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CACP DRUG ABUSE COMMITTEE

**ANNUAL REPORT
2003 – 2004**



Table of Contents

Message from the Chairman.....	2
Mission Statement.....	2
Overview of Meetings.....	3
Other Events & Activities.....	3
MMAR.....	5
Marihuana Grow Ops.....	6
Drug Impaired Driving.....	7
Drug Recognition Expert.....	7
2004 Activities.....	8
Membership List.....	9
Resolutions.....	13

CACP Drug Abuse Committee

Message from the Chair:

I am pleased to report on the activities of the Drug Abuse Committee for the period August 2003 - August 2004. The last year has been busy for the Drug Abuse Committee with many of the activities being driven by the Cannabis Reform Legislation. On a number of these activities we were able to collaborate with the CPPA and CPBA and others to present a united law enforcement position.

Cannabis reform will continue to garner much attention next year. At the forefront of this debate will be police discretion. CACP must remain strong that Cannabis Reform Legislation should consist of a series of options to deal with the problem, including in all cases criminal charges where the circumstances dictate. Hopefully, over the next year as the cannabis reform issue unfolds we will be able to broaden the committee's focus on other emerging issues.

The demand of the position of Chair of the Drug Abuse Committee has proven to be a greater challenge than anticipated. Considerable amount of the work occurs outside the regular meetings putting greater demands on committee members. The committee experienced considerable turnover in the last 18 months, and it has been challenging to renew the membership. In the interim managing committee work has been demanding. We are pleased that we will be starting 2004 with new members; D/Superintendent Jim Miller, OPP, Staff Superintendent Bill Blair, Toronto Police Service, Superintendent Hal Zorn, Regina Police Service, Chief Garry Clement, Cobourg Police Service, Deputy Chief Rod Piukkala, Durham Regional Police Service, and Deputy Chief Barry MacKnight, Fredericton Police Service.

I would be remiss if I did not acknowledge the valuable contribution of Vice Chair C/Supt. Raf Souccar. Much of the work of the committee would not be possible without the support of the RCMP Drug Branch staff, in particular Staff Sergeant Michel Pelletier. The continued stewardship of the Drug Abuse Committee by Chief Barry King is also very much appreciated.

In closing, I would like to thank D/Chief Mike Boyd, Ret'd and D/Supt Jim Hutchinson, Ret'd for their dedicated service, their support and guidance, to the committee and me personally has been invaluable.

Drug Abuse Committee Mandate:

“Our mission is to promote safer and healthier communities through proactive leadership by addressing and influencing prevention, enforcement and treatment of substance abuse.”

CACP Drug Abuse Committee

Overview of Meetings Held

August 2003 CACP Conference - Halifax

Much of the meeting was focussed on 2003 Resolutions. Updates were provided on Cannabis Reform, Grow Ops, MMAR, Supervised Injections, DRE, Pre-cursor Chemicals, and Canada's Drug Strategy, identifying Health Canada as the lead.

January 19th, 2004 - Video conference

This was my first meeting as Chair, and consisted primarily of an informal exercise to identify some priorities beyond Cannabis Reform. The purpose was to be able to focus our work over the next year. The following issues emerged: Cannabis Reform, Marihuana Grow Operations, Drug Impaired Driving, Prevention: Update: *Towards a Healthy Lifestyle Report* from 2001 edition, Drug Recognition Training - Next steps, Clandestine Labs, Medical Use of Marihuana - MMAR, Supervised Injection Site-Evaluation, and liaison with Provincial Drug Abuse Committees.

March 25th, 26th, 2004 - Ottawa

This was a busy meeting with updates on Cannabis Reform, Drug Impaired Driving, Medical Marihuana Access Regulations, National Coordination of Grow Operations Investigations, and the National Drug Strategy. Presentations were provided on Drug Recognition Expertise Training, and Clandestine Labs. This meeting was also an opportunity to discuss prevention including a commitment to update the *Towards a Healthy Lifestyle Report* from 2001.

Other Events And Activities:

Media

The Chair and other committee members continue to respond to numerous media inquiries regarding Cannabis Reform and other issues.

Cannabis Reform Bill C-10 (Formerly C-38)

Parliament sent Bill C-38 back to the committee for further review in October 2003. On November 3, 2003 Deputy Chief Mike Boyd (Ret'd) and Detective Superintendent Jim Hutchinson (Ret'd) testified before the Special Committee on the Non Medical Use of Drugs. For remarks see Appendix "A".

On the same date, Deputy Chief Boyd and D/Superintendent Hutchinson participated in a CACP, MADD, and CPPA joint press conference held at the National Press Theatre. The news conference reiterated the concerns with Bill C-38.

CACP Drug Abuse Committee

On January 26, 2004, S/Supt Hutchinson and I, on behalf of CACP participated in a Department of Justice consultation on Bill C-38 with representatives from the RCMP, CPPA and the CAPB. The purpose of the meeting, in my view, was to gauge police response to the changes in the legislation made by the House of Commons Special Committee on the Non-Medical Use of Drugs.

