entry or a system that tracks the entry and exit to each room where marihuana is kept. At one MMPR licensed producer facility they were able to do a printout of how many employees were in the facility and could even determine which room they were in.
196. During an inspection I found one MMPR licensed producer facility getting ready to conduct Workplace Hazardous Materials Information System (“WHMIS”) training for employees related to the chemicals and fertilizers in the facility. I have observed Material Safety Data Sheets (“MSDS”) in MMPR licensed producer facilities that contain information on the potential hazards (health, fire, reactivity, and environmental) and how to work safely with the chemical products. In Canada, every material that is controlled by the WHMIS must have an accompanying MSDS that is specific to each product.
197. I have observed that MMPR production facilities have written procedures in place to deal with potentially hazardous materials. I have further observed that MMPR licensed producer facilities have first aid kits and eye wash stations should anyone suffer a medical emergency or their eyes become exposed to fertilizers/grow chemicals.
198. I am aware that one MMPR licensed producer conducts drug testing of employees and random locker searches to reduce the chances of diversion.

Comprehensive testing of medical marihuana at MMPR facilities:

199. Under the MMAR, testing of marihuana for mould or contaminates were not a requirement, even for those consuming it with compromised immune systems. Some MMAR producers that I have spoken to determine the quality of the marihuana by smoking it or simple visual inspection for obvious contaminates.
200. In speaking with MMAR producers I'm not aware of anyone who has sent marihuana they have produced to a laboratory to have it tested for THC content, heavy metals, and a variety of moulds.
201. The MMPR on the other hand, requires the extensive testing of marihuana for microbial and chemical contaminants that have to be within generally accepted tolerance limits for herbal medicines for human consumption using validated methods. Attached to his affidavit as "**Annex III**" is a guidance document from Health Canada entitled, "*Technical specifications for testing dried marihuana for medical purposes*" that further explains the testing process.
202. I am aware of one MMPR licensed producer that uses gamma irradiation to reduce potentially harmful bacteria to undetectable levels. The marihuana bud is transported by armoured vehicle to an airport where it is flown to an irradiation site and back again. The irradiation dosage is similar to that used on household pepper kernels that are ground on food.
203. The testing of medical marihuana under the MMPR can be expensive but ensures the safety of the product being sold. The testing of marihuana under the MMPR can be hundreds of dollars per sample but is the only way to ensure it meets a safe consumption standard. Attached to this affidavit as "**Annex JJJ**" is a price list from an independent laboratory that does testing for some MMPR licensed producers in BC.
204. Some MMPR licensed producers have scientists on site that are trained to conduct this testing. Attached to this affidavit as "**Annex KKK**" are photographs of marihuana being tested (in house) at a MMPR licensed production facility.

Destruction of medical marihuana under the MMPR:

205. Under the MMAR, there were no guidelines on the destruction of marihuana. Some MMAR producers took their marihuana waste to landfills and some simply threw it in other people's garbage bins or put it out with the regular household garbage.
206. The MMPR is different in that the destruction of marihuana requires that two people (who are qualified to witnesses to the destruction) record the date and weight of marihuana to be destroyed. The MMPR requires that the marihuana destruction records be kept for two years and the destruction method conforms with all federal, provincial and municipal environmental legislation, and does not result exposing persons to marihuana smoke.

Multiple marihuana strains available through MMPR facilities:

207. In speaking with MMPR licensed producers and accessing their websites I've learned that many are offering a wide variety of marihuana strains. One MMPR producer intends to offer 40 different strains.
208. The wide variety and readily accessible marihuana would permit a person to receive marihuana without having to wait three months to grow it. It would be frustrating for a MMAR producer to go through the whole process of growing a marihuana strain for 3 months only to find out it did not work for them. Under the MMPR, a person could get a very small order of one strain, and if it was not effective, try another strain from the same MMPR licensed producer.

Secure packaging of medical marihuana under the MMPR:

209. Under the MMAR I found that medical marihuana was often packaged in large Ziploc type bags that were capable of storing a half pound of marihuana and occasionally I found medical marihuana in sandwich size Ziploc type bags. The bags were not child proof, did not have any label indicating it was a narcotic, or who owned the medical marihuana.
210. Attached to this affidavit as "**Annex LLL**" is an example of possession of 5 grams of marihuana under the MMAR and possession of 5 grams under the MMPR.

211. The MMPR requires that the amount of marihuana being shipped is no more than 30 grams in an immediate container and no shipments more than 150 grams. Attached to this affidavit as “**Annex MMM**” is a photograph of 150 grams of marihuana to show the associated volume.

