



KANSAS CITY, MO. POLICE DEPARTMENT

DATE OF ISSUE

3-25-08

EFFECTIVE DATE

3-25-08

NO.

08-1

PROCEDURAL INSTRUCTION

SUBJECT

Arrest Procedures - Possession of Controlled Substance

AMENDS

REFERENCE

RSMo. Chapter 195, Code of City Ordinances Chapters 18 and 26,
P.I. - Detaining and Questioning Person Arrest Search and Seizure and Recovered Property

RESCINDS

Procedural Instruction 03-10

I. PURPOSE

To establish procedures for officers to follow when suspected controlled substances are recovered. A controlled substance is any drug, substance, or immediate precursor listed in Section 195.017, Revised Missouri State Statutes.

II. POLICY

- A. Possession of controlled substance charges (federal, state, or municipal) will be pursued **only** when controlled substances are recovered, subsequent to an arrest, search, or seizure.
- *B. All substances will be documented on the property tab of Automated Reporting System (ARS) and in accordance with the written directive entitled, "Recovered Property Procedure."
- *C. Field testing may be performed only on suspected marijuana, methamphetamine, cocaine, ecstasy and heroin samples for the preliminary identification of those substances. Specialized units (Drug Enforcement, Street Narcotics, and others as authorized) may establish internal procedures for the use of other drug testing kits as needed for their investigations.
- D. Designated sergeants and supervisors will be trained as authorized field kit testing personnel.

III. PROCEDURE

This directive has been arranged in annexes to address the various areas of responsibility relating to possession of controlled substance charges. The related annexes presume that a substance has been recovered subsequent to adequate probable cause for arrest, search, or seizure.

FIELD TESTING OF SUSPECTED CONTROLLED SUBSTANCES

- A. Field testing of suspected controlled substances will be undertaken only by personnel trained and designated to perform field kit testing.
- *B. When observing unidentifiable prescription drugs, officers are advised to call the Poison Control Center included in the Pocket Reference Book, Form 321 P.D., for identification and then call the Drug Enforcement Unit for further instructions.
- *C. Officers will complete a General Ordinance Summons (GOS) or obtain an Investigation Arrest Approval, Form 176 P.D., from the appropriate investigations section supervisor only upon a positive field test for marijuana, methamphetamine, cocaine/crack, ecstasy or heroin.

NOTE: Ecstasy or heroin may only be field tested by trained Drug Enforcement Unit and Regional Criminalistics Division personnel.

- *D. The minimum amount of a controlled substance must meet the following criteria for state prosecution in all counties in the city limits of Kansas City, Missouri:
 - 1. Marijuana must be 35 grams or greater.
 - 2. Cocaine/crack, methamphetamine, ecstasy or heroin is any measurable amount.
- *E. When preparing applicable reports, any references to the weight of the suspected controlled substance should be expressed as an approximate weight.
 - 1. If the weight of the substance, measured while in the container, is less than the minimum amount required for state prosecution, the substance does not need to be removed from the container for weighing purposes.
 - 2. If the weight of the substance, measured while in the container, meets or exceeds the minimum amount required for state prosecution, the substance must be removed from the container for weight determination.
 - 3. If a substance has been removed from its container for weighing, place the substance and container into a new container (e.g., zip-lock plastic bag) when preparing for recovery.
- *F. The initiating officer should observe the field test to insure the integrity of the recovered substance from time of initial recovery through final disposition of the substance into the appropriate property and evidence storage area.

**MUNICIPAL / INVESTIGATION ARREST AND JUVENILE APPREHENSION
PROCEDURES**

- *A. Upon recovery of a suspected controlled substance, the initiating officer will:
 - 1. Transport the suspect and substance to the appropriate location for field testing or request authorized department member to respond to the scene.
 - 2. Discuss the circumstances of the case with the field supervisor authorized to perform field testing to ensure that the substance was recovered subsequent to an arrest, search, or seizure.
 - 3. If the controlled substance cannot be a field tested, the Drug Enforcement Unit should be contacted for further instructions.

- B. Upon request by the initiating officer, field supervisors authorized to perform field kit testing will:
 - 1. Visually examine the suspected controlled substance to determine if it appears to be marijuana, methamphetamine or cocaine/crack.
 - 2. Weigh the substance before and after performance of the field test, if possible.
 - 3. Perform the appropriate field test on the substance, placing only a small amount of the substance in the test kit vessel.
 - 4. Place the remaining substance and original container in a new container, if removed from original container for weighing purposes.