The Committee adopted the Bill on November 5, 2003 with important amendments. The government then re-introduced C-38 as Bill C-10 on February 12, 2004. In spite of the position of CACP that 0-5 grams would be a more appropriate amount to introduce ticketing, 0-15 grams of marihuana remains a ticketing offence only in Bill C-10.

The proposed legislation would create four separate offences for production with different maximum penalties and now include ticketing as the only option for 1-3 plants, therefore, furthering limiting police discretion. Two of the four proposed new production offences would result in lesser sentences than the current legislation. The other two of the four proposed new productions offences could result in greater sentences than the current legislation but with no minimum mandatory sentences, there is no guarantee of this. There is a perception by the government that they are getting tougher on grow operators by increasing sentencing for persons with more than 50 plants. The reality is that the current sentencing regime is not being applied to its fullest with these similar and much larger sized grow operations and without minimum mandatory sentencing requirements included in C-10, there is no reason to believe that this will change.

C-10 now includes making the disclosure of the name of someone who has received a ticket under this bill to a foreign entity an offence. This proposed provision prohibiting the disclosure of information is inconsistent with the efforts of integration being made by law enforcement.

On February 24, 2004 CACP, CPPA, CAPB, MADD, and Customs Excise Union Douanes Accise (CEUDA) jointly released a press release and an open letter to the Prime Minister on Bill C-10. It echoed the concern that loosening possession laws for marihuana will come at a high price for our society. The media release and letter can be found at <http://www.cacp.ca>.

The Federal election delayed Cannabis Reform as Bill C-10 did not pass before Parliament and was dissolved for the election. At this time, it is unclear how this issue will come back, but the Prime Minister recently indicated a Bill would be re-introduced. Bill C-10 can be found at http://www.parl.gc.ca/37/3/parlbus/chambus/house/bills/government/C-10/C-10_1/C-10_cover-E.html.

The CACP has been generally supportive of expanded alternate measures, however, remain very concerned on the proposed ticketing scheme under Bill C-10. Police should retain the discretion to lay a criminal charge for any offence where the circumstances warrant criminal charges. The proposed sentencing provisions to deal with marihuana grow operations are flawed and inadequate.

CACP Drug Abuse Committee

Medical Marihuana Access Regulations (MMAR)

July 30, 2001, the Narcotic Control Regulations were amended and the Marihuana Medical Access Regulations (MMAR) came into force. These regulations established a compassionate framework to allow the use of marihuana by people who are suffering from serious illnesses and where the use of marihuana is expected to have some medical benefit that outweighs the risk of its use. The Ontario Court of Appeal decision in Hitzig et al (October 7, 2003) struck down parts of the MMAR forcing Health Canada to amend the MMAR.

The MMAR sets out very limited circumstances in which certain individuals may be authorized to possess or cultivate cannabis marihuana for medical purposes. Rusty Beauchesne and Staff Sgt. Mike Pelletier, RCMP have represented the policing community on a working group regarding access to marihuana for medical purposes. Two primary concerns have always been at the forefront; information sharing and production authorizations.

On November 27, 2003, January 23, 2004, and February 9, 2004 members of the CACP Drug Abuse Committee participated with other law enforcement officials in discussions with Health Canada regarding amending the policy/regulatory framework governing the use of marihuana for medical purposes in Canada.

Health Canada outlined their long term vision for the medical use of marihuana;

1. No personal cultivation for medical use
2. Government as sole supplier with distribution through pharmacies
3. Research to support medical use

Health Canada proposed a two phase approach for implementing their vision:

- G Phase I: Implement an immediate response to the decision of the Hitzig decision, which was fast tracked and implemented in late 2003. The changes dealt primarily with the application process that were struck down in Hitzig, but did not address the issues of personal production and information sharing.
- G Phase II : The timing of this phase is more long term with some adjustments possibly being made in late 2004. This phase will introduce mandatory disclosure to police of certain information of license holders, with personal production being phased out over a longer period.

Health Canada has refused to disclose information to police on whether an individual or address is subject to a licenced exemption without the consent of the individual. Currently 75 % of licence holders have consented to their information being shared with the police. Health Canada has taken the position that regulations will be required to share the remaining 25%.

CACP Drug Abuse Committee

On February 17th, 2004, members of the committee participated in a multi-stakeholder consultation hosted by Health Canada in Ottawa on the proposed changes to the MMAR. As part of the consultation, the committee presented on the need to share information with the police.

The current situation continues to put both police and citizens at an unacceptable level of risk due to unnecessary police intervention. In response to the concerns of the policing community, Health Canada did implement a 24 hour pager system for police to access the information of those individuals who have consented to disclosure. See page communiqué at Appendix “B”.

The policing community has always maintained that exemptions for production greatly increase the risk that medical marihuana will be diverted to the illicit drug trade. Until we eliminate exemptions for production and move to a sole government source, there will continue to be a climate of uncertainty in the law.

The current Medical Marihuana Access Regulations can be found at <http://laws.justice.gc.ca/en/c-38.8/sor-2001-227/text.html>.

Marihuana Grow Operations

The proliferation of marihuana grow operations continues to exceed the enforcement capacity and remains a serious concern. It is acknowledged that this problem will not be solved by law enforcement alone, and a more comprehensive problem solving approach is required.

