Killer Weed: Marijuana Grow Ops, Media, and Justice

by Dr. Susan Boyd and Dr. Connie Carter
http://www.notkillerweed.com/

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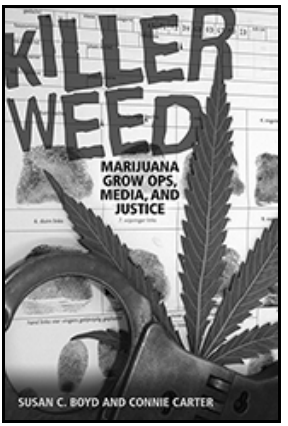
REEFER MADNESS
THIS IS YOUR BRAIN ON DRUGS
GATEWAY DRUG
DOPE FIENDS



These are just a few of the images of illegal drugs, drug users, and the effects of illegal drugs that have been around since the prohibition of certain drugs. Such images have been an integral part of the propaganda distributed by governments, law enforcement and other proponents of prohibition. Propaganda can be so effective, powerful, and persuasive that the information becomes taken for granted "common sense." When I say drugs, my students and most of the public think of illegal drugs, not our daily dose of caffeine, nicotine, alcohol or asperin. While these distinctions are pharmacologically unsound, they fit the dominant mythology that illegal drugs such as marijuana posses demon like qualities that will cause us to lie, steal, commit violence an use other illegal drugs. Unfortunately for the dominant mythology and the criminal policy it supports, the public and many persons in power

realize they been conned. The dire consequences of using marijuana have been unfounded by the nearly 50% of Canadians and Americans who have used it. Sine the 1894 British Hemp Drug Commission Report, there have been reports noting the medical uses of marijuana and its relatively benign effect on people, particularly compared to alcohol and nicotine. The authors of KILLER DRUG document he history of the Canadian propaganda surrounding marijuana grow ops in order to maintain a punitive approach to this prohibited drug. Since "the king has no clothes" with regard to the propaganda regarding the presumed physical consequences of marijuana, attacking the way marijuana is grown becomes an alternative strategy. Drs. Boyd and Carter do not argue that there are no negative effects of marijuana use and growing, but that they have been entirely distorted and exaggerated by those wishing to maintain a criminal and punitive approach to this illegal drug.

The authors use the time honoured research technique of content analysis to study 15 years (1995-2009) of newspaper articles, pictures and headlines to determine how the image of grow ops has been "framed". The newspapers included the Vancouver Sun, Province, Globe and Mail, and Times Columnist. Particular attention is given to the Vancouver area since it is known as the "pot capital of Canada." Their analysis of 2524 articles found three themes about marijuana production emerged in all papers. These were (1) it is a threat to public safety (2) it threatens otherwise safe communities and (3) it is associated with particular criminal types and organizations. While the authors note that public opinion in B.C. is in favour of decriminalization/legalization of marijuana, marijuana related charges doubled in B.C. from 2005-2011, led by the RCMP. Not surprisingly, RCMP supported research has been the basis for much of the distorted information about marijuana grow ops.

The authors note that a major supporter of getting tough on co-ops is Dr. Darryl Plecas, professor of Criminology and Criminal Justice at University of Fraser Valley who authored/co-authored several of the RCMP reports that have been used to justify harsher penalties and a get tough approach toward marijuana grow ops. In fact, he was the RCMP University Chair in Crime Reduction at Fraser Valley. Apart from the

potential appearance of lack of independence/objectivity, Boyd and Carter note that these studies are not published and peer reviewed as is normal in academic research. Nonetheless, they are widely cited by law enforcement and others promoting a get tough approach as authoritative/valid evidence of the harms of grow ops. In fact Plecas himself was often cited in newspapers reaffirming the findings. But the authors of this book show that certain reports lack scientific rigor and, in fact, mislead the reader due, in part, to faulty methods of research. However, they were widely cited and acknowledge as the real facts about marijuana grow ops. These reports became the basis of a propaganda campaign against marijuana grow ops. Ironically, the RCMP funded/supported reports suggest that B.C. emulate the policy of Washington State at the time. As Washington State and Colorado were legalizing marijuana in November 2012, the Canadian Government was increasing penalties for marijuana. I know in my home county, Kittitas, law enforcement is not happy with the change, but fortunately they are not law creators, but law enforcers.

