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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR PIERCE COUNTY

MMH, LLC, a Washington Limited Liability
Company,

Plaintiff,

vs.

CITY OF FIFE, a Washington municipal
corporation,

Defendant.

No. 14-2-10487-7

DECLARATION OF MARK COOKE
IN SUPPORT OF PLAINTIFF-
INTERVENORS' MEMORANDUM IN
OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

I, Mark Cooke, declare:

1. I am over the age of eighteen and not a party to this action. I have direct knowledge of the matters set forth in this declaration, am competent to testify and provide evidence in these proceedings, and if called as a witness, would testify under oath that these statements are true and correct.

2. I am Policy Counsel with the ACLU of Washington and one of the attorneys

1 representing the Plaintiff-Intervenors Downtown Cannabis Company, LLC, Monkey Grass
2 Farms, LLC, and JAR MGMT, LLC d/b/a Rainier on Pine.

3 3. Attached hereto as Exhibit A is a true and accurate copy of the Department of
4 Community, Trade and Economic Development's (CTED) Local Government Fiscal Note for
5 Initiative 502. According to CTED's fiscal note, the cost of an arrest for "misdemeanor crimes
6 averages \$375; this estimate includes officer time, paperwork, court appearance time,
7 transportation and additional officer time for booking."¹ Additionally, the note states that "costs
8 for each misdemeanor not charged, prosecuted, defended, sentenced and jail time not served is
9 \$1,888 (\$323 prosecution + \$1,204 defense + \$360 jail = \$1,888)."²

10 4. Attached hereto as Exhibit B is a graph that I created that compares, for the period
11 2002 to 2012, nationwide marijuana arrest data with nationwide percentages of persons aged 12
12 or older who were dependent on marijuana or hashish. The arrest data was compiled using the
13 FBI's Uniform Crime Reporting System.³ Each year, the FBI tabulates arrest data that can be
14 used to determine the number of marijuana arrests in the United States. For example, in 2012
15 there were 1,552,432 arrests for drug offenses.⁴ Of these, 48.3 percent were for marijuana,⁵
16 equating to 749,825 marijuana arrests that year. I repeated this calculation with the data for each
17 year 2002 through 2012. The dependence rate data was obtained from the Substance Abuse and
18 Mental Health Services Administration's (SAMHSA), National Survey on Drug Use and
19 Health.⁶

21 ¹ See Ex. A, p. 4, ¶ 2.

22 ² See Ex. A, p. 5, ¶ 2.

23 ³ See FBI Uniform Crime Reports homepage, available at www.fbi.gov/about-us/cjis/ucr/ucr.

24 ⁴ See FBI Crime in the United States 2012, Table 29, available at [http://www.fbi.gov/about-](http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/29tabledatadecpdf)
25 [us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/29tabledatadecpdf](http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/29tabledatadecpdf).

26 ⁵ See FBI Crime in the United States 2012, Persons Arrested Table, available at
[http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/persons-](http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/persons-arrested/persons-arrested)
[arrested/persons-arrested](http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/persons-arrested/persons-arrested).

⁶ See SAMHSA 2012 NSDUH, Table 7.41B, available at
[http://www.samhsa.gov/data/NSDUH/2012SummNatFindDefTables/DefTabs/NSDUH-](http://www.samhsa.gov/data/NSDUH/2012SummNatFindDefTables/DefTabs/NSDUH-DefTabsSect7peTabs41-2012.pdf)
[DefTabsSect7peTabs41-2012.pdf](http://www.samhsa.gov/data/NSDUH/2012SummNatFindDefTables/DefTabs/NSDUH-DefTabsSect7peTabs41-2012.pdf).

1 5. Attached hereto as Exhibit C are true and accurate copies of three news articles
2 accessed online from *The Herald of Everett*,⁷ *The News Tribune*,⁸ and *The Spokesman-Review*.⁹
3 Each article describes incidents of violence related to black market marijuana activities.¹⁰
4

5 I declare under penalty of perjury under the laws of the State of Washington and the
6 United States of America that the foregoing is true and correct.

7 DATED this 18th day of August, 2014, at Seattle, Washington.
8
9
10

11 

12 _____
13 Mark Cooke
14
15
16
17

18 ⁷ See Diana Hefley, *2 men arrested in double killing at Everett drug house*, *The Herald of Everett*,
19 November 8, 2007, available at <http://www.heraldnet.com/article/20071108/NEWS01/71108004>.