212. Attached to this affidavit as “**Annex NNN**” are photographs of sample marihuana containers from MMPR licensed producers. Medical marihuana sold under the MMPR requires strict label requirements which include:

- a. The name of the licensed producer, lot number, percentage of THC, percentage of cannabidiol, packaging date, the symbol “N” indicating it is a narcotic, warning text that states, “*Keep out of reach of children*”, and “*Important: Please read the Health Canada document provided with this package before using dried marihuana;*”
- b. The second label related to the client information. This must include the name, surname, health care practitioner’s name, daily quantity of dried marihuana in grams, expiry date of the client’s registration, shipping date, and expected delivery date.

Secure and tracked shipping of medical marihuana under the MMPR:

213. The MMPR requires that licensed producer facilities send marihuana to authorized customers in a method that ensure tracking and safekeeping during transport. The MMPR further requires that the marihuana be shipped in a tamper-proof package that does not allow the escape of the contents or odour.

214. I have smelled sealed containers of medical marihuana from MMPR licensed producers and found that they don’t emit an odour of marihuana.

Recall of medical marihuana by licensed producers:

215. If a person with a designated person production license under the MMAR, supplied contaminated marihuana to the person they were growing for, there was no mechanism in place for a recall. Should a person suffer ill effects or make their medical condition worse there was no method to go back to a master sample and have it tested to determine what caused the illness.

216. There was also no requirement in the MMAR to notify Health Canada if a person suffered ill effects from marihuana provided to them by their designated grower.
217. The MMPR on the other hand has been designed to incorporate a recall process and all MMPR licensed producers have to address this in their standard operating procedures.
218. MMPR licensed producers have to maintain a sample of marihuana from each batch as a 'master retention sample'. Should any person suffer ill effects Health Canada can retrieve the master sample and have it tested.

Annex A

Constable Shane Holmquist

RCMP E Division Headquarters, 14200 Green Timbers Way, Surrey, BC
shane.holmquist@rcmp-grc.gc.ca

Qualification to Provide and Expert Opinion (Marihuana)

Law Enforcement Experience:

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

Current Position and Mandate:

The mandate of my current position within the RCMP is to investigate large scale marihuana grow operations, organized crime groups taking advantage of the *Marihuana Medical Access Regulations* (MMAR), provide assistance and training to police detachments on the MMAR, *Marihuana for Medical Purposes Regulations* (MMPR), enhance police and public awareness of the dangers and impact of organized crime, and promote and support changes to legislation and regulations that discourage people from engaging in illegal activities related to marihuana.

Related Police Courses, Training & Education:

National Expert Witness Course	March 2012
Organized Crime Course	January 2012
Drug Investigative Techniques Course	September 2012
Search Warrant Course	July 2009
Intermediate Surveillance Course	March 2009
Human Source Management Course	April 2009
Major Crime Investigative Techniques Course	May 2008
Basic Thermographer Course	January 2007
Bachelor Degree from Simon Fraser University	November 2003
Cohort program - Leadership in Justice & Public Safety	

Expert Opinion Reports and/or Expert Evidence in Court:

June 2014. Tax Court of Canada Appeal No. 2011-2703. Expert Opinion affidavit completed for Revenue Canada. Case regarding GST on illegal sales of marihuana to the BC Compassion Club.

May 2014. Expert opinion report completed for Fraser Valley Traffic RCMP file 2013-31343. Vehicle stopped with 243 marihuana plants.

February 2014. Allard et al vs The Queen. Federal Court file No. T-2030-13. Expert Opinion affidavit completed for Federal Court Injunction. Report related to health and safety concerns, and organized crime abuses of medical marihuana.

February 2014. Chilliwack Provincial Court file No. 57707-2-C. Completed an expert opinion report and qualified as an expert witness in price, packaging, distribution, consumption, and production of marihuana related to a 401 plant marihuana grow operation.

February 2014. Kamloops Provincial Court file No. 93320-3-C. Completed an expert opinion report and qualified as an expert witness in price, packaging, distribution and consumption of marihuana related to a marihuana dispensary investigation.

March 2014. Expert opinion report completed for Fraser Valley Traffic RCMP file 13-39078. MMAR license holder exceeding their possession amount.

2013. 4 expert opinion reports completed for court.

2012. 5 expert opinion reports completed for court.

2011. 3 expert opinion reports completed for court.

2010. 3 expert opinion reports completed for court.

2009. 3 expert opinion reports completed for court.

Presentations Conducted Related to Marihuana:

May 2014 & September 2014. Conducted a presentation on the Drug Investigative Techniques Course offered through the Canadian Police College. MMAR/MMPR, sample MMPR containers, and Allard et al injunction decision were discussed.

April 2014. Conducted a presentation on the Expert Evidence Workshop at the Surrey RCMP Detachment related to the MMAR, MMPR and investigative strategies.

April 2014. Conducted a presentation in Mt. Hood, Oregon as part of the Marihuana Summit Conference. Law Enforcement personnel were present from 16 US States. I also observed presentations from Washington State, Oregon, Colorado, and Montana - related to medical marihuana. Over 200 people were in attendance.

