Campbell, Helene JAG:EX

From: Goldschmid, Robert JAG:EX
Sent: Thursday, August 1, 2013 3:02 PM
To: Williams, Julie JAG:EX
Subject: FW: Marijuana simple possession
Attachments: BN for Jay re pot possession.docx

Julie, here is a draft BN for Jay, upon his return. Please review and let me know if you have any concerns or suggested edits. If you approve, I will send it to Jamie to review and to Helene to process.

Bob

-----Original Message-----
From: Deitch, James JAG:EX
Sent: Friday, July 26, 2013 2:57 PM
To: Chalke, Jay JAG:EX
Cc: Goldschmid, Robert JAG:EX
Subject: RE: Marijuana simple possession

Jay:

I am pretty sure that Bob and I have been down this road before. In any event we will follow up while you are away and be ready to advise on your return.

James Deitch
Executive Director
Criminal Justice and Legal Access Policy Division Justice Services Branch Ministry of Justice
3rd floor, 703 Broughton Street PO Box 9243, Stn Prov Govt Victoria, BC V8W 9J1

www.criminaljusticereform.gov.bc.ca
http://www.gov.bc.ca/ag/index.html

Phone: 250.387.2109
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Cell: 250.580.5612

-----Original Message-----
From: Chalke, Jay JAG:EX
Sent: Friday, July 26, 2013 2:55 PM
To: Deitch, James JAG:EX
Subject: Fw: Marijuana simple possession

Jamie,

See attached. s.13, s.17 I have asked Kevin to confirm that these #s are for all simple possession drug charges under CDSA not just marijuana.

I wonder whether PPSC would have readily available #s of cases of simple possession of marijuana rather than all drugs. Can you check with them?

s.13, s.17

J.

----- Original Message -----
From: Jardine, Kevin JAG:EX
Sent: Friday, July 26, 2013 02:35 PM
To: Chalke, Jay JAG:EX
Subject: RE: Marijuana simple possession

Here's the numbers, Jay.

-----Original Message-----
From: Jardine, Kevin JAG:EX
Sent: Thursday, July 25, 2013 7:48 PM
To: Chalke, Jay JAG:EX
Subject: Re: Marijuana simple possession

Not possible to differentiate between marijuana and other drugs in JUSTIN (actual substance is captured in a free form field). So, as a first step, I've asked for all simple possessions over the last 5 calendar years ending Dec 31, 2012.

Should have the numbers early next week.

Rgds,
K.
s.15, s.17

On 2013-07-25, at 6:24 PM, "Chalke, Jay JAG:EX" <Jay.Chalke@gov.bc.ca> wrote:

> Thx - have asked DRO if they have info.
>
>
> ----- Original Message -----
> From: Jardine, Kevin JAG:EX
> Sent: Thursday, July 25, 2013 05:58 PM
> To: Chalke, Jay JAG:EX
> Subject: Re: Marijuana simple possession
>
> Hmmm..,I'll check into it.
>
> Rgds,
> K.
> s.15, s.17
>
>
>
> On 2013-07-25, at 5:42 PM, "Chalke, Jay JAG:EX" <Jay.Chalke@gov.bc.ca> wrote:

>

>> Do we know how many cases/appearances/trials there are per year? s.13, s.17

>>

CLIFF No: 403174
DATE: August 6, 2013
Required Date N/A

MINISTRY OF JUSTICE
JUSTICE SERVICES BRANCH
BRIEFING NOTE

TOPIC: Marijuana Decriminalization

PURPOSE OF NOTE: To provide an overview of the data, issues and challenges in pursuing alternative administrative processes for marijuana possession.

FOR INFORMATION OF: Jay Chalke, QC, Assistant Deputy Minister

MEETING REQUIRED: No

EXECUTIVE SUMMARY:

s.13, s.17

We began by researching the number of prosecutions held each year in BC for marijuana possession. As described more fully below, the research revealed wide variations in the estimates of these numbers. After the election, other matters took priority and the research was put on hold.