20 ⁸ See Adam Lyn, *Puyallup-area man who killed two intruders sentenced to 7 years for drug and gun*
21 *crimes*, *The Tacoma News Tribune*, January 31, 2014, available at
22 <http://www.thenewstribune.com/2014/01/31/3021927/puyallup-area-man-who-killed-two.html>.

23 ⁹ See Meghann M. Cuniff, *Man deported before he could be charged with murder*, *The Spokesman-*
24 *Review*, July 2, 2010, available at [http://www.spokesman.com/stories/2010/jul/02/man-deported-he-](http://www.spokesman.com/stories/2010/jul/02/man-deported-he-could-be-charged-murder/)
25 [could-be-charged-murder/](http://www.spokesman.com/stories/2010/jul/02/man-deported-he-could-be-charged-murder/).

26 ¹⁰ See also, Levi Pulkkinen, *Dealer charged after marijuana sale turns deadly*, *Seattle PI*, October 28,
2013, available at, [http://www.seattlepi.com/local/article/Dealer-charged-after-marijuana-sale-turns-](http://www.seattlepi.com/local/article/Dealer-charged-after-marijuana-sale-turns-deadly-4933681.php)
27 [deadly-4933681.php](http://www.seattlepi.com/local/article/Dealer-charged-after-marijuana-sale-turns-deadly-4933681.php); Eric Wilkinson, *Man killed by medical marijuana thief*, *King5 News*, March 15,
28 2010, available at [http://www.king5.com/news/local/Man-killed-by-medical-marijuana-thief-](http://www.king5.com/news/local/Man-killed-by-medical-marijuana-thief-87674627.html)
29 [87674627.html](http://www.king5.com/news/local/Man-killed-by-medical-marijuana-thief-87674627.html); Levi Pulkkinen, *Second man charged in Seattle shooting the killed young woman*,
30 *Seattle PI*, August 21, 2013, available at [http://www.seattlepi.com/local/article/Second-man-charged-in-](http://www.seattlepi.com/local/article/Second-man-charged-in-Seattle-shooting-that-4750586.php)
31 [Seattle-shooting-that-4750586.php](http://www.seattlepi.com/local/article/Second-man-charged-in-Seattle-shooting-that-4750586.php); and Dean Radford, *Second man charged with murder in shooting*
32 *death of Lake Desire man*, *Renton Reporter*, March 24, 2014, available at
33 <http://www.rentonreporter.com/news/252059581.html>.

Exhibit A

LOCAL GOVERNMENT FISCAL NOTE

Department of Community, Trade and Economic Development

Bill Number: 502 XIL	Title: AN ACT Relating to marijuana
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Part I: Jurisdiction

Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities: For potential increases in local tax revenue, and changes in enforcement, prosecution and jail costs
- Counties: Same as above
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option: Jurisdictions may choose to file written comment to LCB on licensing of retail outlets
- Key variables cannot be estimated with certainty at this time: Effect on felony and misdemeanor charges and tax revenue impact

Estimated revenue impacts to:

Indeterminate Impact

Estimated expenditure impacts to:

Indeterminate Impact

Part III: Preparation and Approval

Fiscal Note Analyst: Graham Parrington	Phone: 360-725-5033	Date: 07/16/2012
Leg. Committee Contact: Devon Nichols	Phone: (360) 786-7715	Date: 02/03/2012
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 07/16/2012
OFM Review: Jim Albert	Phone: (360) 902-0419	Date: 07/16/2012

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

Initiative 502 will be submitted to the voters in November of 2012 and would make changes in law related to growing, processing, sale, possession and use of marijuana, related products, and marijuana paraphernalia.

New sections will be codified under Chapter 69.50 RCW.

Section 3 is a new section that would define "THC concentration" as nanograms of delta-9 tetrahydrocannabinol, and would exclude the metabolite THC-COOH, which is also known as carboxy-THC.

Sections 4 thru 18 are new sections describing the process for licensing, operation and taxation of businesses related to the production, possession, delivery, distribution, and sale of marijuana and/or marijuana-infused products (hereafter referred to as "marijuana") in accordance with the provisions of the act and rules adopted to implement and enforce it.

Section 6 is a new section that would require the Liquor Control Board to notify a city, or county if outside city boundaries, before issuing a new or renewed license for producing, processing, or retailing marijuana. The city or county may then submit a written objection of the application within 20 days of such notice.

Section 13 relates to licensing retail outlets and specifies that retail sale of useable marijuana by a validly licensed marijuana retailer shall not be a criminal or civil offense under Washington state law.

