

**Amendment 64 Sub-Committee Meeting**  
**Law Enforcement Issues of Criminal Justice working Group**  
**544 Sherman – Denver, Colorado**  
**1/23/13**

*The meeting started at 1030 hours*

*The sub-committee attendees included:*

Larry Abrahamson, Chair  
Lauren Davis, via the phone  
Marco Vasquez  
Ed Wood  
John Jackson

Marco started the meeting and explained the agenda, an email from Shawn McAlister and several emails from Lauren on the vending machine issue and the legal amounts for a grow operation.

*Marco's templates were then discussed:*

Commercial number of plants  
Maximum amount so marijuana to be proceeded by an individual grow operations  
Rental of residence for cultivation of marijuana  
Cannabis social clubs  
Prohibiting vending machines

*Ed's templates were then discussed:*

Reduce marijuana use and illicit drugs by minors  
Zero tolerance THC for minors  
Electronic warrants  
LEO and paramedics for the drawing of blood

Lauren has written work on two of the template packets and would like it to be considered.

Larry's provided information from the main Amendment 64 taskforce meeting which was held on 1/22/13.

Move the social clubs issue to the local control group  
    Combined effort with law enforcement input  
    This one is off of our agenda of topics to discuss  
Move vending machines issue to the regulatory group  
    This one is off of our agenda of topics to discuss

Other ideas were discussed that may need to be moved to other committees. There was some discussion about the overlap and inter-relation to many of the topics between

groups. John expressed a concern that many of them have law enforcement implications, especially after this is enacted and law enforcement then has to deal with it in the field.

Marco:

The five working templates that he suggested that have been written and where they should go from here.

1.) A maximum amount of marijuana that can be held per plants from the product.

Lauren indicated that that there is no limit, per the constitution, and that this is outside of this group's view and that this will not prevent diversion.

Larry indicated that we need to resolve the conflict of amounts that can be held versus possessed from the plants.

From a public safety standpoint, the ability to keep an unlimited amount of product is a huge law enforcement issue.

Lauren: Does not think that we can limit the numbers on marijuana.

Larry: Indicates that there is a discrepancy, even on the main taskforce, about this.

We need to discuss the conflict in the amounts, and resolve and make some recommendations for clarity

Larry: Seeing pounds versus ounces is a significant law enforcement problem

Lauren: She feels that there is no conflict with the language.

Marco: Maybe above an ounce, but there is a limit.

Marco: This is a major public safety issue and quality of life issue for the neighborhoods.

Larry: There needs to be a limitation on the amount of what can be kept locked on the premises.

Marco: The limit of what you can possess should be one ounce as product.

Lauren made a recommendation that a definition be made of a closed and locked space. We need to define what constitutes where the grow can be.

Larry: The intent of the amendment was a possession as a small amount.  
We are here to establish public safety

We are not here to make a marijuana industry  
We must limit the amount of what people can possess  
The amount needs to be:  
    small, identifiable, where it is kept  
    how sold to public

The amount is permissible

Lauren: The maximum should be a pound locked and 1 ounce in possession

Recommendation: The intent was for personal use: 1 ounce in possession and the product can be no more than a few ounces as determined by the legislature. This product must be locked in a separate area of the premises.

There are significant public safety and neighborhood concerns associated with this.

2.) The numbers of plants that can be grown at a commercial grow operation.

Lauren: Our law enforcement group should be focused on Title 18 issues

We need clear guidelines of permissible amounts on the two issues, commercial and non-commercial grow operations.

Marco: A caution to move slow and more methodical. There was a discussion about the dangers of making amounts unlimited and Marco cited some examples from his experience.

Lauren: Do agree that Marco's template is a good thing.

Larry indicated to Marco to tighten the language of the two above templates.

Larry suggested that these two are passed on to the working group.

Marco recommended a maximum limit of 500 plants for a commercial grow

Lauren: A suggestion about creating three classes of licenses, with different fees.

1-500 numbers of plants  
501-1500 number of plants  
1501-3000 number of plants

We must make recommendations on how to clarify more the number of plants and a multiple tier level for licensing. The definite number of plants to be defined by the legislature for clear law enforcement guidelines in the future.

There was a discussion about the duplicative work and the individual work within all of the groups.

- 3) Electronic warrants already exist and any implementation would be at any local jurisdictional level.
- 4.) The regulation of how to stop the underage use of criminal marijuana. This can be referred to another group for consideration. The DOR is the group that this should go to.

Lauren is going to make a recommendation on training DRE's with the excess money from this.

- 5.) Zero tolerance for minors  
Ed suggests using the age of 21  
A consideration must be made for medical marijuana patients for cards between the ages of 18 and 21.  
This would be an MIP Drugs  
Title 42 on a state charge for the court of record and charging

Move this one on to the larger group for a discussion with a recommendation

- 6.) Expand the ability for law enforcement to draw blood  
Blood draw teams for a rapid draw of blood  
Have paramedics draw blood  
To permit law enforcement to do this  
Must have an opt out for individual agencies who chose not to do this

The wording in statute that would allow this

There was some discussion about the rural areas and the metro areas about the availability of services and lack of resources.