BACKGROUND:

There has been a lot of recent activity on the issue of decriminalization and legalization of marijuana possession including:

- Justin Trudeau advocating for legalization: http://www.cbc.ca/news/politics/story/2013/07/29/f-pot-legalization-politics-trudeau.html
- Sensible BC campaigning for a referendum on marijuana: http://sensiblebc.ca/
- Reports calling for decriminalization: http://www.vancouversun.com/health/Report+calls+decriminalizing+both+hard+soft+drugs/8422048/story.html
- Polls showing support for legalization: http://www.vancouversun.com/news/bc-election/majority+wants+regulate/8263579/story.html

- Washington and Colorado voting to legalize marijuana use: http://www.brookings.edu/research/papers/2013/05/21-legal-marijuana-colorado-washington

This activity prompted us to consider whether there are any decriminalization options for marijuana possession in BC that could take these matters out of court.

DATA GATHERING

The first step in researching this issue was to obtain data on the number of marijuana possession charges that are heard in BC courts. In order to gather this data, we consulted with the following individuals/organizations:

- Reg Dumont, Project Manager Criminal Justice Branch, re Prosecution data;
- Mike Scarrow, Senior Business Information/Process Analyst, Court Services, re JUSTIN;
- Elise LaRue, Research Analyst, Standards and Evaluation Unit, Police Services;
- Kjerstine Holmes, Director Crime Research and Analysis, Police Services;
- Robert Prior, Director, Public Prosecution Service of Canada (PPSC); and
- Rebecca Kong, Canadian Centre for Justice Statistics.

We ended up with three sources of information:

- JUSTIN data from Criminal Justice Branch
- iCase—the records system of the PPSC
- UCR (Uniform Crime Reporting) Survey, Canadian Center for Justice Statistics, Statistics Canada (StatsCan)

Unfortunately, the three sources of information did not use the same measures and did not produce numbers that we could reconcile, even after having everyone on the above list participate in a conference call. We used 2011 data as that was a year that all sources had figures on. The rough numbers we received were:

- JUSTIN: 720 “Files Sworn”
- iCase: 907 “Counts” (this number varied with some reports showing 970 counts) with 630 counts where marijuana was the only charge.
- UCR (StatsCan): 3,774 “Charges.” The UCR data showed about 16,000 “incidents” involving marijuana possession; about 13,000 “cleared,” meaning offences where there is sufficient evidence to proceed against at least one offender; about 3400 “cleared by charge,” meaning a Report to Crown Counsel was issued (timing issues resulted in this number not being closer to the 3774 figure mentioned above); and about 9700 “cleared otherwise,” meaning that although there was sufficient evidence, police decided not to recommend charges but to either drop it or pursue another option, such as diversion.

All published reports on marijuana use that we have seen use the StatsCan numbers, but those numbers are the only ones that are publicly available. s.13

Further challenges in these numbers include:

- JUSTIN does not track marijuana separately but requires text searches to segregate marijuana charges from other drug offences;
- The UCR data did not separate cases where marijuana is the only charge.
- Some data include offences against youth and some do not.
- Some data separate under 30g and over and some do not.

While the different counting methods and different terminology account for some of the difference in the numbers, they only appeared to be a partial explanation. The research ended before we were able to reconcile the various data sources and terms.

DIVISION OF POWERS AND ADMINISTRATIVE OPTIONS

s.14

s.13, s.17

In discussions with police, we were told that marijuana possession incidents have three main sources:

- Public use, associated with disorderly conduct
- Traffic stops
- Marijuana possession as part of other more serious offences

s.13, s.17

We have not followed up on this research, however, as we never were able to firmly grasp the meaning of the conflicting data. We would also need to consult with police to see if they would support the administrative options.

Sensible BC is proposing the passage of the "Sensible Policing Act" which will direct police in the province from using resources to deal with simple possession of cannabis. It would not affect trafficking and would allow police to confiscate marijuana from minors. We have not researched the legal viability of the Sensible BC plan.

NEXT STEPS

If you would like to pursue this research, we will need to review the data, consult with police and determine the likely number of marijuana possession offences that would be diverted to an administrative process.

PREPARED BY: Bob Goldschmid, Legal Counsel
Dispute Resolution Office
Phone: 250-217-8005

APPROVED BY: David Merner, Executive Director
Dispute Resolution Office

APPROVED BY: Jay Chalke, QC Date:
Assistant Deputy Minister