

**SAN DIEGO POLICE DEPARTMENT
PROCEDURE**

DATE: JUNE 20, 2017

NUMBER: 3.13 – INVESTIGATIONS

SUBJECT: NARCOTIC ENFORCEMENT PROCEDURES

RELATED POLICY: 3.13

ORIGINATING DIVISION: INVESTIGATIONS I

NEW PROCEDURE:

PROCEDURAL CHANGE: **MINOR CHANGES**

SUPERSEDES: DP 3.13 – 06/24/2015

I. PURPOSE

This Department procedure establishes guidelines on the enforcement of narcotic violations and the handling of narcotics and related evidence.

II. SCOPE

This procedure applies to all sworn members of the Department.

III. PROCEDURES

- A. An investigation shall be made of all reported or suspected violations of State and Federal narcotic laws.
- B. Most narcotic investigations are conducted by field officers as a result of traffic stops, field interrogations, citizen's information, and personal observations. These are investigations, which normally take a short period of time are within the scope of a field officer's duties.
- C. If a field officer becomes involved in a narcotics investigation, he or she must contact a supervisor to determine if the Narcotics Section should be notified. The Narcotics Section should be contacted in all of the following circumstances:
 - 1. Sales;

2. Possession for sales;
3. Manufacturing;
4. Cultivation;
5. Multiple suspects;
6. Extensive follow-up;
7. Large amounts of money;
8. Drug-related crimes (robberies, kidnappings);
9. Requests from outside agencies (“Wall” cases);
10. Narcotic-related confidential informant issues;
11. Medicinal marijuana claims and dispensaries;
12. Pharmaceutical and prescription fraud investigations; and,
13. Guidance on other narcotic-related issues.

It will be the decision of a Narcotics Section supervisor whether or not to respond to assist with the investigation.

- D. On occasion, circumstances that warrant an initial inquiry will change during a field narcotic investigation. When it becomes apparent that a time consuming investigation must be made, the field officer, unless otherwise directed by his or her supervisor or the Watch Commander, shall end his or her involvement at a point that will not impair the investigation. All information shall be submitted to the Narcotics Section for follow-up. If appropriate, Narcotics Section personnel shall be called to the scene.
- E. Field officers and investigators assigned to units other than Narcotics should refrain from entering areas believed to contain clandestine drug laboratories.
 1. Upon encountering such a scene, officers should take the necessary action to protect public safety.
 2. The scene should be isolated and contained and the Watch Commander’s Office notified.

3. It shall be the responsibility of the Watch Commander to notify the Narcotics Task Force Lab Team, so action can be taken safely.

IV. ENFORCEMENT PROCEDURES/DISPOSITION OF NARCOTICS EVIDENCE

A. Marijuana (including marijuana concentrates and edibles)

NEW

1. Medical Marijuana - During the initial narcotics investigation, if an individual is in possession of, or cultivating marijuana and claims it is medical marijuana, the officers will follow procedures outlined in **DP 3.28, "Medical Use of Marijuana Enforcement Procedure"**. If it is determined the marijuana or person does not qualify under medical marijuana laws then the officer should then determine if the person can legally possess it as non-medical marijuana under the Adult Use of Marijuana Act (Proposition 64). If not, then the appropriate enforcement should be taken.

NEW

2. Non-Medical Marijuana - As of November 9, 2016, any adult age 21 or over can legally possess and cultivate certain amounts of non-medical marijuana. Officers should reference **Training Bulletin #16-12, "Proposition 64: Adult Use of Marijuana Act" (dated November 10, 2016)** to determine if the adult is in violation of non-medical marijuana laws or is within legal limits. If he or she is in violation, the appropriate enforcement should be taken (see Addendum A of the Prop 64 Training Bulletin for all appropriate charging sections and dispositions). Anyone under 21 is not legally allowed to possess non-medical marijuana.

NEW

3. All marijuana that is illegal shall be weighed (see DP 3.15) and impounded as narcotic evidence. Legally possessed marijuana in the possession of a suspect being booked into jail on other charges shall be weighed and impounded at Headquarters Property Room under a separate bar code **as bulk/personal property** and a property release form shall be provided to the owner (See DP 302). The marijuana should be placed in a sealed narcotic envelope and placed in the narcotic bin. Marijuana will not be thrown away or destroyed, except in accordance with applicable laws and Department procedures.