The OACP Green Tide report released in 2003 is a comprehensive report detailing the concerns and challenges faced combating grow operations. In March 2003, this report was followed by a Green Tide Summit which brought together justice partners, the private sector, and other government agencies to determine how we may collaborate to combat the harmful effects of grow operations. The Drug Abuse Committee represented the CACP at this conference.

The National Coordinating Committee (NCC) Working Group Marihuana Grow Operations also released a report. The NCC Working Group on Marihuana Grow Operations Report and Recommendations to FPT Ministers Responsible For Justice was released for feedback in September 2003. The Drug Abuse Committee responded to the report as did other CACP committees. See Appendix “C” for the committee’s response.

On May 26, 2003, the committee met with PSEPC officials in Ottawa regarding the NCC report. The objective of the meeting was to provide an overview of the report and to identify key implementation areas where the CACP could collaborate with the Working Group.

The RCMP Drug Branch produced an MGO enforcement template that is available to Canadian Police Agencies from the national MGO Coordinator, Constable Richard Baylin, who can be reached at (613) 993-2124 and by email at Richard.Baylin@rcmp-grc.gc.ca. It is hoped that the template can be added to CACP website.

CACP Drug Abuse Committee

Drug Impaired Driving

At a September 2003 meeting, the Federal/Provincial/Territorial Ministers in justice portfolios agreed that drug-impaired driving is a serious problem and supported the Minister of Justice in releasing a consultation paper on the issue.

In October 2003, Justice Canada released a consultation document on Drug Impaired Driving. On behalf of CACP, the committee collaborated with the CPPA, MADD, and CAPB on a joint response to the Consultation Document. In Canada we have long advocated the enactment of effective enforcement powers to address drug impaired driving. The CACP, CAPB, CPPA, and MADD were supportive of the goals of the Justice Canada document dealing with drug-impaired driving. Nevertheless, some general concerns with the misleading impression that the document creates about the current law and some specific comments about the substantive content were noted. The consultation document can be found at <http://canada.justice.gc.ca/en/cons/did/toc.html> . The response can be found at <http://www.cacp.ca>.

Bill C-32 was introduced on April 26, 2004. Bill C-32 is aimed at introducing legislative amendments to Sec. 253 (a) of the Criminal Code compelling individuals suspected of drug-impaired driving to undergo Standardized Field Sobriety Tests (SFST) and Drug Recognition Expertise evaluations (DRE). Bill C-32 can be found on the Government of Canada website at http://www.parl.gc.ca/37/3/parlbus/chambus/house/bills/government/C-32/C-32_1/C-32_cover-E.html. A joint CACP, CAPB, CPPA, CEUDA, and MADD press release regarding Bill C-32 can be found at <http://www.cacp.ca>.

Drug Recognition Expert

As part of Canada's renewed Drug Strategy announced in May 2003, the Federal government allocated minimal funding of \$910,000 over five (5) years to the RCMP to facilitate planning for capacity building in DRE in Canada. Subsequently, given the seriousness of drug-impaired driving, the RCMP through its Drug Branch also reallocated \$4.1 million to get a National DRE Program underway by collapsing one integrated Marijuana Grow Operations Team. This funding is being used for the development of a "Train the Trainer" program which will be made available to all police forces across Canada.

The DRE Program has trained approximately 32 DRE instructors, 77 DRE officers, with 1770 peace officers SFST trained, and 98 have become SFST instructors. In addition, ten forensic toxicologists and one crown attorney have received DRE training. As of January 2003, the DRE Program has trained 33 DRE officers and 12 SFST instructors. From these numbers, 21.2% of DRE officers were from the RCMP and the remaining 78.8% were from other police agencies. Furthermore, from the 12 SFST instructors, 16.7% were from the RCMP whereas 83.3% were from other police agencies.

CACP Drug Abuse Committee

In November 2003, one National DRE course was held in Ottawa for 24 participants from various police departments: Halifax Regional Police (1), Sûreté du Québec (3), Service de police de la ville de Montréal (3), Ottawa Police Service (5), Service de Police de Gatineau (1), Brockville Police Service (1), Cornwall Community Police Service (1), Toronto Police Service (2), RCMP (3) as well as four (4) Forensic Laboratory Technicians from Montreal, Toronto, Halifax, and Winnipeg. The participants completed the second and last phase of this course in February 2004 in Vancouver, B.C.

The primary goal for implementing the DRE program on a national scale is to build capacity in those areas that do not have a sufficient number of trained personnel. For the 2004/2005 fiscal year, the focus is in central and eastern Canada as there are a very limited number of trained DRE's in these regions.

For the 2004/2005 fiscal year, two DRE courses will be offered to build capacity in eastern Canada. One of them will be in English and the other in French. Two DRE Instructor courses will also be offered during the year.

2004 Activities

Many of the 2003 issues will continue to face us in 2004. Cannabis Reform, MGO, and DRE will continue to present challenges for the committee.

In the fall of 2004, the committee will meet to develop a strategic plan or direction for the committee over the next few years. The committee has not undertaken this type of process for a few years and such an exercise will be timely. Michel Perron of CCSA has agreed to facilitate this process for the committee.