In an interesting review of international literature on marijuana grow ops, the authors contrast the scholarly research with the slanted view of the RCMP supported research. Fortunately for Boyd and Carter, they were able to obtain a copy of a 2011 Canada Justice Report which provides refutation to many of the distortions presented in RCMP related research and pronouncements. The report was not released by the government, but obtained through an Access to Information Act request. For example, the RCMP, among others, assert that grow ops are largely run by organized crime, but only 5% of offenders in court cases concerning grow ops were affiliated with organized crime, according to the Justice study. Contrary to the racialized image of grow ops Boyd and Carter found in the media, the Justice study found most were white and 94% were Canadian citizens.

In terms of the image of marijuana and grow ops being frequent sources of violence, the authors note that the use of marijuana does not produce violence. Most violence associated with illegal drugs, including marijuana, is a consequence of the drug being illegal and market/territory issues. The tragic case of the Surrey Six murders is an example of the violence being caused by the business of drugs, not the physical effect of the drug. In

my own research several years ago comparing Vancouver and Seattle homicide, I interviewed homicide detectives in both departments. They readily acknowledged that it was not the physical effects of the illegal drugs that caused homicides, but the business of drugs. In fact, the only drug that was consistently noted as producing violence from its consumption was alcohol, particularly among males. As one detective observed at the time, 'but for alcohol and illegal drugs we would largely be out of business!'

An important aspect of the "war on drugs' in the United States is through civil law and processes, such as civil forfeiture and property inspections. Such an approach is used in part to evade the high evidence standards of criminal law and the rights associated with criminal process. In fact, in the United States there are cases of police departments obtaining sizable financial gain through such a process. Unfortunately this has often been to the detriment of civil rights and liberties. The U.S. experience is that the "war on drugs" has greatly intruded upon citizens rights and created many "exceptions" to rights of privacy and security of the person, among other rights.

In a chapter entitled "Civil Responses to Marijuana Grow Ops", the authors provide an excellent overview of the use of distorted claims of the dangers of marijuana grow ops to create new punitive strategies outside the formal scope of the criminal law. For example, exaggerated claims regarding the fire hazards of grow ops led to the B.C. Safety Standards Amendment Act (2006) allowing some municipalities to develop programs using electrical inspections of private residences without a search warrant to detect grow ops. This effort was led by Surrey and has been said to be a great success. B.C. Hydro has been a willing participant and major source of "information" about marijuana grow ops. The book authors note that two RCMP supported studies by Plecas et al were widely quoted in the newspapers and used to justify claims of the dangers of marijuana grow ops. Boyd and Carter point out that the 2005 study report findings do not support the claims made by the authors and RCMP. Using independent data, Boyd and Carter show that the claims are exaggerated.

One program emanating from this approach was the Electrical Fire Safety Initiative (FFSI) which began in Surrey in 2005.

This entailed cooperation between police, firefighters, provincial government, BC Safety Authority and municipal electrical inspectors. By analyzing electrical consumption via BC Hydro or through tips to the police, addresses are identified that are "suspect". Subsequently an investigation of the suspect property and its residents is undertaken. In a 2005 report on the Surrey pilot program Fire Chief Len Garis deemed it a success. Based on the RCMP supported report by Plecas et al, claims were made that grow ops are 24 times more likely to catch fire, but as Boyd and Carter again note, the data are insufficient to support the claim. Further exaggerated claims are reportedly made by Chief Garis about the "grave public safety concerns" surrounding marijuana grow ops, such as bobby traps, violence, organized crime, among others. Boyd and Carter do not contend that these issues do not arise, but that they are very much exaggerated out of proportion to their reality.

Finally, the authors cite a 2009 paper by Chief Garis, Plecas and others which advocates municipalities use civil process and law to address this issues as a public safety concern, not as a criminal concern. It encourages others to lobby politicians to support this type of programs to "weed" out this new public menace. While the propaganda campaign against marijuana grow ops was working in some jurisdictions, others were not interested in this thinly veiled attempt to enforce criminal drug laws and some challenged it for its possible infringement on Charter Rights. Boyd and Carter cite the case of Arkinstall v. City of Surrey as one of he first challenges to the new civil approach to controlling marijuana. The BC Court of Appeal found in 2010 that although conduced under the guise of civil/regulatory law, the inspection infringes section 8 of the Charter of Rights and Freedoms. A couple and their child had their hydro turned off because they refused to comply with the intrusion into their privacy and had to relocate to a hotel. It was disclosed in the case that BC Hydro had forwarded electrical consumption records of over 6000 Surrey properties to authorities, with 1000 flagged for inspection. The property owner is billed for the inspection! A recent challenge to a similar process in Mission has been launched by several residents with the support of the BC Civil Liberties Union. One thing we definitely know as a consequence of the "war on drugs" is that individual rights

are increasingly being eroded by government intrusions, often based upon propaganda about the evils of illegal drugs.

