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February 8, 2008

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Honorable Chief Justice
Ronald M. George and Associate Justices
California Supreme Court
350 McAllister Street
San Francisco, California 94102

Re: City of Garden Grove v. Superior Court (Kha), Case No. S159520

Dear Chief Justice George and Associate Justices:

The undersigned serves as General Counsel to the California State Sheriffs' Association ("CSSA"), the California Police Chiefs' Association ("CPCA") and the California Peace Officers' Association ("CPOA"). CSSA represents each of the fifty-eight (58) elected California Sheriffs. CPCA represents virtually all of California's Municipal Chiefs of Police. CPOA represents more than four thousand peace officers, of all rank, throughout the State. These three Associations are interested in the above-referenced matter because the issues presented will have a profound impact on the members of each of the three Associations, as well as every employee under the command of the state's sheriffs and police chiefs. This includes the overwhelming majority of peace officers in the State of California. The above Associations, through counsel, previously submitted, and had approved by the Court of Appeal, an Amicus Curiae brief in support of Appellant in this matter below, the City of Garden Grove.

This letter is written to urge this Court to grant the City of Garden Grove's Petition for Review in the above-referenced matter. Review by this Court will determine critical issues of law, specifically the importance of officers not being subject to an invalid court order that they

February 8, 2008

return illegal contraband to a criminal defendant in violation of State and Federal law. Rule 8.500 permits the three Associations, CSSA, CPCA and CPOA, to submit this letter as Amici in support of Appellant's Petition for Review.

CSSA, CPCA and CPOA have consistently participated in litigation concerning medical marijuana within the State. Often as Amici in prior cases, these Associations have taken the position that federal law preempts both the California Compassionate Use Act and the Medical Marijuana Program Act. However, regardless of whether this Court or any other court ultimately agrees with that legal conclusion, the really fundamental issue for the Associations is that clearer direction on the interaction between conflicting provisions of federal and state law be provided. This can be achieved by this Court's granting of the City's Petition for Review.

Law enforcement officers are daily confronted with the Catch-22 that is the current state of the law on the issue of medical marijuana in California. They are, on the one hand, bound to uphold the United States Constitution, which includes federal statutes such as the Controlled Substances Act. They are also, on the other hand, held to enforce State law, which includes the Compassionate Use Act and the Medical Marijuana Program Act.

Even though State law enforcement officers are not bound to enforce federal law, they are certainly bound, at a minimum, not to violate it. The facts of this matter present a commonplace occurrence as of late, where law enforcement officers lawfully confiscate marijuana in their day-to-day interactions with the public, but are later ordered to return the marijuana. In being ordered to return confiscated marijuana to criminal defendants, law enforcement officers are concerned that they are distributing a controlled substance in violation of federal law and could be subject to criminal liability.

In addition, legal issues aside, there are significant morale issues at stake. Local law enforcement agencies frequently act in concert with federal authorities on joint task forces for drug enforcement. There is a certain degree of hypocrisy in their participation in such task forces while returning an illegal substance to an individual in the face of federal law which designates marijuana as contraband for all purposes. The position they are placed in is one of potential personal liability, as well, since their authority under the law and their very integrity are undermined by their own disregard for federal law in returning contraband, even if the return of the contraband medical marijuana is done under the compulsion of state law by way of a court order.

Although the Associations do not disagree with the letter submitted previously to this Court by the City of Corona to the extent the letter asserts that the Court of Appeal issued an incorrect decision in this matter, the Associations strongly disagree with the implication of the City of Corona's letter that mere republication of the Court of Appeal's opinion will suffice in lieu of this Court granting review. The issues in this matter are too important to law enforcement and relate too intimately to what law enforcement officers do on a daily basis, in interacting with the public, in confiscating substances that are still *illegal* under state law (for which there is merely a limited defense against prosecution pursuant to state law), and in the ordered return of

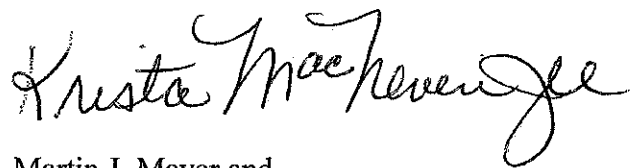
February 8, 2008

such substances. Since such orders are being regularly issued by courts of this state, the issues in this case are in need of this Court's immediate review.

The City of Corona cites to this Court's granting of review in Ross v. Ragingwire Telecommunications, Inc., 132 Cal. App. 4th 590 (2005), as a basis for this Court to decline to grant review in this matter. The issues in the two cases, although generally both relating to medical marijuana, are not legally similar and the grant of review in one should not preclude the grant of review in the other. In Ross, the Fair Employment and Housing Act and an employer's right and duty to insure the integrity of its workforce are at issue. In this matter, there are issues of property rights, namely whether someone can have a legally recognizable property interest in contraband, as well as issues of liability of law enforcement officers as to the return of seized medical marijuana. In particular, the issues in this matter may have a critical impact on the degree to which public agencies may be held responsible for the condition of confiscated medical marijuana.

Based on the foregoing, CSSA, CPCA, CPOA urge this Court to grant the City of Garden Grove's Petition for Review in this matter. Law enforcement agencies and many others working in conjunction with law enforcement officers have been eager for many years to have a more definitive analysis from this Court on the matter of medical marijuana under the CUA and the MMPA, and how these state provisions interplay with federal legal requirements. The issue of whether peace officers or their agencies can be ordered to return medical marijuana and whether such orders and/or the return would constitute a violation of the Controlled Substances is of paramount importance to law enforcement officers and agencies throughout the state.

Respectfully submitted,



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