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CACP Drug Abuse Committee

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CACP Drug Abuse Committee

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CACP Drug Abuse Committee

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2003 Resolutions

CANNABIS REFORM LEGISLATION
Submitted by the Drug Abuse Committee

Whereas, the CACP adopted Resolution 2003-10, Cannabis Reform Legislation based on the following:

The CACP and the Canadian Police Association adopted a joint statement in March 2002 on Illegal Drugs, subsequently adopted by Resolution 2002-13 in August 2002 which called upon the Government of Canada to establish Alternative Measures that had meaningful, appropriate and graduated consequences.

On May 27, 2003 the government introduced Bill C-38, Cannabis Reform Legislation, which authorizes a police officer to issue a ticket to a person in unlawful possession of 15 grams or less of cannabis (marihuana) and/or 1 gram or less of cannabis resin but removes the discretionary enforcement option to proceed by way of a criminal charge.

The offence does not provide for graduated consequences for repeat offences, and is therefore not a meaningful or appropriate consequence to act as a deterrent. The Bill did not incorporate an appropriate range of Alternative Measures to address personal possession of less than 15 grams of cannabis.

Bill C-38 is silent for the possession of cannabis for those in high risk occupations such as, but not limited to: airline pilots, emergency services providers, health care professionals, and operators of public transit.

The government funding for a new National Drug Strategy is not consistent with its pledge in the Liberal Red Book III of \$420M over four years nor is it commensurate with the costs associated to substance abuse estimated in excess of \$18B per year. The message conveyed to society implies that cannabis is not harmful.

The CACP in 2003 urged;

The Prime Minister and the Government of Canada to provide funding for Canada's National Drug Strategy consistent with its Red Book Promise of \$420M and commensurate to the costs associated to substance abuse.

The Minister of Justice and Attorney General to create legislation for Alternative Measures for personal possession of 15 grams or less of cannabis, or 1 gram or less of cannabis resin, and to retain the discretionary option to proceed by way of criminal charge.

The Minister of Justice and Attorney General to create a penalty structure that is meaningful, appropriate with graduated consequences to serve as a deterrent for ALL repeat drug offences, including possession of small quantities of cannabis.

The Minister of Justice and Attorney General to create a category of aggravating factors which will provide for increased penalties for ALL drug offences such as, but not limited to: in a public place, including in or around schools and parks, in a motor vehicle, boat or any motorized conveyance; for those engaged in high risk occupations such as: airline pilots, air traffic controllers, emergency services providers, operators of public transit, or health care professionals; and ALL drug offences committed in the company of a person under the age of 18 years.

The Minister of Justice and Attorney General retain the discretion for police officers to proceed either by criminal charge or issuance of a ticket for a contravention as circumstances dictate.

Whereas, House of Commons Special Committee on the Non-Medical Use of Drugs adopted the Bill C-38 on November 5, 2003 with amendments further reducing police discretion.

CACP Drug Abuse Committee

Whereas, Bill C-38 legislation was re-introduced, as amended, as Bill C-10 in the Third session of the Thirty-seventh Parliament, 52-53 Elizabeth II, 2004, however, when parliament was dissolved this Bill was rescinded; and,

Whereas, the Prime Minister as recently announced that the government is committed to marihuana decriminalization and will reintroduce legislation after Parliament resumes in October 2004.

Therefore be it resolved, that the CACP urges the Government of Canada to engage in meaningful consultation with Law Enforcement to design legislation that addresses the legitimate aims of cannabis reform and respects the need to safeguard the public from the illicit drug trade.

DRUG RECOGNITION EXPERTISE *Submitted by the Drug Abuse Committee*

Whereas, impaired driving is the leading criminal cause of death in Canada responsible for approximately 1,500 fatalities impacting 75,000 Canadians; and,

Whereas, a Manitoba student survey on the prevalence of drug use indicated that young people were more likely to “**toke and drive**” than “**drink and drive**” and,

Whereas, estimates indicate a range of 5% to 12% of impaired driving in Canada is due to drug impairment; and,

Whereas, that impaired driving charges have decreased creating the perception that the problem is diminishing, however, roadside prohibitions i.e. 12 or 24 hours suspension depending on jurisdiction (alcohol & drugs) have increased as demonstrated, *reference: (Quebec Study, ICBC Stats % of both alcohol & drugs.....national DRE coordinator will further research)*

Whereas, the police community have successfully embraced the use of breath testing technology for alcohol impaired which, as an enforcement tool, is a deterrent and has contributed to the reduction of impaired driving, however no such technology exist for identifying the majority of drugs that cause drug impairment; and,

Whereas, legislators in the United States, United Kingdom, Australia, Europe and others recognize the drug impaired driving problem and have given the police the tools required to combat the problem; and,

Whereas, the CACP has urged the federal government to enact drug impaired legislation, in Resolution #14 - 2003; and,