Section 15 specifies that "the following acts, when performed by a validly licensed marijuana retailer shall not constitute criminal or civil offenses under Washington state law:

- Purchase and receipt of marijuana that have been properly packaged and labeled
- Possession of quantities of marijuana that do not exceed the maximum amounts established under Section 10 (5) of the act
- Delivery, distribution, and sale at the retail outlet of marijuana to any person twenty-one or older.

Section 16 specifies that the following acts when performed by a validly licensed marijuana processor shall not constitute criminal or civil offenses under Washington state law:

- Purchase and receipt of marijuana that have been properly packaged and labeled
- Possession, processing, packaging, and labeling of quantities of marijuana that do not exceed the maximum amounts established under Section 10 (5) of the act
- Delivery, distribution, and sale of marijuana to a marijuana retailer validly licensed under the act.

Section 17 specifies that the following acts when performed by a validly licensed marijuana producer or employee shall not constitute criminal or civil offenses under Washington state law:

- Production or possession of quantities of marijuana that do not exceed the maximum amounts established under Section 10 (5) of the act
- Delivery, distribution, and sale of marijuana to a marijuana processor or another marijuana producer validly licensed under the act.

Section 19 would amend 69.50.401 RCW to make lawful under Washington state law the production, manufacture, processing, packaging, delivery, distribution, sale, or possession of marijuana pursuant to Sections 15, 16, and 17.

Section 20 would amend 69.50.4013 RCW to remove possession of marijuana, by a person twenty-one or older in amounts that do not exceed those set forth in Section 15 (3) as a violation of this section, this chapter, or any other provision of Washington state law.

Section 21 creates a new section under Chapter 60.50 RCW specifying that it is unlawful to open a package containing marijuana or consume marijuana or marijuana-infused products in view of the general public. A person who violates this section is guilty of a class 3 civil infraction under Chapter 7.80 RCW.

Sections 22 and 23 would amend 69.50.412 and .4121 RCW to exempt marijuana paraphernalia from criminal drug paraphernalia offenses.

Sections 31 thru 35 would amend 46.20.308, 46.61.502, 46.61.503, and 46.61.504 RCW to include a 5 nanogram per milliliter THC concentration threshold for adults over twenty-one, and a 0 nanogram THC concentration threshold for under twenty-one, in the determining factors for license suspension, with alcohol and drugs under the DUI statute, under the DUI/physical control statute (under twenty-one), and under the DUI/physical control statute.

ASSUMPTIONS:

1. RCW 69.50.4014 (Possession of less than 40 grams of Marijuana) is not repealed by this initiative. Based on the following lead agency assumptions, individuals would continue to be subject to criminal prosecution (misdemeanor).

Beginning December 1, 2013 when a legal marijuana market is established, it is assumed that individuals twenty-one years of age or older are also legally authorized to possess and use:

- One ounce of useable marijuana;
- Sixteen ounces of marijuana-infused product in solid form; or
- Seventy-two ounces of marijuana-infused product in liquid form.
- Marijuana-related drug paraphernalia

It is assumed that individuals would continue to be subject to criminal prosecution (misdemeanor or felony) for:

- Possession in amounts greater than those noted above even if purchased from a LCB licensed retailer.
- Possession of any quantity or kind of marijuana or marijuana-infused product by a person under twenty-one years of age.

It is assumed that there may be a reduction in these criminal prosecution filings, but data is not available to accurately predict that reduction.

2. It is assumed that there will be an unknown reduction in charges under the following statutes:

- RCW 69.50.412 (misdemeanor drug paraphernalia violations)
- RCW 69.50.4121 (civil infraction drug paraphernalia offenses)
- RCW 69.50.4013 (possession of a controlled substance without a prescription)
- RCW 69.50.401 (felony controlled substance violations).

3. It is assumed that there could be an unknown increase in criminal DUI and Driving While License Suspended (DWLS) charges.

4. It is assumed that there will be an unknown increase in blood search warrants to obtain THC readings.

5. It is assumed that the impact to the local government will begin in December 2012, according to lead agency assumptions.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

There are potentially significant expenditure impacts that may accrue to local governments in the form of changes to law enforcement procedure, specific circumstances related to existing crimes, enforcement of new crimes and some local tax revenues. Some impacts may accrue as savings and some may accrue as new or increased expenditures. There may be significant expenditure reductions for charging and trying fewer misdemeanor crimes and some felony crimes. There may be a reduction in jail sentences due to fewer misdemeanor convictions. There may be increased expenditures for enforcement of Driving Under the Influence (DUI) and Driving with License Suspended (DWLS) laws. There are expected to be additional costs for training local law enforcement in drug recognition (Some officers would be trained as Drug Recognition Experts (DRE), and for obtaining blood warrants to determine DUI substance levels.

