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BARRIE POLICE SERVICES BOARD



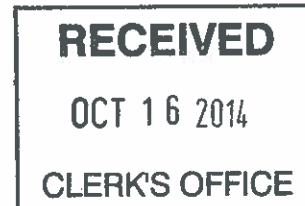
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October 14, 2014

Mayor Jeff Lehman
Members of Barrie City Council
70 Collier Street, Box 400
Barrie, ON L4M 4T5



Dear Mayor Lehman and Members of Barrie City Council:

The attached report lists the issues of growing Medical Marihuana and recommendations of the Barrie Police Services Board for the City of Barrie.

This report covers the period from August 2013 to August 2014.

Sincerely

Jim Dickie
Acting Chair, Barrie Police Services Board



BARRIE POLICE SERVICES BOARD

To : Barrie Police Services Board
From : Chief Kimberley Greenwood
Date : September 29th, 2014
Subject: Medical Marihuana: Issues and Recommendations for the City of Barrie

Background

Since 2001, Health Canada has granted access to marihuana for medical purposes to Canadians with the support of their physicians.¹ Through the Marihuana Medical Access Regulations (MMAR) Canadians had three ways to obtain medical marihuana:

1. by purchasing their supply of medical marihuana from Health Canada,
2. by applying for a Personal Use Production Licence and produce their own marihuana, or
3. by designating an individual to produce marihuana through a Designated Person Production Licence.²

In 2013, the Government of Canada created the Marihuana for Medical Purposes Regulations (MMPR) in order to replace the MMAR. This was done to:

1. treat medical marihuana like any other narcotic that is used for medical purposes,
2. allow for the creation of a commercial industry responsible for the production of medical marihuana, and
3. alleviate concerns raised through consultations with concerned stakeholders, that the MMAR system was open to abuse.³

¹ Health Canada. (2014) About the Marihuana Medical Access Program. Retrieved from <http://www.hc-sc.gc.ca/dhp-mps/marihuana/about-apropos/index-eng.php>

² Health Canada. (2014) About the Marihuana Medical Access Program. Retrieved from <http://www.hc-sc.gc.ca/dhp-mps/marihuana/about-apropos/index-eng.php>

³ Health Canada. (2014) About the Marihuana Medical Access Program. Retrieved from <http://www.hc-sc.gc.ca/dhp-mps/marihuana/about-apropos/index-eng.php>

The Government of Canada instituted a transition period to allow medical marihuana users to adjust to the new regulations. On April 1st, 2014 the MMAR was repealed and the MMPR came into effect. The change in regulations brought about a change in the way that medical marihuana users would access their medical marihuana. Under the MMPR medical marihuana users:

1. would no longer be able to purchase medical marihuana from Health Canada, produce their own, or designate someone to produce for them, and
2. would have to purchase their medical marihuana from a commercially Health Canada licenced producer.

In December of 2013 a group of medical marihuana users in British Columbia filed a motion in the Federal Court of Canada. They requested an injunction that would preserve the regulations contained in the MMAR and limit the new regulations contained in the MMPR. This case is referred to as *Allard et al v. The Queen*. The *Allard* case raises several arguments against the regulations contained in the MMPR, however the general overriding argument is that requiring medical marihuana users to purchase from a commercial producer violates their rights under Section 7 of the *Canadian Charter of Rights and Freedoms* (right to life, liberty and security of the person...) The arguments presented in *Allard* are that the cost of purchasing medical marihuana from a commercial producer is prohibitive as it will be greater than producing marihuana on their own. Further, the quality or type of medical marihuana that is consumed by the medical marihuana user may not be available from a commercial producer. On March 21st, 2014 the Federal Court ruled in favour of *Allard et al*. Although the *Allard* case granted only those named in the case a reprieve from the MMPR, the injunction has been applied liberally to all persons that possessed a valid licence on that day.

The result is that currently there exist two sets of regulations governing medical marihuana use in Canada:

1. the regulations under the MMAR for those medical marihuana users that possessed a valid authorization on March 21st, 2014, and
2. the regulations under the MMPR for those new medical marihuana users that obtained an authorization as of October 1, 2013⁴

Issues

Health Canada provided estimated numbers of persons growing plants within a wide geographic area.⁵ The estimate contained no personal information of any kind, only an area

⁴ Health Canada. (2014) Transitioning to a New Regime of Licensed Producers. Retrieved from <http://www.hc-sc.gc.ca/dhp-mps/marihuana/transition/index-eng.php>

defined by the first 3 letters/numbers of the postal code. This was to aide police services preparing to receive and destroy any unused marihuana plants on April 1st, 2014 as the transition occurred from the MMAR to the MMPR. As of December 2013, the City of Barrie and surrounding area had approximately 3500 licenced persons living in areas with L4M as the first three letters/ numbers of their postal code. There are no licences associated to Barrie's other postal codes.

There are a number of concerns surrounding medical marihuana, however the Barrie Police Service respect the right of individuals that have a medical need to have access to medical marihuana. The primary concern for the Barrie Police Service is in regards to those individuals that possessed a licence to produce their own medical marihuana or produce medical marihuana for another person. With authority under the MMAR and the court injunction with the *Allard* case, individuals with a valid licence (as of March 21, 2013) can continue to legally produce medical marihuana in their homes, designate buildings or outdoor spaces as defined by their license. This concerns the Barrie Police Service for the following reasons:

1. There is no requirement for these individuals to report to the Barrie Police Service or the City of Barrie (by-law, property standards, fire services, etc.) that they have an active grow operation in or around their residence. Health Canada is aware of this information but does not share it with local municipalities due to privacy concerns regarding what is deemed private medical information.
2. There is no requirement for the individuals responsible for the operation of the medical marihuana grow operation to have an inspection done by the local municipality to insure compliance with building codes, electrical safety, and fire codes etc.
3. When a licenced producer of medical marihuana moves or vacates a residence or building that contained a grow operation, there is no mechanism in place to make sure that the residence or building is free from mold or other issues prior to it being occupied by new owners or tenants.
4. There is no requirement for medical marihuana producers to account for the medical marihuana produced. No records are required to be kept or made available. This lack of accountability leaves the system open to abuse.

Many of these concerns would be alleviated with the full implementation of the MMPR; however this will not occur until the *Allard* case has been decided.

Recommendations

The following is recommended:

⁵ D. Pollard-Bussey, March 19, 2013

1. This report be forwarded to Barrie City Council.
2. That the Barrie Police Service be consulted in regards to the creation or amendment of any by-laws/regulations/policies in regards to medical marihuana.
3. That the various departments within the City of Barrie continue to share information with the Barrie Police Service pertaining to medical marihuana (grow operations, applications for business licences to establish a commercial grow operations).