Whereas, legislation was introduced as Bill C-32 in the Third Session of the Thirty-seventh Parliament, 52-53 Elizabeth II, 2004, it included provisions authorizing police officers to: a) demand a driver submit to Standardized Field Sobriety Tests where a suspicion of impairment exists, b) where grounds exist to believe that the driver is under the influence of drugs a demand be given submit to an evaluation by a Drug Recognition Expert (DRE), c) where the DRE believes that the driver is impaired by drugs a demand be given to provide a body fluid sample to refute or confirm the DRE’s findings, however when parliament was dissolved this Bill was rescinded; and,

Whereas, the police community in Canada has identified the need for funding support for SFST/ DRE training and research for new drug detection technology; and

Whereas, the International Association of Chiefs of Police (IACP) governing body for DRE initiated this program in the U.S. in 1987, they recommend that, all front line uniform police officers be “Standardized Field Sobriety Training” (SFST) trained and, that, 10% of SFST uniform police officers be trained and certified as DRE officers; and,

Whereas, application of the same formula in Canada would require funding and training support for 30,000 SFST officers and 3,000 of which would require additional DRE training and certification; and,

CACP Drug Abuse Committee

- Whereas,** there are presently, only 1,770 certified SFST officers (1360 in B.C.), 117 certified DRE officers (62 in B.C.) and there are presently, only 38 certified DRE Instructors (22 in B.C.) therefore the majority are located in the province of British Columbia; and,
- Whereas,** the federal government through the renewed Canada’s Drug Strategy allocated the sum of \$910 K to establish a Drug Recognition Expertise coordinator position and the RCMP re-allocated \$4.1 million to implement DRE “train the trainers” training; and,
- Whereas,** the initial allocation resources throughout Canada’s Drug Strategy to fund DRE training was inadequate to support the level of training required; and,
- Whereas,** as was the case with breath testing technology for alcohol impairment, the strategy requires leadership and funding support from Provincial, Regional and Municipal governments; and,
- Whereas,** private sector funding support is possible as the case in British Columbia and Saskatchewan with Insurance Corporation of British Columbia (ICBC) and Saskatchewan Government Insurance (SGI); and,
- Whereas,** police officers in Canada, with the exception of British Columbia and the Northwest Territories require but do not presently have the authority to temporarily suspend the license of a driver they reasonably suspect is impaired by drugs; and,
- Whereas,** the proposed new DRE legislation will impact on federal & provincial Forensic Laboratories requiring them to provide conclusive evidentiary toxicological analysis of body fluid samples; and,
- Whereas,** the proposed new DRE legislation will necessitate both Crown Attorneys and the Judiciary to be familiar with the DRE evaluation process in order to fulfill their mandate; and,

Therefore be it resolved, that the CACP urges the Minister of Justice and Attorney General of Canada, to re-introduce Bill C-32 of the previous Parliament (Third Session, Thirty-seventh Parliament, 52-53 Elizabeth II, 2004)

Be it further resolved, that the CACP calls upon Minister of Public Safety and Emergency Preparedness Canada, to take the lead in coordinating with her provincial/territorial counterparts and integrated model of SFST/DRE training with funding support which also considers private sector funding assistance for all police services in Canada,

Be it further resolved, that the CACP calls upon the provincial and territorial governments to enact legislation authorizing a police officer to temporarily suspend the driver’s license for 24 hours for a person suspected, of driving while drug impaired,

Be it further resolved, that the CACP calls upon the Ministers of Health, Justice, PSEPC and their appropriate provincial counterparts to provide additional human/financial resources to ensure adequate capacity for Forensic Laboratory testing of drug impaired samples submitted by police officers,

Be it further resolved, that the CACP calls upon the Minister of Justice and Attorney General of Canada, to provide necessary training for crown attorneys and the judiciary to address the proposed legislative and evidentiary amendments to the Criminal Code,

Be it further resolved, that the CACP calls upon the Ministers of Health/Justice/ PSEPC to advance research & development for technology for drug impaired driver testing,

Be it further resolved, that the CACP support for “Cannabis Reform” is contingent upon technology and training being in place to allow front line officers to appropriately assess the level of impairment by drugs.

CACP Drug Abuse Committee

MARIHUANA (CANNABIS) GROW OPERATIONS SCIENTIFIC STUDY ON MGO MOULD SPORES MYCOTOXICOSIS *Submitted by the Drug Abuse Committee*

Whereas, considering that over 1.4 million marihuana plants were seized from MGOs last year and investigations into MGOs represent more than half of our drug cases; and,

Whereas, MGO investigations involves sites contaminated with pesticides and fungicides that could cause health hazards; and,

Whereas, large amounts of moisture in MGO confined spaces create and encourage the growth of many micro-organism and indoor species of mould include some that are considered by the United States Environmental Protection Agency (EPA) as "potentially toxigenic fungi"; and,

Whereas, police officers required to undertake these criminal investigations, and the full extent of health risks caused from exposure to the MGO environment is unknown; and,

Whereas, to fully understand the potential threat, it is necessary to undertake scientific study to understand the hazards encountered in indoor marihuana grow operations; and,

Whereas, knowledge on potential mycotoxicosis of mould spores found in marihuana grows is necessary to ensure adequate Personal Protective Equipment (PPE) is used by enforcement personnel.

