

Solovjev Anna

From: West Lisa
Sent: Thursday, 26 September 2019 11:45 AM
To: Pavleka Andrea
Subject: FW: CDPP advice on ACT cannabis legislation [SEC=OFFICIAL]
Attachments: Fwd: Letter from Richard Glenn Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018 [SEC=OFFICIAL]; ACT legislation and AGD [SEC=OFFICIAL]; Further Letter Richard Glenn JCSD 20190922 Director signed (002).docx

Categories: ACT/AGD corro

OFFICIAL

Hi Andrea

Liz Brayshaw at AGD has phoned asking if we have received an FOI request (the implication being that AGD has).

I said we had been approached by a journalist and were considering our response, but would let AGD know what we have in mind before responding.

I like the additional sentence in Mark and James' version "*The CDPP is not able to provide legal advice to members of the public.*" although I think it should go at the end, as it is at the end that we are asked for our advice.

Let me know when you have the final version and I'll forward it on to AGD.

CDPP

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Classification: OFFICIAL

From: de Crespigny Mark <mark.decrespigny@cdpp.gov.au>
Sent: Thursday, 26 September 2019 11:37 AM
To: Carter James <james.carter@cdpp.gov.au>; Pavleka Andrea <andrea.pavleka@cdpp.gov.au>
Cc: McNaughton Sarah <Sarah.McNaughton@cdpp.gov.au>; West Lisa <lisa.west@cdpp.gov.au>
Subject: FW: CDPP advice on ACT cannabis legislation [SEC=OFFICIAL]

OFFICIAL

Dear Andrea

James and I have been discussing this and here is our input:

Thank you for your enquiry.

Attached are copies of the two letters that have already been released to the media by the ACT Government..

The initial letter considered whether the defence in s313.1 of the Criminal Code (Cth) of conduct justified or excused by or under a law of a State or Territory, would be applicable to a federal charge in the ACT of possessing controlled drugs under s308.1(1). There has not been detailed judicial consideration of the defence contained in s313.1 and its potential scope. The CDPP is not able to provide legal advice to members of the public.

On 20 September 2019 a legal authority, on a provision similar to s313.1, was brought to this office's attention by the Attorney-General's Department, which resulted in further consideration being given to the issues and prompting the second letter to Mr Glenn.

Should relevant matters be referred to this office by police, they will be considered in accordance with the Prosecution Policy of the Commonwealth.

Regards

Mark

Classification: OFFICIAL

From: Pavleka Andrea <andrea.pavleka@cdpp.gov.au>

Sent: Thursday, 26 September 2019 10:47 AM

To: Carter James <james.carter@cdpp.gov.au>; de Crespigny Mark <mark.decrespigny@cdpp.gov.au>

Cc: West Lisa <lisa.west@cdpp.gov.au>; McNaughton Sarah <Sarah.McNaughton@cdpp.gov.au>

Subject: FW: CDPP advice on ACT cannabis legislation [SEC=OFFICIAL]

OFFICIAL

Dear James and Mark

I wondered if we might seek your views on our response to this media enquiry. Both of you have a bit of background on this matter. Both of our letters have already been released to the ABC as has the AGD letter. I have also attached the advice we received from AGD, plus our two letters.

Suggested Response

Thank you for your enquiry.

Attached are the two letters.

The initial letter considered whether the defence in s. 313.1 of the Criminal Code would be applicable, and whether or not de-criminalising the relevant conduct would amount to an excuse or justification pursuant to s.313.1. There has not been detailed judicial consideration of this provision and its potential scope.

Should relevant matters be referred to this office by police, they will be considered in accordance with the Prosecution Policy of the Commonwealth.