ENFORCEMENT OF DUI PROVISIONS

Training -- In order to enforce the new laws, the Washington State Patrol (WSP) expects to train additional troopers in recognition and enforcement of marijuana use while driving. Local governments would also need to provide additional training for every officer or deputy in identifying marijuana-related DUI and proper handling of suspected drivers, in proper methodology for testing and arrest, and in obtaining blood samples. Some local enforcement personnel would also receive higher level Drug Recognition Expert (DRE) training. The amount of training and the number of DRE trained officers is subject to local decisions. The Criminal Justice Training Center (CJTC) provides training to new local law enforcement personnel and intends to incorporate the new law into their existing training program. The WSP provides periodic training to local officers on changes in law and procedure and also provides DRE training. The WSP expects to add about an hour to their periodic update training for officers and deputies. Local governments may also choose to add additional training as needed.

The number of DUI cases and DWLS cases may increase. There are no data to estimate the change in these two offenses. These are both misdemeanor violations with costs similar to the crimes discussed below.

Per case costs -- Legal access to marijuana may cause an increase in DUI violations, license suspension, and DWLS violations. The amount of change is not known. Each additional DUI case or DWLS case charged and leading to a conviction would carry an additional cost of approximately \$1,888 (see below for detail). This could potentially offset the expenditure reduction associated with fewer possession violations.

Arrests -- There may be a reduction in the number of arrests made for possession of less than 40 grams of marijuana, and possession of marijuana paraphernalia as a result of the initiative. There may also be an increase in the number of arrests for DUI and DWLS. There are other factors that could lead to an individual arrest for any police contact involving marijuana, so some arrests would continue to occur. It is not possible to estimate the change in the total number of arrests that will occur. The cost of an arrest for similar misdemeanor crimes averages \$375; this estimate includes officer time, paperwork, court appearance time, transportation and additional officer time for booking (LGFN survey of law enforcement costs 2010). Because marijuana-related DUI arrests require a blood sample, there may be increased costs associated with documenting circumstances, obtaining a blood warrant, and transporting a potential violator for testing. The WSP estimates that extra officer or deputy time are associated with these functions.

REDUCTION IN VIOLATIONS OF SOME CRIMES

The following crimes have been identified by the Administrative Office of the Courts (AOC) as likely to experience a reduced number of charges:

- 69.50.4014 RCW possession of less than 40 grams of marijuana
- 69.50.412 RCW misdemeanor drug paraphernalia possession
- 69.50.4121 RCW civil infraction drug paraphernalia possession
- 69.50.4013 RCW felony possession of a controlled substance without a prescription
- 69.50.401 RCW felony controlled substance possession

Conviction for most charges of these crimes lead to jail sentences which are a local expense.

NOTE -- There are also potential court impacts and court fine revenue impacts that would affect cities and counties; these are detailed in the Administrative Office of the Courts (AOC) fiscal note. AOC addresses court-related fiscal impacts; local government fiscal notes cover defense, prosecution and jail-related costs.

MISDEMEANOR CASE EXPENDITURES

The average misdemeanor prosecution, defense, and jail sentence cost per conviction is \$1,888. It is not possible to estimate the change in the number of cases as no data exists to estimate any change in the number of arrests (AOC fiscal note). There may be other changes due to fewer arrests and fewer misdemeanor charges for paraphernalia-related offenses, but those cannot be estimated.

REDUCTION IN MISDEMEANOR CASES

According to the Administrative Office of the Courts (AOC), on average 9,308 charges were filed in courts for possession of 40 grams or less of marijuana by someone 18 or older. A similar number of charges were filed for the use of drug paraphernalia by someone 18 or older. This bill could result in fewer misdemeanor charges filed for possession of marijuana. There would also probably be some reduction in paraphernalia cases. It is not possible to predict the number, because not all paraphernalia charges under 69.50.412 RCW involve marijuana. These 9,308 filings do not always lead to a conviction, multiple charges can be associated with one offender, and the number of convictions is lower than the number of charges.

On average (2010 and 2011) there were 3,259 convictions for possession of less than 40 grams of marijuana. In 2011 there were 1,522 convictions for possession of drug paraphernalia leading to jail sentences. It is not known how many of the paraphernalia convictions were related to marijuana and therefore would not have been charged.

