

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

MARIJUANA CASES  
SUBJECT

DATE: April 12, 2017

NO: P-20

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: Marijuana Cases  
Citations for Marijuana  
Possession of Marijuana

I. POLICY

- A. Officers investigating cases involving marijuana shall adhere to the guidelines set forth by State law and follow the Department procedures.
- B. The mandatory release provision of the marijuana law does not apply to juveniles. The policy with respect to the handling of juveniles in regard to marijuana use and/or possession must be viewed in the same light as any other criminal violation.
  - 1. It is the philosophy of the court to cite if there are no extenuating circumstances.
    - a. You may Stat 1 (cite).
    - b. You may Stat 2 (book).
    - c. You may Stat 3 (lecture and release).

II. LAW

- A. Officers should become familiar with the following sections of the Health and Safety Code and Penal Code.
  - 1. 11006.5 H&S - "Concentrated Cannabis" means the separate resin whether crude or purified, obtained from marijuana (e.g. hashish, hash oil).
  - 2. 11018 H&S – "Marijuana" is defined as all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include industrial hemp or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.
  - 3. 11362.1 (a) H&S – It is lawful for any person 21 years of age and older to possess, process, transport, purchase, obtain, or give away to persons 21 years of age and older without any compensation whatsoever not more than 28.5g of marijuana and 8g of concentrated cannabis; to possess, plant, cultivate, harvest, or process not more than 6 living marijuana plants and possess the marijuana they produce; smoke or ingest marijuana or marijuana products; and possess, transport, purchase, obtain, use, manufacture, or give away to persons 21 years of age and older without any compensation whatsoever any marijuana accessories.
  - 4. 11362.1 (c) H&S - Marijuana and marijuana products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest.
  - 5. 11362.2 (a) H&S – Violations involving personal cultivation of marijuana.

6. 11362.3 (a) H&S – Violations involving the ingestion of marijuana and marijuana products, the transport of an open container of marijuana, and the unlicensed manufacture of concentrated cannabis.
7. 11357 (a) H&S - Possession of not more than 28.5g of marijuana or 4g of concentrated cannabis by anyone under 21 years of age (Infraction).
8. 11357 (b) H&S - Possession of more than 28.5g of marijuana or 4g of concentrated cannabis. This is an infraction for anyone under 18 years of age and a misdemeanor for anyone else. Adults 21 and over may legally possess up to 8g of concentrated cannabis.
9. 11358 H&S – Unlawful cultivation of marijuana.
10. 11359 H&S - Possession of marijuana for sale.
11. 11360(a) H&S – Unlawful sales, transportation, furnishing, administering, giving away or attempting to import into this state or transport any marijuana.
12. 11360(b) H&S – Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5g of marijuana, is guilty of an infraction, punishable by a fine of \$100.00. The arrested is to be released with his/her written promise to appear in court as provided in Section 853.6 of the Penal Code and shall not be subjected to booking.
13. 11361 H&S - Every person 18 years of age or over who hires, employs, or uses a minor in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any marijuana, who unlawfully sells, furnishes, administers, gives, or offers to sell, or who induces a minor to use marijuana in violation of law (Felony).
14. 23222(b) VC – Unlawful transport of marijuana. This section is generally used for transportation for non-sale purposes such as a person under 21 years of age transporting a sealed container containing not more than 28.5g of marijuana (Infraction).
15. 11362.5 H&S – Compassionate Use Act of 1996.
16. 853.6 P.C. - Release of a person arrested for a misdemeanor with his/her written promise to appear in court.

### III. PROCEDURE

#### A. Felony

1. Narcotics officers should be called on all felony charges or when the amount or circumstances indicate the suspect is involved in trafficking.
2. Disposition of felony marijuana arrests shall be handled as any other felony charge would be.

#### B. Misdemeanor

1. Misdemeanor arrest for marijuana violations.

NOTE: If the subject is arrested for another crime and found to have committed a misdemeanor marijuana violation, this shall be incorporated into the ARS report.

- a. Disposition of the arrested subject is the officer's option - cite or book.
- b. If the arrested subject is to be cited for a misdemeanor marijuana violation on a

"Notice to Appear" citation, it should be completed as follows:

- (1) Fill out all needed information in accordance with misdemeanor citation procedures.
  - (2) Check the "Booking Required" box.
  - (3) Write in the date and time the subject is to appear. Refer to the current court schedule, located in the headquarters area.
2. Regardless of whether the arrested subject is to be cited or booked, the arresting officer will:
    - a. Complete an arrest report.
  3. The marijuana should be weighed prior to the suspect being cited or booked.
    - a. Disposition of marijuana evidence.
      - (1) The arresting officer will book the evidence onto a Stockton Police Department property record.

C. Infraction

1. Adults arrested for a marijuana violation amounting to an infraction must be cited on a Stockton Police Department "Notice to Appear" citation.

NOTE: If a subject has been arrested for 11360(b) H&S and any other charge for which he/she is to be booked, a citation shall be issued for 11360(b) H&S. No mention of the 11360(b) H&S arrest shall be reflected in the crime report made for the other charge. In cases where the 11360(b) H&S violation was probable cause leading to a separate charge, the officer may incorporate this in his/her arrest report. However, he/she must leave out any mention of the subject's arrest (subject being cited) for the 11360(b) H&S charge.

If a subject is arrested for another violation for which he is going to be cited, any charge of 11360(b) H&S must be carried on a separate citation.

- a. Disposition of arrested subject.
  - (1) Provided the individual presents satisfactory evidence of identification and gives his/her written promise to appear, he/she must be cited.
  - (2) The arresting officer shall complete a Stockton Police Department "Notice to Appear" citation.
    - (a) No crime report is necessary.
    - (b) Fill out all needed information.
    - (c) Check the box for "Infraction" and not "Booking Required".
    - (d) For court date and time, refer to the current court schedule.
    - (e) The arresting officer will make necessary notes on the reverse side of pink page of the citation.
    - (f) The property record number shall be clearly noted on the reverse side of the citation (if applicable).

- (3) If the subject is booked for a marijuana violation amounting to an infraction (he/she fails to provide satisfactory evidence of identification or refuses to give his/her written promise to appear), the arresting officer shall complete an arrest report.
2. Juveniles arrested for a marijuana violation amounting to an infraction shall have that arrest documented in an arrest report.