There was an agreement that more resources needed to be available to law enforcement for testing in this maner.

Add a trained officer, or team of officers, per 42-4-1301

Ed will revise this recommendation and move it forward to the larger group.

John then asked the group to consider two additional templates for consideration. These two issues deal specifically with law enforcement related issues that we are already seeing issues with in the field.

*1.) Property and safekeeping of marijuana for people under arrest and transported to any county jail.*

At this point, most county jails are not taking legal personal use marijuana as part of a prisoner's personal property. Because marijuana is illegal by Federal law, it is contraband in these facilities and not accepted. The arresting jurisdiction must then deal with the marijuana from there. This could affect law enforcement agencies in the following ways:

- It could be a violation of a court order
- It could preclude us from applying for Federal grant funding
- Law enforcement could be considered drug dealers by Federal law

Law enforcement suggests:

- Contraband be destroyed and not returned to anyone

- Codified to say it can be destroyed

- A court order must be issued to release the marijuana without implications

Lauren: We need explicit instructions on if the case is dismissed that the marijuana should be returned.

Larry: Any item that is brought into a detention facility that is a violation of state and/or federal law can be considered contraband and destroyed by the agency.

Lauren has expressed dissent on this via a current court case. Lauren will do this and then cut it into the template that John will create and forward.

John to do this template and send out to the group prior to the next meeting

*2.) What does law enforcement do with live plants that are seized/recovered in the course of lawful investigations and/or law searches?*

At this point, law enforcement can confiscate anything over 6 plants as being illegal, under certain circumstances. It is unreasonable to think that law enforcement can, or should, keep these plants alive. It is also unreasonable to place a value on these plants knowing that they will not survive in a police evidence room for any length of time. This value has caused law enforcement to not take action when, and where, it should have many times across our state. Illegal grow operations are thriving because of it with most law enforcement being afraid to seize clearly illegal grow operations.

There needs to be governmental immunity for law enforcement who act in good faith.

Lauren: We need to look at law in this area.

Need a good faith exception for this  
If clearly contraband, it can be destroyed

Larry: Use the probable cause standard as a basis

If law enforcement acts under the color of law, they can be destroyed.  
If probable cause of crime to seize plants, they can be destroyed.  
The number of plants should be for the residents of the property  
If you are growing marijuana safely and on your property, should be a concern  
The child abuse laws were discussed

The loaded gun example with kids in the house was discussed and this is where safety was the most prevalent of the discussion.

Two separate issues with the DA's were discussed and dealt with.

Lauren has expressed dissent on this via a current court case. Lauren will do this and then cut it into the template that John will create and forward.

John to do this template and send out to the group prior to the next meeting

#### *DUID:*

Larry: The Amendment 64 taskforce sent back our DUID recommendation. It will be left to CCJJ. We need to recommend that the legislature follow the recommendations of CCJJ./ DUDI needs to be addressed by the legislature and not pass it off.

#### *Employment Issues:*

There is significant employment law now and the Chief of any agency can regulate this. It was Larry's belief that we can restrict this already and that amendment 64 does not affect current employment law. This is the standard that it is now in place.

Impairment and how we test was discussed.

There needs to be some decision on DUID and we are taking no position due to a lack of adequate time to deal with this.

There needs to be legislation and there needs to be more DRE training across the state.

Ed to do this template and forward out to the group.

#### *Public Comment section, end of meeting:*

Andrew Livingston, the meeting date, time and location needs to be on the DOR website. The frustration of how hard this can be was acknowledged. Shameful to carve out an exception to not respond to a crime.

Jessica, object to a non-medical person drawing blood in the field. Where is the appropriate place to do this? A solution that tiers the penalties and take the immature plants. In a massive grow, the grow could become quarantined and the officers can provide security. The costs are paid for by different people based on

Robin Hackett: She provided a handout on grow operation safety. She thinks that the limits of per plant growing is much smaller than stated. People could just go and buy what they need. She talked about testing the potency of the THC and how the elderly and a standard must be set to control this.

Sherry Hackett: A suggestion on home type personal use. A breaking point that tips it over a limit and the medical numbers must match. Set an aggravated amount for weight. Keep the locked finished product in a safe, by permit. As a citizen, we want to guard against diversion.

Mark Miller: Zero tolerance provision for medical marijuana patients. Plants and product distinction will cause due process issues if we distinguish between the two. The assignment of your rights to grow your plants. The federal government is still growing marijuana for ten patients. If people with kids can have guns, then marijuana should not be treated different. Second hand smoke will not kill kids. If sports athletes can not use marijuana then public safety should be the same.

The next meeting 1/30/13 at 0800 hours, prior to the next meeting, at 710 Kipling/Remax building, prior to the next sub-committee meeting to be held that same date.