BACKGROUND ON PROSECUTION, DEFENSE AND JAIL COSTS FOR MISDEMEANOR CRIMES

Prosecution costs -- The average cost for prosecuting a misdemeanor crime is approximately \$323 per case (LGFN 2010 prosecutor survey). This includes attorney and staff time for charging, case preparation, adjudication and sentencing. It does not include any appeals which would cost an additional \$660 per case.

Public defender costs -- Approximately 93 percent of misdemeanor cases qualify for public defender representation. The range of the average cost for public defense representation is approximately \$899 to \$1,512 per case for an average cost of \$1,205 (LGFN 2009 defender survey). This includes attorney and staff time for charging, case preparation, adjudication and sentencing. Defense costs also include time preparing the defendant for trial, research and investigation and other costs.

Jail costs -- A person convicted of a misdemeanor would serve their sentence in jail (a local cost). It is not clear what the average sentence for this crime would be. According to the AOC 2011 misdemeanor convictions table the average jail sentence for Possession of Marijuana of less than 40 grams was 80.2 days with all but four days suspended. The daily jail bed rate is \$80, according to the LGFN 2011 jail cost survey (weighted by population). The cost of a sentence would be \$360 (4 days x \$80 a day = \$360).

Total -- The combined reduction in costs for each misdemeanor not charged, prosecuted, defended, sentenced and jail time not served is \$1,888 (\$323 prosecution + \$1,205 defense + \$360 jail = \$1,888).

A note about public defense costs -- Because public defense varies greatly in Washington State, LGFN uses a range of costs for defense depending on the county providing the defense. Larger counties have offices of public defense that are similar in size and capability to the county prosecutor's office. These offices have resources and salary parity comparable to the prosecuting attorney and have access to investigators and other resources at county expense. Many counties contract with local law firms and nonprofit defense agencies on a variety of basis. Some counties pay per case, some per hour, some pay trial costs on a per diem basis while others pay on a per-hour basis. More is paid for felony cases than misdemeanor cases. Finally, some counties hire local attorneys on a case by case basis, either on a per-hour or per-case basis. Most of the counties will reimburse investigative costs after a petition to the court. The Washington Defender Association (WDA) estimates that the primary fiscal impact on public defenders will be due to an increase in trial caseloads resulting from the increased sentencing ranges (2009 LGFN defender cost survey).

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

This bill could result in increased sales and use tax and local business and occupation tax (B&O) revenues. However estimated revenues are indeterminate. According to the Department of Revenue (DOR), the indeterminate nature of the revenue estimate is due to:

- Significant uncertainty concerning federal statutes that consider marijuana an illegal substance;
- The initiative's closed and highly regulated market structure, which is unlike other markets; and
- The lack of tangible data with which to estimate state and local revenues.

It is assumed that a legal marijuana market will not be established until after December 1, 2013 (lead agency assumptions). At that time, a limited number of retail locations will be permitted around the state resulting in increased sales and use tax. Given the indeterminate nature of revenue impacts, DOR is estimating that retail sales of marijuana and infused products, at current consumption level assumptions, would generate the following increases in local retail sales taxes:

- Fiscal Year 2014: \$15,856,000 (six months only)
- Fiscal Year 2015: \$32,664,000
- Fiscal Year 2016: \$33,664,000
- Fiscal Year 2017: \$34,653,000

DOR estimates that consumption -- and therefore sales -- will increase by three percent per year following legalization of marijuana sales. For detailed information on sales and use tax assumptions, see the DOR fiscal note.

Depending on the location of sales outlets, there could also be local B&O tax revenue for one or more of the 39 cities that charge local B&O taxes. However, it is not known where these retail locations would be established so this impact cannot be estimated.

In addition to potential revenue increases from local taxes, Section 28(5)b(ii) provides that 10 percent of grant funds remaining after off the top disbursements from the Dedicated Marijuana Fund would go to the Department of Health to develop and implement youth marijuana-use prevention and intervention programming, of which an unknown portion would be granted to local health departments.