Therefore be it resolved that the CACP urges the federal Minister of Health in cooperation with law enforcement to do research and scientific study to seek details on potential mycotoxicosis of mould spores found in marihuana grows.

MARIHUANA (CANNABIS) GROW OPERATIONS DESTRUCTION SEIZED EQUIPMENT *Submitted by the Drug Abuse Committee*

Whereas, the community health and social concerns caused by MGOs is acknowledged (*NCC Working Group on Marihuana Grow Operations Report and Recommendations to FPT Ministers Responsible for Justice, September 2003*); and,

Whereas, MGO investigations involve sites contaminated with pesticides and fungicides that could cause health hazards; and,

Whereas, often contaminated MGO equipment is of no commercial value, leaving the destruction and storage of such equipment to police agencies; and,

Whereas, rarely is equipment needed at trial and rarely is it returned to the accused; and,

Whereas, cost of the storage and eventual destruction of MGO equipment is taxing existing police operational budgets;

Therefore be it resolved, that the CACP urges the Minister of Justice and Attorney General to amend the Controlled Drugs and Substances Act (CDSA) to allow for court-ordered, pre-conviction forfeiture of equipment used for the production of marihuana.

CACP Drug Abuse Committee

PRESCRIPTION DRUG DIVERSION *Submitted by the Drug Abuse Committee*

Whereas, the diversion of prescription drugs for illicit purposes is a serious problem in many Canadian Communities, and

Whereas, Newfoundland and Labrador Government Task Force on abuse of OxyContin reports that the quantity of OxyContin tablets prescribed and dispensed in that province increased by 400% from 2000 to 2003.

(Newfoundland and Labrador OxyContin Task Force, Interim Report: January 30, 2004),

Whereas, it has been demonstrated that there is a “black market” profit that can exceed 7,000% in the illegal sale of hydromorphone as known by the brand name Dilaudid. *(Canadian Medical Association, Department of Family Practice, U.B.C., published in 1998 in the Canadian Medical Association Journal),* and

Whereas, the illicit use of prescription drugs is a serious public health concern that could be mitigated through safeguards including enhanced inspections of distributors, enhanced inspections of pharmacies, monitoring of excessive doses prescribed in prescriptions and other proactive measures.

Therefore be it resolved that: “The CACP calls upon the Federal, Provincial and Territorial Ministers of Health to prioritize the implementation of safeguards, in consultation with Canadian Policing and Pharmaceutical representatives, to prevent the further diversion of prescription drugs to the illicit drug trade.”

APPENDIX “A”

Presentation to Special Committee on Bill C-38

Deputy Chief Mike Boyd, Toronto Police Service (Ret'd) and Detective Superintendent Jim Hutchinson OPP, (Ret'd)

Madame Chair, Members of the Special Committee, my name is Michael Boyd. I am a Deputy Chief of Police of the Toronto Police Service and Chair of the Drug Abuse Committee of the Canadian Association of Chiefs of Police. I am joined here today by Superintendent Jim Hutchinson of the Ontario Provincial Police.

Our Association has worked with federal social and government agencies and community partners for over ten years and more recently our federal political leaders, to address Canada's problems flowing from or associated to the non medical use of drugs.

The CACP respectfully submits that the proposed legislation needs to be re-worked and that the Bill should be referred to the new Prime Minister. The Bill is seriously flawed and will not help to minimize the harm to Canada and Canadian Society in its present form. The perception is that it is presently being rushed or perhaps being rammed through.

Specifically, the CACP has 4 primary concerns:

1. The National Drug Strategy has not been implemented
2. No options beyond caution or ticket and no recognition of repeat offences
3. The break out of cultivation offences and their dispositions
4. The failure to implement legislative change for drug impaired driving prior to implementation of Bill C38.

Canada's drug problems are the result of societies' demand for illicit drugs which is constantly being met by the supply of drugs. Simply put, the problem is one of supply and demand.

From a “*problem identification*” perspective it is important to isolate both sides of the problem so that Canada can develop separate sets of strategies designed to address those issues.

From a “*problem solving*” perspective however, an imbalance of emphasis is being placed on the criminal producers and suppliers of illicit drugs, relative to the emphasis being placed on those people responsible for the escalating demand of illicit drugs including cannabis. Bill C38 in its present form perpetuates that.

Canada is essentially fighting its escalating drug problems with both hands tied being its back.

We must all remember “*as long as there is a demand for drugs, including cannabis, criminals and criminal organizations will take the risks and the profits associated to supplying illicit drugs, including cannabis.*”

When we attack the supply side of the problem, Canada must take a three pronged approach. We must continue to enhance our ability to suppress the opportunity for drugs to be imported, produced and trafficked. We must also use every means to deter those involved in importing, producing and trafficking drugs, including cannabis. Lastly, we must find every means to apprehend those importing, producing or trafficking illicit drugs, including cannabis.

To attack the demand side of Canada's drug problems, we have long advocated a six pronged multi-faceted approach to addressing Canada's drug problems starting with prevention through awareness and education. Where that is insufficient, we realize that enforcement, treatment, rehabilitation and research are also approaches which must be used if Canada is going to minimize the harm to Canadians and Canadian Society from drug use.

