



KANSAS CITY MISSOURI POLICE DEPARTMENT

PROCEDURAL INSTRUCTION

DATE OF ISSUE

12-24-13

EFFECTIVE DATE

12-24-13

NO.

13-6

SUBJECT

Arrest Procedures - Possession of Controlled Substance

AMENDS

REFERENCE

RSMo. Chapter 195
Code of City Ordinances Chapters 18 and 26
PI: Questioning & Detaining Persons, Arrest, Search & Seizure; Tiburon
Computer System – Automated Reporting System (ARS) / Records
Management System (RMS); Recovered Property Procedure; Arrest
Guidelines; Patrol Bureau Video Procedures

RESCINDS

PI 10-8 Arrest Procedures – Possession of Controlled
Substance
DM 10-4 Analysis Request

I. INTRODUCTION

This Procedural Instruction establishes 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, Missouri Revised Statutes.

II. ADMINISTRATIVE GUIDELINES

- A. Possession of controlled substance charges (federal, state, or municipal) will be pursued only when controlled substances are recovered subsequent to a lawful arrest, search, or seizure.
- B. All substances will be documented in accordance with the current written directive entitled, "Tiburon Computer System – Automated Reporting System (ARS) / Records Management System (RMS)." All substances will be recovered in accordance with the current 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 Crimes, and others as authorized) may establish internal procedures for the use of other drug testing kits as needed for their investigations.
- *D. Designated personnel will be trained and authorized to conduct field testing.

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 a lawful arrest, search, or seizure.

Annex A Testing of Suspected Controlled Substances

Annex B Municipal / Investigation Arrest Procedures

Annex C Warrant Application / Municipal Summons Procedure

Darryl Forté
Chief of Police

Adopted by the Board of Police Commissioners this _____ day of _____ 2013.

Alvin Brooks
Board President

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TESTING OF SUSPECTED CONTROLLED SUBSTANCES

- A. Field testing of suspected controlled substances will only be undertaken by personnel trained and authorized to perform field testing.
- B. If the substance is unable to be field tested, contact the Drug Enforcement Unit (DEU) for further instructions.
- C. The initiating officer should observe the field test to ensure the integrity of the recovered substance from the time of initial recovery through final disposition of the substance into the appropriate property and evidence storage area.
- D. Upon request by the initiating officer, department members authorized to perform field testing will:
 - *1. Determine if the substance was obtained subsequent to a lawful arrest, search, or seizure. If not, the substance will be recovered, a Property Disposition, Form 5743 P.D., will be completed requesting that the substance be destroyed, and a copy of all reports will be forwarded to DEU.
 - *2. Visually examine the suspected controlled substance to determine if it appears to be marijuana, methamphetamine, or cocaine/crack, etc.

NOTE: PCP may only be field tested by trained DEU and Regional Criminalistics Division personnel.
 - *3. Weigh the substance after performing the field test.
 - 4. Perform the appropriate field test on the substance, placing only a small amount of the substance in the test vessel.
 - 5. Place the remaining substance and original container in a new container, if removed from original container for weighing purposes.
- *E. Suspected synthetic marijuana and other synthetic drugs (i.e., K-2, bath salts) will be recovered and submitted to the Regional Criminalistics Division Laboratory for analysis. The member recovering the substance will notify DEU from the scene.
- *F. Liquid substances (other than PCP as noted above in section D, 2) should not be field tested. Liquid substances will be recovered and forwarded to the Regional Criminalistics Division Laboratory for analysis.
- *G. Members are to utilize the website www.Drugs.com for assistance with identifying prescription drugs. Contact DEU personnel afterward for further instructions.

H. 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, and advise that any charges are being deferred pending the results of laboratory analysis of the substance.

MUNICIPAL / INVESTIGATION ARREST PROCEDURES

- A. Upon recovery of a suspected controlled substance, the initiating officer will:
- *1. Request an authorized department member to respond to the scene for field testing. If the suspect is under arrest for another charge, the suspect and substance may be transported to another location for field testing (i.e., Detention Unit, location of authorized tester, etc.). Contact DEU for further instructions if the substance is unable to be field tested.
 - 2. Discuss the circumstances of the case with the department member authorized to perform field testing to ensure that the substance was recovered subsequent to a lawful arrest, search, or seizure.
 - *3. Notify the on-call DEU detective from the scene to discuss the circumstances of the case and receive approval for all state arrests. If the detective is not satisfied that the substance was recovered subsequent to a lawful arrest, search, or seizure, the detective will advise the member to recover the substance so that the substance can be destroyed. The member will forward a copy of all associated reports to DEU.
 - *4. When narcotics are discovered in multiple locations, ensure that each item is field tested, recovered, and packaged separately.
- B. The minimum amount of a controlled substance must meet the following criteria for state prosecution in all counties within the city limits of Kansas City, Missouri:
- 1. Marijuana must be 35 grams or greater.
 - *2. Cocaine/crack, methamphetamine, ecstasy, heroin, PCP, GHB, LSD in any measurable amount.
 - *3. Other suspected controlled substances - contact DEU personnel for instructions.
- C. Upon notice of a positive field test result, the initiating officer will complete a summons, if applicable, or obtain an Investigation Arrest Approval, Form 176 P.D. In cases where a Form 176 P.D. is required, the member will:
- 1. Contact the on-call DEU detective for investigation arrest approval unless the persons involved are known gang affiliates, then the on-call Gang Squad detective should be contacted.
 - *2. Request a field supervisor to sign the Form 176 P.D. If a field supervisor is not available, contact an on-duty Violent Crimes Division supervisor for the Form 176 P.D. approval signature.