In a provocative chapter entitled "Using Children to Promote Increased Regulation", Boyd and Carter detail how media representations of children in grow ops present images of children harmed by the thoughtless, criminal and greedy actions of their parents. This includes harm from mold, carbon monoxide, pesticides, carbon dioxide, ozone exposure and electrocution. They cite an article entitled "Mounties Want Parents Punished for Raising Kids in Grow Ops", stating that 20% of grow ops raided by police have children. Further support of putting children into government care is provided by a quote from police researcher Plecas that stiff jail sentences will act as a deterrent. Again, no independent research is provided. In fact, the history of the past 100 years of criminalization of drugs (including Prohibition) suggests the criminal approach is a largely a failure. Ironically, the authors note that Canada in recent years is adopting the failed policies of the US emphasizing mandatory minimums and increased incarceration, When I moved from Canada to the US in 2007 the US was reaching the height of its get-tough policy, jailing more and more poor, largely non-white, non-violent offenders for drug violations. Now the US is retreating from the failed "war on drugs", reducing mandatory minimums, and moving to a less punitive approach, including legalization of marijuana and widespread medical marijuana. Yet, Canada is going in the opposite direction, adopting many of the failed US policies.

In their last chapter the authors address alternative perspectives. They start out by quoting Canadian drug expert Bruce Alexander: "The biggest cost of the drug war propaganda may be the systematic reduction in people's ability to think intelligently about drugs." They note that the National Anti Drug Strategy Budget for 2012-2017 has a 26% decrease in funding for Community Initiatives and a 35% decrease in Drug Treatment, while there is a 16% increase in RCMP Drug Enforcement, 31% increase for community supervision for Corrections Canada, a 46% increase for the Parole Board of Canada, and increases for Canada Border Services.

There are other options, including harm reduction strategies, which try to minimize the negative effects of not only drug use,

but of drug policy. This approach takes more of a treatment/medical approach with services provided and the recognition that drugs will be with us and cannot be eliminated through criminal/punitive approach. The example of contrasts is Vancouver and Surrey. Vancouver has a city strategy of harm reduction with legal injection sites, provision of multiple services to addicts and less reliance on criminal law, particularly regarding marijuana. The 420 celebration in Vancouver acknowledges, like Seattle Hemp Fest, that marijuana law enforcement is a low priority. This would not likely occur in Surrey, given the get-tough approach of the RCMP and city officials. During my 15 years teaching at the University of Calgary I would point out how ideology/philosophy/politics can influence the enforcement of laws. Alberta would always seem to have much higher marijuana arrest rates than BC, although BC has a higher use of marijuana. It is a matter of priorities provincially and in terms of municipalities.

There is a major battle going on now regarding the new law requiring medical marijuana users to buy from government grow ops, not those under current license. Vancouver has announced that it will not crack down on those licensed under previous law, while the RCMP has already seized the first shipments of government grown marijuana for alleged violations. Finally, in a Vancouver Sun Opinion column by Ian Mulgrew, he tells the story of an elderly couple being pursued by the BC Director of Civil Forfeiture for a 2008 offence of growing marijuana for a compassion club![1] As this book shows in vivid detail, propaganda about marijuana and marijuana grow ops has far reaching consequences for all citizens.

Chuck Reasons is a Professor of Law and Justice at Central Washington University. He has published 9 books and many professional articles and book chapters. A 1992 UBC law graduate, he practiced in Vancouver during the 1990's.

[1] Ian Mulgrew: Court case provides opportunity for debate about marijuana dispensaries. April 29, 2013. The Vancouver Sun. http://www.vancouversun.com/health/Mulgrew+Court+case+provides+opportunity+debate+about+marijuana+dispensaries/8312644/story.html