B. Felony Offenses

1. All persons who are in violation of the felony narcotics laws shall be taken into custody.

2. If circumstances exist which prevent an immediate arrest, the narcotic evidence shall, in all cases, be impounded and a police report made by the investigating officer.
3. This report will serve as the basis for determining whether a warrant of arrest may be issued.

C. Misdemeanor and Infraction Offenses

NEW

1. All persons who are in violation of misdemeanor or infraction narcotic laws shall be cited or arrested depending on the charge and circumstance.

NEW

2. In all cases, the narcotic evidence shall be impounded and the proper documentation shall be made by the investigating officer.

D. It is not within the scope of a police officer's authority to decide not to take enforcement action, even though the controlled substance is, in the mind of the officer, not a "usable amount."

1. "Usable amount" can be generally defined as any narcotic substance saved for later use, and could include a partially smoked marijuana cigarette or a single pill.
2. The courts and prosecuting agency, not the police officer, have the responsibility to determine whether the amount of the narcotic evidence impounded in each case is considered a "usable amount."
3. An exception to this would be random debris, residue or a useless trace, obviously not being saved, which might be found on the floorboard of a vehicle, the bottom of a shirt pocket, in an ashtray, etc.
4. Such particles are good corroborative evidence to support a charge based on other evidence, but will not support a charge alone.

E. California Health and Safety Codes (Sections 11472 through 11479.5) govern the seizure and disposition of controlled substances. All controlled substances and unlawful paraphernalia coming to the attention of any officer shall be seized and ultimately turned over to the State for destruction, whether or not an arrest is made or a trial held.

F. Officers who seize controlled substances from persons who are not placed under arrest, or who recover found controlled substances, shall document the incident on an ARJIS-9 (Officer's Report) Form. The report shall contain accurate detailed

facts concerning the circumstances surrounding the seizure or recovery, and shall be approved by a supervisor. The original ARJIS-9 shall be sent to Records. A copy of the ARJIS-9 report shall be forwarded to the area command narcotics investigator.

- G. Destruction of any amount of a controlled substance in any manner other than prescribed by law is prohibited.
 - 1. All narcotic evidence, including paraphernalia, coming into the possession of a police officer shall be impounded without exception.
 - 2. See Department Procedure 3.15 (Narcotics Impounds/Release of Evidence) for proper narcotic evidence impounding procedures.
- H. In some instances involving small quantities of pills that are not readily recognizable as controlled substances, officers may impound the pills and submit appropriate reports without making a physical arrest. In these cases, complaints will be obtained at a later time if the evidence warrants.
- I. Do not make notes in the report questioning the legality of the stop, search or statements. The prosecuting agency will decide if the facts, as indicated in the report, justify the issuance of a criminal complaint.
- J. When dealing with narcotic informants, refer to general informant procedures in Department Procedure 3.16 (Informant Procedures).

V. PHARMACEUTICAL AND PRESCRIPTION FRAUD INVESTIGATIONS

- A. Patrol officers responding to radio calls of pharmaceutical or prescription fraud involving in-custody suspects will use the following procedures:
 - 1. Between 0800 hours and 1700 hours, Monday through Friday:
 - a. Upon arriving and securing the suspect(s), patrol officers will conduct preliminary interviews of witnesses (pharmacists, store employees, pharmaceutical technicians, etc.).
 - b. The investigating patrol officer will then telephone the Narcotics Section at (619) 531-2468 and ask that a Narcotics Section team detective contact him or her. The officer will provide a telephone number where he or she can be reached.
 - 2. When contacted by a Narcotics Section detective, the patrol officer will explain his or her findings during the preliminary investigation.