SOURCES:

Administrative Office of the Courts (AOC) fiscal note
Caseload Forecast Council (CFC) fiscal note
Department of Revenue fiscal note
Washington Association of Prosecuting Attorneys
Washington Defenders Association
Administrative Office of the Courts "Top twenty misdemeanor report" 2011
Washington Association of Sheriffs and Police Chiefs (WASPC)
Criminal Justice Training Center (CJTC) fiscal note
Criminal Justice Training Center (CJTC)
LGFN 2010 prosecutor costs survey
LGFN 2011 jail cost survey (weighted by population)

LGFN 2009 public defender costs survey
LGFN 2010 City law enforcement costs survey
LGFN 2010 County law enforcement cost survey
Fiscal note for PSSB 5615 2010 session

Exhibit B

Annual Marijuana Arrests in U.S. Compared to Marijuana Dependence Rates

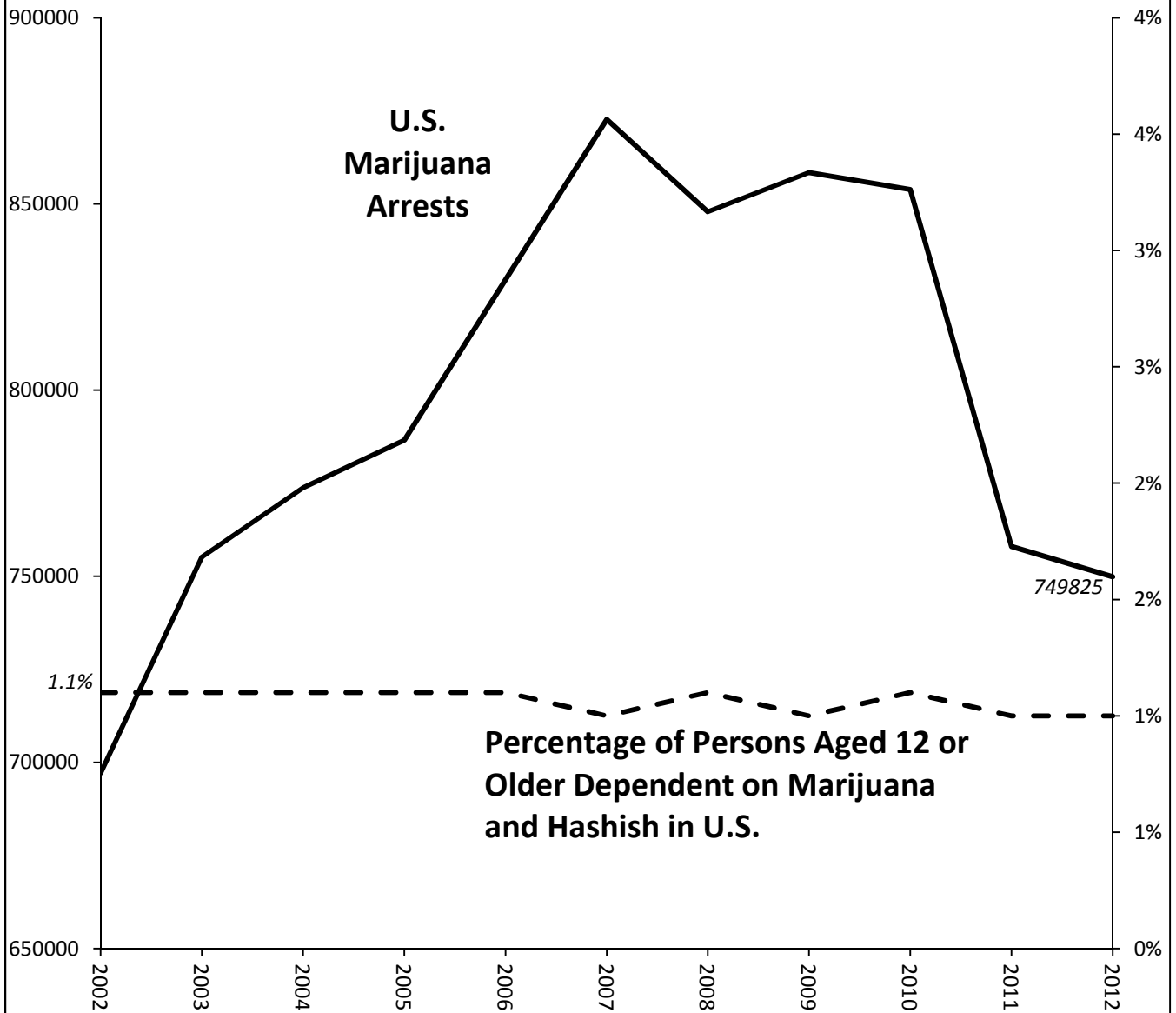


Exhibit C

Published: Thursday, November 8, 2007, 10:07 a.m.

2 men arrested in double killing at Everett drug house

By [Diana Hefley](#), Herald Writer

 [@dianahefley](#)

EVERETT – Two Tacoma men have been arrested for investigation of murder in the July shooting deaths of two people inside a south Everett house where an elaborate marijuana-growing operation was found.

