

ADVICE TO MINISTER

**CONFIDENTIAL
ISSUES NOTE**

Ministry: Justice
Updated: November 7, 2012
Minister Responsible: Shirley Bond

American Marijuana Laws- Washington & Colorado

ADVICE AND RECOMMENDED RESPONSE:

- **I understand that it will take some time before marijuana becomes legal in Washington State, and before the logistics of production and sale will be fully implemented.**
- **We will be watching closely to see how these changes are implemented and will want to take some time to understand and assess this change – no doubt the federal government will as well.**
- **We will also be watching to see how the U.S. federal government will respond to this.**
- **We are already hearing from officials there that it will be a complicated process for them.**
- **BC will have to take a look at what the impacts are for the province, particularly from a law enforcement perspective. I will be consulting with police leaders about this issue.**
- **As always – our primary concern is for the safety of the public so we will assess this impact carefully and rationally.**

If asked about drug trade impacts:

- Let me be clear – this is more complicated than some of the proponents of legalization are saying - organized crime is in the business of profiting from drugs and other illegal activities.
- Frankly, it would be naïve to suggest that organized crime will simply pack up and leave when the market shifts for one commodity.
- I remind you that in Canada, criminalization of marijuana use and production is a matter of federal jurisdiction.
- As Attorney General I am duty bound to ensure Canada's laws are enforced and I expect the police to do the same.

If asked about border security:

- I am confident Canadian Border Services Agency will continue to be vigilant and successful at catching drugs coming into B.C. or any other province.
- As well, there is the cross border protocol and forum with Washington State - the purpose is to ensure our respective law enforcement collaborate under work together. As this develops that relationship will be important.
- And it is important that we understand clearly what potential impact this may have to British Columbians.

If asked about BC conducting referendum:

- A referendum must relate to a matter of provincial

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jurisdiction. Marijuana laws are a within federal jurisdiction.

If asked about a general recall initiative:

- **First, I want to say that the initiative process is highly valued in this province and available to any registered voter in British Columbia to propose changes to laws or propose new ones.**
- **The results of a provincial initiative process directed at federal marijuana laws would not be binding on the federal government, nor can the province dictate to the federal government in relation to changes to federal laws.**
- **Recall initiatives must relate to matters that are within provincial jurisdiction.**
- **Until and unless Canadian federal law is changed, the production, sale and use of marijuana is currently prohibited, except in the case of specific exceptions such as medicinal marijuana**
- **The controlled substance act is federal legislation and our police have a responsibility to enforce this act, as they do with all laws.**

If asked about the SensibleBC recall initiative:

- **First, I want to say that the initiative process is highly valued in this province and available to any registered voter in British Columbia to propose changes to provincial laws or propose new ones.**

- **Police are constitutionally required to enforce the rule of law.**
- **Until and unless Canadian law is changed, the production, sale and use of marijuana is currently illegal (controlled federal legislation), and our police have a responsibility to enforce criminal laws for the good of all British Columbians.**

BACKGROUND

In the U.S. 2012 election, residents of Washington State and Colorado voted by referendum to legalize and tax small amounts of marijuana.

Washington's measure establishes a system of state-licensed marijuana growers, processors and retail stores, where adults can buy up to an ounce. It also establishes a standard blood test limit for driving under the influence.

Colorado's Amendment 64 will allow adults over 21 to possess up to an ounce of marijuana, though using the drug publicly would still be banned. The amendment would also allow people to grow up to six marijuana plants in a private, secure area.

Media reports that there will be a 30 day period during which marijuana remains illegal and then for a year a person can carry an ounce. No retail stores will open during that time while Washington State sets regulations regarding what growers, processors and retailers need to do to obtain state licences.

In America, federal drug laws consider marijuana an illegal drug. When state and federal laws conflict, federal law takes precedence. It's possible that federal authorities could sue states in an attempt to block the laws from taking effect. The US Justice Department has not commented on how it will respond to the approved measures.

According to a recent Angus Reid poll, 75 per cent of B.C. respondents indicated support for the taxation and regulation of cannabis.

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Pot advocates in BC say the pressure is now on here to follow suit. Sensible BC is a group which is campaigning to introduce a BC wide referendum on criminalization in fall 2014.

BC marijuana has been a commodity traded across the border for guns and cocaine. If legalization (and decriminalization) is immediately in effect without a corresponding local (legal) supply that could increase the demand in the short term. In the longer term it may decrease demand if local legal suppliers are established.