Concern #1: Canada's National Drug Strategy

We believe that the government is “*putting the cart before the horse.*” While the government on one hand has announced and is actively working on Canada's new National Drug Strategy. The strategy was intended to be a national one rather than a federal one so that there could be collaboration and active involvement of the provinces and territories, the regions and municipalities. Even the federal departments are not clear on what the strategy looks like never mind the provinces, territories, regions and municipalities. The strategy is not adequately funded and in most cases the funding and the tools, are NOT currently in place, yet... the government wants to implement this Bill.

Concern #2: No options beyond caution or ticket and no recognition or provision of repeat offences.

This raises two possible problems; one is an offence where the circumstances surrounding it result in an inappropriate consequence which has no deterrent effect and won't influence future behavior and the other an offence which contributes to community and perhaps public safety problems without the appropriate mechanism for solution.

This happens because the offences in the proposed Bill do not recognize "*repeat offences*" and there is no provision to lay a criminal charge where the circumstances warrant such. The option chosen following the application of discretion enables an officer to get an offender before the court and perhaps streamed into drug treatment.

The CACP has long advocated that a series of alternative measures or options be adopted, including a ticketing scheme, to enable the appropriate consequences for the circumstances surrounding the offence. Our position is that there must be meaningful, appropriate and graduated consequences in order that they have a deterrent effect and one that influences future behavior.

Specifically, with regard to the Bill, the proposed legislation does not provide for repeat offences and it seriously restricts how a police officer deals with possession of smaller amounts of cannabis. The ticketing scheme is far too simplistic and one dimensional to address the wide array of community problems and circumstances and conditions of the people found in unlawful possession of identical amounts of cannabis.

The same offence and consequences exist for the first time offender as they do for the offender found in unlawful possession for their 89th offence. This makes no sense.

Even under the Highway Traffic Act on Ontario, drivers who blow a red light face a fine and escalating loss of demerit points for repeat offences and pay increased insurance costs. Using the same example of the driver who blows a red light as one illegal behavior among a series, faces within that context a charge of careless or dangerous driving.

We require legislation that can address situations which are multi dimensional.

While still illegal and technically an offence, Bill C38 is being interpreted by those people possessing it often as more of a "*Tax*" by government for the use of cannabis. For those in possession who are dependent and trafficking, where trafficking cannot be established, they will see the ticket as "*just the cost of doing business*".

Please don't misunderstand, we support the implementation of a ticketing scheme but as we have always said, we see it in the context of a wider range of options or alternatives that are appropriate to the circumstances

The legislation must recognize repeat offences. The proposed legislation does not. For those offenders who decide not to pay the ticket, there is only limited ways of collecting the fine. These consequences are insufficient to act as a deterrent. The position of the CACP and the CPPA is that penalties must be meaningful, appropriate and have graduated consequences if they are going to be a deterrent to drug use.

Concern #3 The break out of cultivation offences and their dispositions.

I would like to discuss the CACP's position related to the production/cultivation and sentencing portions of the proposed legislation. We welcome the proposed increase in sentences for grow operations consisting of more than 25 plants. This clearly conveys the Government's position that they are attempting to get tougher on grow operators.

We are however, concerned with the conflicting message that the proposed legislation sends by reducing sentences for smaller grow operations. This "lessening" of 2 of the 4 plant production sentences provides the perception of tolerance by the government that growing a little bit of marijuana is not necessarily a bad thing.

The same hazards associated to a large number plant grow operation are also associated to what the proposed legislation is classing as a smaller grow. (Less than 25 plants) Some of these dangers can include the use of Co2 chargers, booby traps, electrical diversions and the use of herbicides and pesticides indoors. The environment to grow is humid and warm and produces mold.

The issue of violence in our communities related to the theft of grow operations can be expected to continue and even escalate. Consider the dollar values at stake for criminals and criminal organizations.

For example: The theft of the cannabis produced from a 4 plant grow operation would be worth \$2400 when sold by the criminal organization at the ounce level and \$3405 when sold at the gram level. The incentive for criminals and criminal organizations to continue their trend of violence to obtain cannabis is obviously there. *(This scenario uses 2 ounces per plant to arrive at these numbers. It is not unusual for plants to produce 5-16 oz. of cannabis)*

Even a 1 plant grow operation can produce enough marijuana cigarettes for a 1 joint a day smoker for 112 days. (3.7 months) Returning to the issue of sentencing. The committee has indicated it is concerned about the lack of consistency in sentencing across the country and I believe the committee hopes that by separating the penalties into 4 distinct categories, the sentences will be more consistent.

I believe that there are many issues that influence sentencing. The expectations of society and the judicial approach in a particular region of this country are all factors to be considered.

We recognize that sentencing related to cannabis is not currently consistent. I do not think that the current mixed messages contained in the proposed legislation will achieve the desired consistency without the inclusion of minimum mandatory sentences.

If part of the justification for the proposed penalty structure is consistency, one should look at the broader criminal justice system. Lack of consistency in penalties is not a drug related phenomenon.