- C. Upon notice of a positive field test result, the initiating officer will use the following guidelines:
 - 1. In cases where a GOS is issued use the suggested phraseology as recommended in the Pocket Reference Book, Form 321 P.D.
 - *2. In cases where an Investigation Arrest Approval, Form 176 P.D., is required, the member should contact the following element:
 - a. Contact the on-call detective from the Drug Enforcement Unit for investigative arrest approval unless the persons involved are gang affiliates (J-11), then the on-call Gang Unit detective should be contacted.
 - b. Contact the on-duty Violent Crimes supervisor for completion of the Investigation Arrest Approval, Form 176 P.D.

3. In cases involving juveniles, contact on duty Juvenile Section personnel and refer to current written directive entitled, "Juvenile Apprehension Procedures."
- *D. The initiating officer will complete all applicable reports. The initiating officer will route the report to the Drug Enforcement Unit by selecting the Drug Enforcement Unit in the routing tab of the ARS report. The narrative of the applicable report(s) should include, but not be limited to, the following information:
1. Statement of the circumstances providing the basis for the probable cause arrest, search or seizure, which led to the recovery of the suspected controlled substance.
 2. Name, rank and serial number of person conducting the field test.
 3. Approximate weight of the substance.
 4. Result of the field test, if one was completed. Upon a positive response, the narrative statement in the applicable report(s) **must** include the following phraseology:

"The recovered substance was field tested by (Sergeant's Name), using a (Scott Reagent System Test Kit for cocaine, Marquis Reagent System Test Kit for methamphetamine, heroin and ecstasy or Duquenos-Levine Reagent System Test Kit for marijuana), which showed a positive reaction to the presence of (cocaine, methamphetamine or marijuana)."
 5. Disposition of the arrest, including GOS number(s), booking number(s) generated by the Corrections Management System, or disposition of the juvenile.
 6. Save any appropriate videotape or digital recording according to current department procedure and refer to the videotape or identifying number in the narrative of the report.
- E. The Juvenile Section will be responsible for final disposition of all juvenile apprehension cases for possession of controlled substance.
- F. The Drug Enforcement Unit will be responsible for final disposition of all investigation arrest cases for possession of controlled substance, except those cases involving juvenile apprehensions or those cases initiated by the Street Narcotics Unit or the Gang Squad. Upon receipt of the Laboratory Report, the Drug Enforcement Unit will take the appropriate action for disposition of the case and send a copy of the Disposition of Arrest/Apprehension, Form 105 P.D., to the initiating officer through their division commander explaining what action was taken.

G. Municipal Court cases involving marijuana with a positive field test result will not be analyzed by the Regional Criminalistics Division, unless requested by the initiating officer. The following procedures will be used when requesting an analysis:

1. The city prosecutor handling the case will determine if laboratory analysis is needed for trial. The prosecutor will request a continuance and notify the Municipal Court Liaison Officer that laboratory analysis is needed.
2. The Municipal Court Liaison Officer will notify the initiating officer via the Notification Roster for Municipal Court, Form 49 P.D., that the case has been continued and the prosecutor has requested laboratory analysis for trial purposes.
3. Upon receipt of the Notification Roster for Municipal Court, Form 49 P.D., the initiating officer will complete a Request for Evidence Analysis, Form 96 P.D. In the "Summary of the Offense" section of the Request for Evidence Analysis, Form 96 P.D., include the following phraseology:

"Suspected marijuana field tested positive and lab analysis needed for trial on (enter court date)."
4. Submit Form 96 P.D. to his/her immediate supervisor and upon supervisory approval, the Request for Evidence Analysis, Form 96 P.D., will be forwarded to the Regional Criminalistics Division.
5. Upon receipt of the Request for Evidence Analysis, Form 96 P.D., laboratory personnel will perform the appropriate testing to confirm the results of field testing.

*H. Upon receipt of the Laboratory Report, the following procedures will be used by the initiating officer:

1. A Laboratory Report which **confirms** the presence of any controlled substance should be presented at the next court appearance for the case.
2. Upon receipt of a Laboratory Report which **confirms** the presence of another controlled substance in addition to or other than marijuana.
 - a. The Drug Enforcement Unit should be contacted by the member.
 - b. If the Drug Enforcement Unit wants to pursue state charges, the initiating officer will prepare a report in the ARS system entitled, "Progressive Investigation" supplemental to the original case report number, detailing the results of the Laboratory Report.
 - (1) In the supplemental report, include the name, date, and time of contact with the Drug Enforcement Unit. In the narrative include their desire to pursue state charge(s) and the courtroom, date and time, and GOS number of the charge(s) to be dismissed.