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Minister's Office	Program Area	Deputy	Comm. Dir
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CONFIDENTIAL ISSUES NOTE

Ministry: Justice
Updated: November 5, 2012
Minister Responsible: Shirley Bond

Decriminalization of Marijuana

ADVICE AND RECOMMENDED RESPONSE:

- **Whether the decriminalization of marijuana is an appropriate strategy from a public health versus law and order perspective has been the subject of long and public debate.**
- **However, it is not my intention to speculate on decriminalization of illicit drugs when provinces do not have authority over federal legislation.**
- **Drug regulation is the jurisdiction of the federal government, which has responsibility for the prosecution of marijuana offences under the Controlled Drugs and Substances Act.**
- **It is appropriate that they be the ones to respond to this debate.**

If asked about US voting related to marijuana in three states:

- **If marijuana is legalized south of the border, BC will have to take a look at what the impacts are for the province, particularly from a law enforcement perspective.**

If asked if decriminalization would cut court backlog

- **We recognize that our justice system needs to be more efficient.**
- **But simply eliminating laws isn't the way to go about it - and in any event, as I've said the determination of what**

crimes matter is a federal responsibility.

- **The need for a more efficient justice system was identified in Geoffrey Cowper's independent review on the justice system.**
- **We are now working on a comprehensive justice reform plan, the first part of which has been released and there will be further action plans announced early in the new year.**

KEY FACTS REGARDING THE ISSUE:

- Advocates for decriminalization of marijuana are calling upon the Government of B.C. to support them.
- On Mar. 28/12, a news release was issued by the B.C. Centre for Excellence in HIV/AIDS (BC-CfE) to indicate that a paper written by chief provincial medical health officers Dr. Perry Kendall (BC), Dr. Moira McKinnon (SK) and Dr. Robert Strang (NS) and Dr. Evan Wood of the BC-CfE was published in the medical journal *Open Medicine*.
- The paper calls for new approaches to drug-policy decision making, including the evaluation of taxation and regulation of marijuana as an effective strategy to improve community health and safety in Canada. On Jan. 15/12, Canadian Press reported that 77 per cent of the delegates at the federal Liberal party convention approved a resolution calling for the legalization and regulation of marijuana, which was endorsed in principle by interim leader Bob Rae.
- Four former Vancouver mayors (Mike Harcourt, Phillip Owen, Larry Campbell and Sam Sullivan) signed an open letter Nov. 23/11 to all B.C. municipal, provincial and federal politicians calling for legalization to end gang violence related to the drug trade.
- In October 2011, a coalition of prominent B.C. police officers, health professionals, legal experts and academics called for the legalization and regulated sale of marijuana.
- They are critical of the enforcement approach, consider organized crime and associated violence and community harms to be the result of its illegality and believe a regulated market would contribute to increased public safety.
- The Controlled Drugs and Substances Act is federal legislation. Other than participating in FPT discussions on the act and related Criminal Code offences, B.C. has no authority over whether marijuana is decriminalized.
- The Sept. 28/11 Safe Streets and Communities Act (Bill C-10) fulfilled a June 2011 throne speech commitment to "move quickly to re-introduce comprehensive law-and-order legislation to combat crime and terrorism."

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- The focus of the amendments in Bill C-10 is on: a) drug offences committed for the purpose of trafficking (whether possession, production, import/export); b) on Schedule I (heroin, cocaine, methamphetamine); and c) Schedule II (marijuana and cannabis resin) drugs. A complex formula is used to determine whether a mandatory minimum sentence to custody would apply.
- Amount of the drug and aggravating factors (e.g. constituting a health or safety hazard, near a school) are part of this formula. Some offences will now carry mandatory minimum sentences without aggravating factors being present.
- As an example, growing six marijuana plants and sharing it with friends will qualify as production for the purpose of trafficking and an accused would face a mandatory minimum sentence of six months in jail.
- Overall, B.C. has concerns about the effectiveness of mandatory minimum sentences and the costs to implement them. A previous B.C. Attorney General expressed support for mandatory minimum jail terms for large-scale drug producers, smugglers and traffickers.
- However, the new minimum sentence provisions in Bill C-10 could dramatically increase the numbers in provincial custodial facilities for producing small amounts of marijuana.
- A federal Justice Department study reveals only about one of every six people (of 415 studied) convicted of offences related to marijuana, indoor grow-ops in British Columbia, Alberta and Ontario between 1997 and 2005 was jailed. About nine of every 10 convictions resulted from a guilty plea.
- B.C. would support changes to the drug classification and scheduling process to make it easier to add, reschedule, regulate and control new drugs and precursors as they become evident. The current process is slow and a barrier to efforts to keep pace with emerging drug trends.
- In a September 21, 2012 story in the Vancouver Sun columnist Ian Mulgrew argued that eliminating pot possession charges would eliminate the court backlog since 15,000 possession charges went through the courts in 2010 and the court backlog is estimated at about 22,000 cases.