3. On Saturdays and Sundays, and after 1700 hours on weekdays, patrol officers will follow the initial investigative procedures outlined above. Upon completion of the initial investigation, the officer(s) will contact the Watch Commander and ask that the Narcotics Section “on-call” supervisor be notified of the investigation and asked to telephone the officer.
- B. In situations where patrol officers respond to pharmaceutical or prescription fraud radio calls where the suspect(s) is not present upon their arrival, they will conduct a preliminary investigation. Upon completion of the investigation, the officer(s) will prepare an ARJIS-9 report and submit it to the Narcotics Section (Mail Station 756) at the end of their shift. Officer(s) will ensure that the ARJIS-9 minimally includes the following information:
1. Names, addresses, and telephone numbers of the following individuals:
 - a. Pharmacist;
 - b. Store employees, involved or contacted;
 - c. Doctor, involved or contacted; and,
 - d. Doctor’s office employee(s), involved or contacted;
 2. All names used by suspect(s) during telephone prescription call-ins (i.e., suspect(s) often use a fictitious name while identifying themselves as a doctor office employee);
 3. Type, quantity, and weight of pharmaceutical drug involved; and,
 4. Description of the crime.

VI. IMPOUNDING VEHICLES AS A NARCOTICS SEIZURE

- A. The following guidelines will be used in determining whether to impound vehicles as a narcotics seizure:
1. Established value of at least \$5,000 or more in equity;
 2. Contains any usable quantity of narcotics; or,
 3. Registered owner is aware of drug use and/or transportation of drugs.
- B. Prior to impounding a suspect vehicle, contact the following for approval:

1. Narcotics Task Force (NTF) agent/supervisor from the Asset Removal Group, (858) 616-4472; or,
 2. The Watch Commander (if the NTF supervisor is not available).
- C. For guidelines on reports and vehicle dispositions after approval, refer to Department Procedure 3.23, Impounding and Temporary Use of Seized Property.

VII. ACCESS TO THE SAN DIEGO LAW ENFORCEMENT COORDINATION CENTER (SD-LECC)

The San Diego Law Enforcement Coordination Center (SD-LECC), formally the Narcotics Information Network (NIN), and the Western States Information Network (WSIN) are State-run clearing houses for narcotic investigations. The purpose of SD-LECC and WSIN is to enhance officer safety throughout San Diego and Imperial Counties, reduce duplication of efforts among law enforcement agencies, and promote the exchange of information crucial to multi-jurisdictional investigations.

A. Business Hours Access

1. Field officers conducting narcotics investigations shall call the Narcotics Section during normal working hours prior to performing any search warrants or fourth waiver searches on subjects and/or specific target locations (i.e., residences) connected to narcotics investigations. It is mandatory that the SD-LECC system be checked prior to any narcotics investigation; this responsibility lies with the field officer initiating the investigation. This can be accomplished by the field officer calling SD-LECC or, in the event the Narcotics Section is contacted, the Narcotics Section detective should contact SD-LECC.
2. The Narcotics Section detectives are on duty from 0700 to 1700 hours on weekdays. They should be contacted for assistance before any work is started on a complaint of narcotics trafficking. The Narcotics Section has access to the various computer systems and maintains a log of all complaints under investigation and received by the San Diego Police Department.
3. Narcotics Section personnel will execute any narcotics-related search warrant initiated by a command and will assist with narcotic investigations or any requests for intelligence information from the SD-LECC or WSIN computer system. They must be contacted as early into the investigation as possible.

B. After-hours Access

1. Between 1700 and 0700 hours on weekdays and during weekends, officers can access the SD-LECC and WSIN computer system through the Watch Commander's Office.
2. When calling the Watch Commander's Office, members should be prepared to provide the following information:
 - a. The name of the suspect;
 - b. The address of suspected drug dealings (if known);
 - c. The location of narcotics investigations;
 - d. Vehicle information (if known); and,
 - e. Any known phone numbers the suspect is utilizing to communicate.
3. The Watch Commander's Office will call the SD-LECC/WSIN and check their intelligence files. No action will be taken until a response is obtained from SD-LECC/WSIN.
4. If SD-LECC or WSIN responds that there are no hits on the inquiry, the Watch Commander will advise the requesting officer of the results. The officer can then continue with the investigation, following all other proper procedures.
5. If there is a hit on SD-LECC or WSIN, the Watch Commander will notify the Narcotics Section Lieutenant or his/her designee. The Narcotics Section's on-call sergeant will contact the officer requesting the inquiry and advise on how to proceed with the investigation.