Everett homicide detectives acting on a tip they received Wednesday tracked a man to Tacoma. Detectives spoke with him and he led investigators to a second man, Everett police Sgt. Robert Goetz said.

Both men were booked into the Snohomish County Jail for investigation of two counts of first-degree murder.

Kevin Meas, 23, and Linda Nguyen, 20, were both shot in the head July 2 inside a house in the 600 block of Dexter Avenue. Police found 800 marijuana plants inside.

During their investigation police also found 400 plants in a nearby house in the 200 block of E. Beech Street. People at that home knew the shooting victims

The owners of that house, Thuy Thi Ngoc Nguyen and John Hien Nguyen, have been charged in U.S. District Court in Seattle with conspiracy to manufacture marijuana. They could face more than 10 years in prison. Hai Chi Nguyen, who lived at the Beech Street house, has been charged with manufacturing marijuana.

Hai Chi Nguyen told investigators he was paid \$4,000 to take care of the plants and harvest the crop, according to court papers. He is the brother of the woman who was fatally shot.

The pot-growing operations could have produced ten of thousands of dollars in marijuana if they'd been harvested, drug detectives say.

Investigators believe other people were involved in the indoor pot farms and they expect to make additional arrests.

A tip from someone in May about a marijuana growing operation in Seattle led investigators to the two Everett houses in June, according to court records. The killings occurred about a month later.

Detectives here said the federal Drug Enforcement Administration were in the fledgling stages of investigating the Everett pot operations when the killings occurred.

Hai Chi Nguyen told investigators that on July 2, John Hein Nguyen received a phone call from Thuy Thi Ngoc Nguyen. She told him that something happened at the house on Dexter Avenue and Linda Nguyen "is shot on the ground," records show.

The two men found the woman just inside the front door. They loaded her up in a car and drove to the house on Beech Street. Hai Chi Nguyen and his girlfriend later tried to drive his wounded sister to the hospital but called 911 when they became lost. Police arrived to find that Linda Nguyen had been shot twice in the head.

Detectives searched the house where she was found and discovered Meas, the second victim, in the basement.

Police have said that Meas and Linda Nguyen lived in the house on Dexter Avenue. Information about their connection has not been released.

Investigators are seeing a growing trend of sophisticated indoor growing operations that are being run by people with ties to Southeast Asia. They are organized groups that are growing and distributing high-quality marijuana in the area.

Investigators don't believe the Everett operations are connected to people who are indicted under a separate case involving a south King County garden distribution center.

<http://www.heraldnet.com/article/20071108/NEWS01/71108004>

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Puyallup-area man who killed two intruders sentenced to 7 years for drug and gun crimes

By ADAM LYNN

Staff writer January 31, 2014

A U.S. District Court judge on Friday sentenced a Puyallup-area man who shot two intruders to death in 2012 to seven years in prison for growing marijuana and using guns to protect his stash.

Jeremy Capodanno, 37, was not prosecuted in the deaths of Roy Piercy of Roy and Frederick Adamkiewicz of Tacoma, both 30. Capodanno shot them multiple times after finding the men, who were both armed and wearing masks, inside his garage in December 2012.

Capodanno claimed self-defense, saying he feared for his own safety and that of his young son when Piercy and Adamkiewicz entered his garage.

But investigators later found a sophisticated marijuana-growing operation and a number of firearms in Capodanno's home, and he was charged in federal court with unlawful manufacture of pot and using a firearm in a gun crime.

Prosecutors theorized Piercy and Adamkiewicz intended to steal marijuana and money from the house. Capodanno's defense attorney, Michael Schwartz, intimated the men might have had more sinister plans, pointing out they were carrying plastic ties and had been casing the house for hours.

Capodanno pleaded guilty in October.

Federal prosecutors recommended the seven-year sentence, saying Capodanno was a long-time drug dealer who set the stage for what happened at his house.

"This is what happens when you put guns together with drugs," said Vince Lombardi, an assistant U.S. Attorney. "People get hurt. People die."

Defense attorney Michael Schwartz argued for a five-year sentence.

Capodanno, who grew up in the Puget Sound region and was a college soccer player, has a wide support network and the elements necessary to become "a productive citizen" after his term of incarceration.

"He can come out of this a better man, not just for himself, but for his son," Schwartz said.

Capodanno then was given a chance to speak.

He said, "I did what I had to do," when he killed Piercy and Adamkiewicz, but he said he regretted that his marijuana grow put his family in danger and led to the deaths of the men. He also apologized to their families.