Deputy Commissioner Loepky, the Criminal Operations Officer of the RCMP spoke of this last week to the committee. A firearms offence in the north, where somebody charged also uses the weapon for their daily livelihood is looked at differently by the justice system than firearms offences in mainland Canada. The sentences will reflect this. The same can be said for a cap of heroin in small town Saskatchewan versus the lower east side of Vancouver. The sentences that are handed down are not developed in a vacuum. They are a result of many external factors at play in the given geographic area.

The sentencing problems we currently see are not in our view as a result of the sentencing laws themselves but rather in their application. Although we appreciate the Government's recognition of large scale commercial grow operations in its sentencing proposals, we still have concerns about lesser penalties for 1-25 plant grows. We would prefer the legislative status quo versus confusing the public and judiciary further.

Concern #4: The failure to implement legislative change for drug impaired driving prior to the implementation of Bill C38.

According to a Manitoba Student Survey, *"Young people are more likely to toké and drive than drink and drive"*.

Given that Cannabis is the preferred drug of choice for young people, we feel that the implementation of Bill C38 will bring with it an increase in the use of cannabis and with it an increase in drug impaired driving. It is essential that there be legislative change enabling police officers in Canada to deal with drug impaired driving in the same way they can now deal with alcohol impaired driving.

There is also a need for Drug Recognition Expertise training and of course the Drug Strategy announced only \$910,000.00 over five years which would hardly scratch the surface on the required training. Police officers also need technology equivalent to the alcohol breathalyzer for drug testing.

In closing I want to thank the Committee for the opportunity to testify on behalf of the CACP and would urge the Committee to refer the Bill C38 to the new Prime Minister for further consideration and necessary revision.

APPENDIX “B”

Health Canada Pager System Providing 24-Hour Access to

Information Regarding Individuals Designated to Possess or

Produce Marihuana for Medical Use

(February 24, 2004 CACP Message)

In an effort to reduce the possibility of police intervention into the activities of those individuals who have been granted an exemption pursuant to the CDSA or MMAR to possess or produce marihuana for medical use, Health Canada has implemented a 24-hour law enforcement pager system. This service is an extension of the system currently in place during office hours. Under current regulations individuals must consent to the disclosure of authorization information to law enforcement, to date seventy percent of the individuals with exemptions have consented.

The 24-hour pager system will allow law enforcement to verify if an individual is authorized to possess or produce marihuana for medical purposes. It is anticipated that verification may be required in circumstances where someone claims an exemption or during the investigative stage where verification would prevent unnecessary law enforcement intervention. Although the service is provided 24 hours, it is expected that it would be accessed after business hours only in circumstances where business hour contact would be impractical.

This correspondence is intended as an interim measure while Health Canada prepares a formal notification to the police community.

Health Canada Pager Number: 613-593-3756.

Christopher J. McNeil
Deputy Chief of Operations
Halifax Regional Police
(902) 490-5272

APPENDIX “C”

**CACP Drug Abuse Committee Response
NCC Working Group on Marihuana Grow Operations (MGOs) Report**

March 24, 2004

**Doctor Danielle Lacasse, Director
Organized Crime Policy and Coordination Division
340 Laurier Avenue West
Ottawa, Ontario K1A 0P8**

Dear Doctor Lacasse:

I am responding in relation to your correspondence of January 30th, 2004 regarding the CACP Drug Abuse Committee response to the NCC Working Group on Marihuana Grow Operations (MGOs) report.

I would like to compliment you and your colleagues on an excellent report. The concerns regarding the eradication of MGOs are increasing as the propagation of MGO's continues in every part of the country.

The report highlights a number of concerns that have been expressed by the Drug Abuse Committee and we support in principle the recommendations you have made but I would be remiss if I did not make the following comments.

The CACP Drug Abuse Committee continues to assert that the National Drug Strategy is underfunded. The financial burden the fight against MGOs is placing on police agencies is one that needs to be acknowledged. A national strategy regarding this issue must include the realization that municipal police agencies need the support of both provincial and federal governments to offset these costs.

I note in recommendation #3 the use of the words “*while maintaining offences for simple possession and production for personal use*”. This language is inconsistent with the key messages contained in the rest of your report. I do not want to restate our position on Bill C-10 but just let me say, we cannot support the notion that cultivation can be conveniently categorized into a continuum of different options for penalties. Cultivation, regardless of the amount, is a serious matter and the law must reflect that reality. The introduction of the concept of “*production for personal use*” will send us into a downward spiral that will undermine the seriousness which we view this matter.

We support the recommendations regarding the coordination and sharing of information regarding MGOs but we must recognize that the technology exists for sharing of such information in the form of ACIIS. Although it may have weaknesses, we should be careful on embarking on another solution until we fully utilize the current one. This may be more of an issue of encouraging agencies to effectively use the tools they have.

Thank you once again for the opportunity to respond to your report.

I hope my comments are helpful.

Yours truly,

**Christopher J. McNeil, Deputy Chief
Chairman of the Drug Abuse Committee
Canadian Chiefs of Police**

CJMcN/wb

cc: Mr. Peter Cuthbert, CACP
Chief Edgar MacLeod, President CACP
CACP Drug Abuse Committee