VIII. DRUG COURT

The San Diego Superior Court Drug Court Program is a collaborative effort by the Superior Court, San Diego Police Department, District Attorney's Office, San Diego County Sheriff's Office, Public Defender's Office, and numerous treatment providers to combat the recidivism rate associated with drug-related arrests.

A. Drug Court Program

1. Defendants enter the program after pleading guilty .

2. The length of the program is a minimum of 18 months.
3. After successful completion of Drug Court, probation may be terminated, or all drug related charge(s) to which the defendant pled guilty may be dismissed upon the recommendation of the prosecutor.

B. Qualified participants

The Court, District Attorney's Office, and Drug Court Advisory Team will assess overall eligibility for the Drug Court Program; however, officers can recommend arrested individuals. Adults who have misdemeanor or felony offenses are eligible for Drug Court. When a suspect is arrested on a narcotics-related matter or some other charge with a nexus to narcotics, the arresting officer will determine if the suspect meets the following criteria:

1. No history of violence, with some exceptions to be determined by the Judge.
2. Driving under the influence will be accepted on a case-by-case basis, but the charges will not be dismissed after successful completion of the program.
4. The current charge cannot be for Sales of a Controlled Substance, Transporting a Controlled Substance, or Acting as a Facilitator (11379 H&S), Manufacture of a Controlled Substance (11379.6 H&S), or Possession of a Controlled Substance for Sale (11378 H&S), with some exceptions to be determined by the Judge.
5. Cannot be a registered sex offender (290 PC).
6. Cannot be a confidential informant for any law enforcement agency.
7. Cannot be a documented gang member, with some exceptions to be determined by the Judge.

C. Drug Court Liaison

1. Drug Court liaison officers are assigned to the Narcotics Section. These officers can be reached at (619) 531-2468, Monday-Friday between 0700 to 1700 hours.
2. The responsibilities of the liaison officers include, but are not limited to:
 - a. Arrest participants when warrants are issued for their arrest.

- b. Check police records daily to ascertain if any participants were arrested, contacted or field interviewed and report this information to the court.
- c. Monitor participants in the program and report their status to the court.
- d. Conduct random drug testing of Drug Court participants in the field.
- e. Maintain accurate records of all participants in the program.
- f. Attend Drug Court weekly
- g. Attend Drug Court Graduations

D. Officer Notification System (ONS)

Drug Court participants are entered into the ONS. Participants are required to notify officers when they are contacted in the field that they are in the Drug Court Program.

1. All participants are subject to a fourth waiver.
2. If a participant is arrested or contacted, the officer must notify the Drug Court liaison officers at MS-756, Narcotics Section, or by calling (619) 531-2468. After hours, notify the liaison officers by contacting the Watch Commander's office. The Watch Commander will provide a phone number to the on-call Narcotics Sergeant who will notify the liaison officer.
3. Upon either termination or graduation from the Drug Court Program, the participant will be removed from the ONS System.

NEW

IX. “WHISPER STOPS” AND “WALL CASES”

- A. “Whisper Stops” and “Wall Cases” are cases in which a confidential informant is legally denied to the defense. Such cases are used by law enforcement agencies when involved in complex narcotic investigations related to large trafficking organizations. The purpose of such an investigation is to separate the smaller components of the organization for prosecution without jeopardizing the overall investigation, or revealing the informant, or undercover operative. This is considered building a “wall” between the two cases.
- B. If a patrol officer is contacted by an outside agency regarding a “Whisper Stop” or “Wall Case,” they should immediately contact a supervisor from the Narcotics

Section. If the contact is made outside of regular business hours, the Watch Commander will page an on-call Narcotics Supervisor.

- C. The Narcotics Section will take the lead role in these investigations and coordinate their efforts through the District Attorney's Office.
- D. The supervisor in charge will coordinate the "Whisper Stop" or "Wall Case" and act as a liaison with the requesting unit. Uniformed officers will initiate the contact with the designated subject and activate their body worn camera in accordance with Department Procedure 1.49. Officers shall ensure confidential communication with the supervisor and/or requesting unit is not recorded.