"I take full responsibility for everything that happened," Capodanno told Judge Ronald Leighton. "If I could go back and change it all, I would. I'd change everything."

Leighton got the last word.

The judge told Capodanno he thought he could still redeem himself and lead a productive life, "but you have earned 84 months."

That sentence was in line with those meted out to other defendants who committed similar crimes but did not have Capodanno's advantages in life, like a stable family and a college education, the judge said.

"Equal justice means something," Leighton said.

The judge also agreed with prosecutors that Capodanno's life-style contributed to the "firefight in your garage."

"The conditions were set, the fuse was lit, and the ravage began," Leighton said.

The judge allowed Capodanno to voluntarily report to prison once he has his affairs in order

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Man deported before he could be charged with murder

[Meghann M. Cuniff](#)

The Spokesman-Review

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Jesus Torres Valdovinos

The roommate of a man found shot to death near Green Bluff last fall has been charged with his murder.

But detectives haven't arrested Miguel A. Rodriguez-Barbosa. The 19-year-old was deported to Mexico in January after being convicted of a felony related to marijuana found in the north Spokane home he shared with the victim.

Court documents supporting a first-degree murder charge against Rodriguez-Barbosa, 19, were ordered sealed June 24 by Superior Court Judge Michael Price, one week after Judge Ellen Kalama Clark approved a \$1 million warrant for the suspect's arrest.

The charge ends an eight-month investigation that was aided by fingerprint evidence and cell phone call records, but begins a search for a young man long considered a murder suspect who was not charged until months after his return to his home country.

Sheriff's spokesman Sgt. Dave Reagan declined to comment on the case Friday.

Rodriguez-Barbosa is accused of killing Jesus Torres Valdovinos, whose body was found Oct. 18 wrapped in a blanket and plastic bags along Day-Mount Spokane Road. He'd been shot in the head.

Rodriguez-Barbosa told investigators that Valdovinos, 25, sold large amounts of marijuana and was training him to take over his business while he traveled to Mexico for a year, according to search warrants used to access phone and cell-tower records. Valdovinos' supplier had been at the home at 623 E. Vicksburg Ave. to collect an \$85,000 debt Oct. 17, the day investigators believe he was killed, according to the warrants.

Rodriguez-Barbosa was deported Jan. 20, nearly two weeks after he pleaded guilty to felony possession of a controlled substance with intent to deliver and was credited for 72 days already spent in jail. He had been living in the United States on a work visa cleaning repossessed homes; his felony conviction made him eligible for deportation.

"He didn't disappear. We disappeared him," said Virginia Kice, spokeswoman for U.S. Immigration and Customs Enforcement.

When federal officials learn of a convict eligible for deportation, "our responsibility is to proceed with efforts to remove them," Kice said. "We can't detain someone for the purposes of local prosecution."

A first-degree murder charge was filed against Rodriguez-Barbosa on June 14 in Spokane County Superior Court.

The teenager spoke with investigators after Valdovinos' body was found but was described as uncooperative.

"(Rodriguez-Barbosa) was adamant during interviews that no evidence would be found connecting him to the homicide or transport of the body," according to a search warrant filed in January.

About the same time investigators prepared that warrant, Rodriguez-Barbosa's fingerprints were found on plastic bags with Valdovinos' body. Detectives discovered a phone number Rodriguez-Barbosa called nine times after Valdovinos was killed. Valdovinos' phone showed about 34 calls to the same number between Oct. 3 and Oct. 19, according to a search warrant filed in January. Six were incoming calls made after Oct. 17.

According to search warrants, Rodriguez-Barbosa told investigators he'd seen Valdovinos' marijuana supplier leave the home Oct. 17 after receiving \$60,000 to cover

a drug debt and \$25,000 for a vehicle debt. He told investigators he left for the night and returned the next morning to find Valdovinos missing.

Also missing was a loveseat, which investigators never found, but Rodriguez-Barbosa claimed it had been thrown out weeks before after hot sauce stained it.

The teen also said a hole in the ceiling above where the loveseat had been, which detectives believe was caused by gunfire, had been there for months. But according to court documents, several witnesses said they'd never seen the hole and claimed the loveseat had been there the morning of Oct. 17.

A man previously described by sheriff's officials as a person of interest in the case, 28-year-old Marco Antonio Noriega-Lopez, was arrested on a drug charge in December after investigators discovered a series of phone calls Rodriguez-Barbosa made to him Oct. 17. Prosecutors dismissed the charge June 23 but can re-file.

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