March 2012 & March 2014. Conducted a presentation to the Chilliwack Youth Academy related to drugs and organized crime. Over 30 teenagers were present who have an interest in law enforcement.

January 2014. Conducted a presentation on the Advanced Drug Course offered through the Canadian Police College. I covered the MMAR, MMPR, and investigative strategies.

October 2013. Conducted a presentation to the Chiefs of Police from Washington State. Senior police managers were also present and included the OIC of CFSEU, Assistant RCMP Commissioner, and Assistant Deputy Minister and Director of Police Services of the Ministry of Justice. I covered the status of marihuana legislation in Canada and current enforcement strategies for marihuana possession, cultivation, and trafficking in BC.

February 2013 & July 2013. Conducted a presentation in Ottawa to Health Canada Inspectors and managers regarding the production of marihuana, growing trends, calculating plant yield, MMAR abuses, and signs of diversion.

December 2012. Conducted a presentation to the Squamish RCMP detachment related to marihuana grow operation investigations.

Selection of Marihuana Related Investigations/Experience:

2014:

I assisted the Vancouver Police Department Drug Section execute a search warrant at a dispensary.

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

Attended a meeting in Ottawa with Health Canada executives and law enforcement members from across Canada to discuss the MMAR/MMPR transition.

2013:

I was the affiant on a large scale investigation of persons with MMAR licenses who were supplying to an internet website where marihuana was sold across Canada and internationally.

Assisted with a search warrant application and attended the scene of a large scale MMAR grow operation that was over-producing. 20 people were arrested on scene.

I conducted an intelligence investigation into outlaw motorcycle gangs and medical marihuana. This information was included in analytical reports that were disseminated to police across Canada.

I attended an MMAR grow operation and spoke with the grower about grow cycles, plant yield, use of carbon dioxide, and methods of consumption.

2012:

I participated in the Capitol Regional Integrated Marihuana Enforcement (CRIME) Task Force which was mandated to eradicate marihuana grow operations on Vancouver Island.

I was the primary investigator and affiant on Project ENOG where multiple MMAR growers were supplying an internet website that was trafficking marihuana across Canada and to Nunavut.

Attended 4 marihuana dispensaries in the Lower Mainland to determine if a particular derivative was being sold.

With an extradition order, I escorted a male across the border to the US Marshal Service. The male was wanted for trafficking hundreds of pounds of marihuana from BC into California.

I attended an MMAR grow location where the plants were yielding approximately 2.2 pounds.

On 3 occasions I dried, clipped and weighed marihuana from plants to determine yield.

2011:

I participated in the Cariboo Region Interior Marihuana Enforcement (CRIME) Task Force which was mandated to eradicate illegal marihuana grow operations in the interior of BC.

I assumed the role of affiant on Project PRONATOR where a search warrant was executed on a rural property where over 6,000 marihuana plants were seized.

I participated in the execution of a search warrant where over 2,000 marihuana plants were located. The electricity to power the grow lights were from 2 industrial natural gas generators.

On 1 occasion I dried, clipped and weighed marihuana from pants to determine yield.

2010:

I was the file coordinator for a complex investigation related to the extortion and aggravated assault of an individual as a result of a large shipment of marihuana being lost/stolen. I wrote the Report to Crown and listened to the audio intercepts between the suspects and agent.

2009:

I participated in the dismantling of an underground hydroponic grow operation that contained over 11,000 marihuana plants.

I participated in a video recorded press release that was shown on Global and CTV news. The same press release was included in a CBC documentary on marihuana called 'Canabiz' that was aired nationally in January 2010.

I was the primary investigator and affiant on an investigation that resulted in the seizure of approximately 7,000 marihuana plants, 60 pounds of harvested marihuana, and the arrest and conviction of the 6 accused persons.

I assumed the role of Exhibit Manager for a fire scene where a teenager died of burn related injuries from an apartment fire that was a result of using butane to make marihuana oil (butane honey oil).

2008:

I dismantled a large outdoor marihuana grow operation that consisted of more than 10,000 plants that were carried out of a remote location with multiple trips using the RCMP helicopter.

Additional Marihuana Related Experience:

I have been involved in hundreds of marihuana grow operation investigations where I have assumed multiple roles in marihuana investigations from primary investigator, affiant, file coordinator, exhibit manager, and scene commander.

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

I have seized marihuana joints, oil, seeds, clones, vegetative plants, mature plants, monster plants, outdoor plants, and paraphernalia.

I have interviewed persons who have been involved in the cultivation and sale of marihuana to determine costs, packaging, consumption, production, and methods of concealment.

I have read books, articles, magazines, and watched videos on marihuana, including history, culture, and other forms of consumption.

I have observed people roll joints, smoke marihuana and people under the influence of marihuana.

I have spoken with other drug experts, drug investigators, electricians, and BC Hydro personnel on the consumption and diversion of electricity.

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

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