- (2) Forward a copy of the Laboratory Report with a copy of the supplemental report to the Municipal Court Liaison Officer.
 - c. If the Drug Enforcement Unit does not wish to pursue state charges, the initiating officer will take the Laboratory Report to the scheduled court appearance and request that the prosecutor amend the charge prior to the trial.
 2. The Laboratory Report **does not confirm** the presence of any controlled substance, The initiating officer will prepare a supplemental report to the original case report number in the ARS system entitled, "Progressive Investigation."
 - a. The narrative of the Progressive Investigation should include the courtroom, court date and time, if known.
 - b. For cases involving a municipal charge, the officer will request the charge be dismissed by forwarding a printed copy of Progressive Investigation to the Municipal Court Liaison Officer with a copy of the Laboratory Report attached.
 - c. The Municipal Court Liaison Officer will establish procedures for dismissal of municipal charges for possession of marijuana when receiving a copy of the Laboratory Report as outlined above.
 3. The initiating officer's division commander will establish procedures to ensure that the copy of the Notification Roster for Municipal Court, Form 49 P.D. and the Laboratory Report is distributed to the officer and the appropriate action is taken by the officer to dispose of the case as outlined above.
 - I. Upon notice of a negative field test result, the initiating officer will:
 1. Recover the suspected controlled substance in accordance with established procedures outlined in the current written directive entitled, "Recovered Property Procedure."
 2. Release the subject, advising him/her that any charges are being deferred pending the results of laboratory analysis of the substance.
- NOTE:** In cases involving juveniles, contact the appropriate on-duty Juvenile Section personnel to determine the appropriate disposition of the juvenile.

WARRANT APPLICATION / CITY PICK-UP PROCEDURE

- A. A federal or state arrest warrant application or a city pick-up may be processed when the Laboratory Report confirms:
1. The presence of a controlled substance other than or in combination with marijuana, methamphetamine, cocaine/crack, ecstasy or heroin.
 2. The presence of marijuana, methamphetamine or cocaine/crack in a sample, which tested negative in the field- test or in a sample **not subjected** to field kit testing (e.g., known suspect who escapes after recovery subsequent to an arrest, search and seizure; sick or injured arrest taken to hospital, etc.).
 3. The presence of a controlled substance in trace amounts found in a bottle, bag, pipe, spoon, etc., which was not field tested due to the minute quantity of substance available for testing.
- B. The initiating officer will be responsible for processing city pick-ups in cases involving laboratory confirmation of marijuana that tested negative to a field test or was not subjected to field testing.
1. Complete a supplemental report to the original case number entitled, "Progressive Investigation," which detailed the initial recovery of the marijuana. The Progressive Investigation report should outline the results of the laboratory examination, including the weight of the marijuana.
 2. Complete all other necessary forms as required by the current written directive entitled, "Arrest Guidelines." Include a copy of the original offense report and the supplementary Progressive Investigation report.
- C. The Drug Enforcement Unit will be responsible for processing the federal or state warrant applications in cases involving laboratory confirmation of:
1. A controlled substance other than marijuana, methamphetamine, cocaine/crack.
 2. A controlled substance in any combination with marijuana, methamphetamine, cocaine/crack, ecstasy and heroin. If federal/state/municipal charges have already been filed for possession of the marijuana, methamphetamine or cocaine/crack as a result of a positive field kit test, the Drug Enforcement Unit will evaluate the case to determine if additional charges or the pending charges should be pursued.

3. All marijuana, methamphetamine or cocaine/crack meeting or exceeding the minimum amount required for state prosecution, which tested negative to a field test or was not subjected to field testing.
- D. Narcotics and Vice Division personnel will process federal or state warrant applications or city pick-ups on cases submitted by their division.
- E. The Juvenile Section will process all cases involving juveniles.
- F. The Regional Criminalistics Division will complete the Laboratory Report on all cases submitted for analysis. Distribution of the Laboratory Report will be as follows:
1. Property and Evidence Unit on all cases.
 2. The initiating officer's Division Commander will establish procedures to ensure that the copy of the Laboratory Report is distributed accordingly and the appropriate action is taken
 3. Drug Enforcement Unit upon confirmation of:
 - (a) All cocaine/crack, methamphetamine, marijuana, ecstasy or heroin in amounts eligible for state prosecution, submitted by other units.
 - (b) Any controlled substance other than or in combination with marijuana, methamphetamine, cocaine/crack, ecstasy or heroin.
 4. Street Narcotics Unit on all cases submitted by personnel of that unit.
 5. Juvenile Section on all cases involving juveniles.