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Program Area Contact: Neil MacKenzie/Jay Chalke
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Minister's Office	Program Area	Deputy	Comm. Dir
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To MO Jan. XX	To N. MacKenzie Mar. 21 JSB Mar. 21		C Heiman Sept 21.
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Hayes, Dana GCPE:EX

From: Mulholland, Lauren GCPE:EX
Sent: Wednesday, November 7, 2012 5:07 PM
To: GCPE JAG Media Requests GCPE:EX
Subject: FW: Response from Minister Bond relating to marijuana

From: Mulholland, Lauren GCPE:EX
Sent: Wednesday, November 7, 2012 5:02 PM
To: 'hdegrand@lapresse.ca'
Subject: Response from Minister Bond relating to marijuana

Hello: My apologies for sending this response to you so late.

Please attribute the statement below to Shirley Bond, Minister of Justice and Attorney General.

It is clear that the conversation about marijuana laws is changing and the results of the Washington and Colorado initiatives demonstrate that. The implementation of any changes will be very complex and obviously we will be assessing any potential impacts on British Columbia.

In particular, we will consider any potential law enforcement perspective. I will be consulting with police leaders about this issue. As always – our primary concern is for the safety of the public so we will assess this impact carefully and rationally.

I remind you that in Canada, regulations related to marijuana use are currently a matter of federal jurisdiction. I am confident that the federal government will also be assessing the changes that were approved in Colorado and Washington.

Lauren Mulholland
Communications Manager
Ministry of Justice - Attorney General
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Cell: 250 889-3922

Hayes, Dana GCPE:EX

From: Mulholland, Lauren GCPE:EX
Sent: Wednesday, November 7, 2012 5:03 PM
To: 's_thomson@straight.com'
Subject: Response from Minister Bond relating to marijuana

Hello: My apologies for sending this response to you so late in the day.

Please attribute the statement below to Shirley Bond, Minister of Justice and Attorney General.

It is clear that the conversation about marijuana laws is changing and the results of the Washington and Colorado initiatives demonstrate that. The implementation of any changes will be very complex and obviously we will be assessing any potential impacts on British Columbia.

In particular, we will consider any potential law enforcement perspective. I will be consulting with police leaders about this issue. As always – our primary concern is for the safety of the public so we will assess this impact carefully and rationally.

I remind you that in Canada, regulations related to marijuana use are currently a matter of federal jurisdiction. I am confident that the federal government will also be assessing the changes that were approved in Colorado and Washington.

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Hayes, Dana GCPE:EX

From: Turner, Caeli GCPE:EX
Sent: Thursday, November 1, 2012 5:29 PM
To: 'Mnielsen@pgcitizen.ca'
Cc: 'rvenis@pgcitizen.ca'
Subject: Statement from Minister Shirley Bond

Hi Mark,

As discussed earlier, Minister Shirley Bond was traveling today so apologizes for not being able to provide an interview. I'm sending the following statement on her behalf:

"Whether the decriminalization of marijuana is an appropriate strategy from a public health versus law and order perspective has been the subject of long and public debate. There was no clear consensus over this issue at the recent meeting of the Union of British Columbia Municipalities meeting. However, it is not my intention to speculate on decriminalization of illicit drugs, or taxation for that matter, when provinces do not have authority over federal legislation.

Drug regulation is the jurisdiction of the federal government, which has responsibility for the prosecution of marijuana offences under the Controlled Drugs and Substances Act. It is appropriate that they be the ones to respond to this debate."

Thanks and feel free to contact me if you require anything further.

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Hayes, Dana GCPE:EX

From: Mulholland, Lauren GCPE:EX
Sent: Wednesday, November 7, 2012 5:06 PM
To: 'theresazhang@fairchildtv.com'
Subject: response from Minister Bond relating to Marijuana

Hello: My apologies for sending this response to you so late in the day. I gather you did not have an opportunity to interview Minister Bond on camera.

Please attribute the statement below to Shirley Bond, Minister of Justice and Attorney General.

It is clear that the conversation about marijuana laws is changing and the results of the Washington and Colorado initiatives demonstrate that. The implementation of any changes will be very complex and obviously we will be assessing any potential impacts on British Columbia.

In particular, we will consider any potential law enforcement perspective. I will be consulting with police leaders about this issue. As always – our primary concern is for the safety of the public so we will assess this impact carefully and rationally.

I remind you that in Canada, regulations related to marijuana use are currently a matter of federal jurisdiction. I am confident that the federal government will also be assessing the changes that were approved in Colorado and Washington.

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