

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

MARIJUANA CASES  
SUBJECT

DATE: March 1, 2005

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 regards to marijuana use and/or possession must be viewed in the same light as any other misdemeanor.
  - 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 Cannibas" means the separate resin whether crude or purified, obtained from marijuana (i.e. hashish, hash oil).
  - 2. 11357 (a) H&S - Possession of any concentrated cannibas (felony).
  - 3. 11357 (b) H&S - Possession of one (1) ounce marijuana or less "misdemeanor," punished by fine of not more than \$100.00. Arrested to be released with written promise to appear in court as proved in Section 853.6 of the Penal Code and shall not be subjected to booking.
  - 4. 11357(c) H&S - Possession of more than one (1) ounce of marijuana other than concentrated cannibas, "misdemeanor."
  - 5. 11358 H&S - Cultivation of marijuana - felony.
  - 6. 11359 H&S - Possession of marijuana for sale - felony.
  - 7. 11360(a) H&S - Sales, transportation, furnishing, administers, giving away or attempts to import into this state or transport more than one ounce of marijuana - felony.
  - 8. 11360(b) H&S - Every person who gives away, offers to give away, or transports less than one ounce of marijuana, is guilty of a misdemeanor, 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.

9. 11361(a) H&S - Every person 18 years of age or over who hires, employees, 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).
10. 11362.5 H&S -
11. 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

#### B. Misdemeanor

1. Misdemeanor arrest for possession of less than one ounce of marijuana, 11375(b) H&S, or giving or offering to give away or transporting less than one ounce of marijuana, 11360(b) H&S.

NOTE: If a subject has been arrested for any other charge and is going to be booked for that charge, a citation shall be issued for 11357(b) or 11360(b) H&S (Example #1). No mention of the marijuana arrest (subject being cited) shall be reflected in the crime report made for the other charge. In cases where the marijuana violation was probable cause leading to a separate charge, the officer may incorporate this in his/her arrest report. However, he must leave out any mention of the subject's arrest (subject being cited) for the marijuana offense.

If a subject is arrested for another violation for which he is going to be cited, two (2) citations will be issued (Example #2).

#### a. Disposition of arrested subject.

1. A subject arrested for 11357(b) H&S or 11360(b) H&S must be cited on a Stockton Police Department "Notice to Appear" citation.

(a) Provided the individual presents satisfactory evidence of identification and gives his/her written promise to appear, he/she must be cited.

(b) Arresting officer will make out a Stockton Police Department "Notice to Appear" citation.

NOTE: This will apply if there is also a traffic violation along with the marijuana offense.

(1) Filling out all needed information.

(2) Check the box for "Infraction" and not "Booking Required".

(3) For court date and time, refer to the current court schedule.

(c) If the subject is to be cited for 11357(b) H&S possession of less than one ounce of marijuana or 11360(b) H&S (giving away, offering to give away or transporting less than one ounce of marijuana) --

- (1) No crime report is necessary.
- (2) The arresting officer will make necessary notes on the reverse side of pink page citation.
- (3) The property record number shall be clearly noted on the reverse side of the citation.
- (4) If the subject is booked for possessing less than one ounce of marijuana (fails to provide satisfactory evidence of identification or refuses to give written promise to appear) the arresting officer will complete an ARS arrest report.

2. Misdemeanor arrest for more than one ounce of marijuana.

NOTE: If the subject is arrested for another crime and found to be in possession of more than one ounce, this shall be incorporated into the ARS report.

a. Disposition of the arrested subject is the officer's option - cite or book.

- (1) The subject may be cited if neither the quantity of the marijuana nor the circumstances indicate any intent to sell the marijuana; otherwise, the subject is to be booked.

NOTE: The following procedure should be followed if the subject is being cited for another charge (traffic or misdemeanor) along with the marijuana offense:

b. If the arrested subject is to be cited for 11357(b) H&S on a "Notice to Appear" citation, it should be completed as follows:

- (1) Filling out all needed information.
- (2) Arresting officer to weigh the marijuana and note on the back of the pink copy of the citation the weight, number, and type of packaging of the marijuana.
- (3) Check the "Booking Required" box.
- (4) Write in the date and time the subject is to appear. Refer to the current court schedule, located in the headquarters area.

3. If the arrested subject is to be booked, the arresting officer will:

a. Complete a arrest report.

4. The marijuana should be weighed prior to the suspect being cited or booked for "over one ounce."

a. Disposition of marijuana evidence more than one ounce.

- (1) The arresting officer will book the evidence onto a Stockton Police Department property record.

b. Disposition of felony marijuana arrests shall be handled as any other felony charge would be.