- *3. In cases involving juveniles, contact DEU for further instructions.
- D. The initiating officer will complete all applicable reports including the laboratory analysis request, if applicable. The initiating officer will route the ARS report to DEU by selecting the Drug Enforcement Unit routing tab. 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 the member who conducted the field test, if applicable.
 - *3. Name, rank, and serial number of all other responding personnel.
 - 4. Approximate weight of the substance.
 - a. Any reference to the weight of the substance should be expressed as an approximate weight.
 - *b. Substances other than marijuana should be left in the original packaging for weighing purposes.
 - *c. If the weight of marijuana, measured while in the container, is less than the minimum amount required for state prosecution, the marijuana does not need to be removed from the container for weighing purposes.
 - *d. If the weight of the marijuana, measured while in the container, meets or exceeds the minimum amount required for state prosecution, the marijuana must be removed from the container for weight determination.
 - 5. Result of the field test, if completed. For a positive test result, the report must include the following phraseology:

"The recovered substance was field tested by (tester's name and rank), 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)."

- *6. If a field test was not conducted, the report must include the following phraseology:

“The recovered substance was not field tested due to (reason why the substance was not field tested),” or “The recovered substance was not field tested as instructed by Drug Enforcement Unit personnel (detective’s name).”
- *7. Request for laboratory analysis, if applicable.
- 8. Disposition of the arrest, including summons number(s), booking number(s), or disposition of the juvenile, if applicable.
- 9. Any digital recording that was held according to current department procedure.
- *E. Cases involving juvenile suspects will be documented in the same manner as with an adult suspect. DEU will be contacted and the Tiburon Automated Reporting System (ARS) report will be titled, “Possession of Controlled Substance.”
- F. DEU will be responsible for final disposition of all investigation arrest cases for possession of controlled substances except those cases initiated by the Street Crimes Unit. Upon receipt of the laboratory report, DEU personnel will take the appropriate action for disposition of the case. A copy of the Disposition of Arrest/Apprehension, Form 105 P.D., will be sent to the initiating officer through their Division Commander.
- G. Municipal Court cases involving marijuana with a positive field test result will not be analyzed by the Regional Criminalistics Division Laboratory unless requested by the initiating officer. The following guidelines will be followed for laboratory analysis requests:
 - 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 that the case has been continued and that the prosecutor has requested laboratory analysis for trial purposes. Notification will be made via the Municipal Court Officer Notification docket.
 - *3. Upon receipt of the Municipal Court Officer Notification docket, the initiating officer will submit an electronic evidence analysis request to the Regional Criminalistics Division Laboratory via FA Property Connect.
 - a. Access to FA Property Connect is through the link on the internal webpage.

- b. The member will complete the analysis request by entering all requested information into FA Property Connect.
 - c. In the "Detailed Analysis Request" section, the member will include the following phraseology:

"Suspected marijuana field tested positive and lab analysis needed for trial on (enter court date)."
 - 4. Upon receipt of the request for evidence analysis, laboratory personnel will perform the appropriate testing to confirm the results of the field test.
 - 5. A laboratory report will be generated for each analysis request and will be automatically e-mailed to the submitting member. Additional copies of laboratory reports can be generated by the Regional Criminalistics Division upon request.
- 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 member should notify DEU.
 - b. If DEU opts 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 Progressive Investigation report, include the name, date, and time of contact with DEU personnel. In the narrative include the decision to pursue state charge(s), the courtroom, the date and time, and the summons number of the charge(s) to be dismissed.
 - (2) Forward a copy of the laboratory report with a copy of the Progressive Investigation report to the Municipal Court Liaison Officer.
 - c. If DEU 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.

3. If the laboratory report does not confirm the presence of a 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 member will request that the charge be dismissed by attaching a copy of the Progressive Investigation report to a copy of the laboratory report and forwarding the reports to the Municipal Court Liaison Officer.
 - c. The Municipal Court Liaison Officer will follow established procedures for dismissing municipal charges for possession of marijuana when a copy of the laboratory report is received as outlined above.
 - *d. The Property Disposition, Form 5743 P.D., will be completed and forwarded to the Property and Evidence Unit to request property disposal. Include the case report number and the tag number.

WARRANT APPLICATION / MUNICIPAL SUMMONS PROCEDURE

- A. A federal or state arrest warrant application or a municipal summons or warrant application 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 testing (e.g., known suspect who escapes after recovery subsequent to an arrest, search, and seizure, sick or injured arrest taken to the 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 municipal summons or warrant applications 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." The Progressive Investigation report should outline the results of the laboratory examination including the approximate 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 Progressive Investigation report.

- *C. DEU will be responsible for processing federal or state warrant applications in cases involving laboratory confirmation of the following:
 - 1. Any controlled substance meeting or exceeding the minimum amount required for state prosecution. If charges have already been filed for possession of a controlled substance as a result of a positive field test, DEU personnel will evaluate the case to determine if additional charges or the pending charges should be pursued.
 - 2. Any controlled substance meeting or exceeding the minimum amount required for state prosecution which tested negative to field testing or was not subjected to field testing.

- D. Narcotics and Vice Division personnel will process federal or state warrant applications or municipal summons or warrant applications on cases submitted by their Division.