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"INTEGRITY...FAIRNESS...SERVICE"

SPECIAL ORDER # 2014-06

Date: September 23, 2014

TO: All Police Department Personnel. To be Announced at Roll Call and a Copy Posted on the Bulletin Board for 30 Days.

RE: Possession of Marijuana-THC - Civil Offense.

EFFECTIVE: October 1, 2014.

BACKGROUND: During the 2014 Legislative Session, the Maryland General Assembly passed Senate Bill SB0364. This bill makes the use or possession of less than 10 grams of marijuana-THC a civil offense rather than a criminal violation. Senate Bill SB0364 will take effect on October 1, 2014. The Department has developed new policy and procedures for members to follow when enforcing laws addressing the possession of marijuana-THC.

It is important for members to understand that this legislation does not legalize the possession of marijuana-THC. After October 1, 2014, the possession of marijuana-THC will still be illegal in Maryland; however individuals found in possession of small amounts will not be subject to prosecution in the criminal courts of the state, but will be subject to penalties in the civil courts. Members will also continue to be required to submit all recovered marijuana-THC to the Evidence Management Unit (EMU) to be held as evidence or destroyed.

The District Court of Maryland for Baltimore County has agreed to schedule the civil court trials in reference to these violations on Department members' scheduled court dates. To assist the courts in selecting the correct trial dates, members will now be required to place a sufficient number of their scheduled criminal court dates on the Forms DC/CR4, Statement of Probable Cause, attached to civil citations.

Distribution of civil citations written for possession of marijuana-THC will remain the same as that for other civil violations.

It is important to remember that subjects in possession of less than 10 grams of marijuana-THC will now be charged with a civil violation, and cannot be searched incident to arrest, as was done in the past. Members must also know that a requirement to provide officers with identification was not included in the new law. Due to the lack of this requirement, members cannot arrest a subject to determine their identity as we do with other civil violations. Finally, regardless of whether a subject is charged civilly or criminally, members will confiscate all paraphernalia and submit it to the EMU.

PURPOSE: To establish procedures for members to follow when enforcing the laws addressing possession of marijuana-THC after October 1, 2014.

RELATIONSHIP TO DEPARTMENTAL VALUES: This Special Order demonstrates the Department's commitment to **SERVICE** by providing members with policy and procedures that reflect changes in Maryland's law.

SPECIAL ORDER #2014-06 (Continuation)

POLICY:

MEMBERS ENCOUNTERING SUBJECTS IN POSSESSION OF MARIJUANA-THC

- May, under circumstances providing probable cause to believe the subject is in possession of a felonious amount of marijuana-THC, or distributing marijuana-THC:
 1. Arrest the subject, and complete the required charging documents (i.e., Forms DC/CR2, Statement of Charges, and DC/CR4, for adults or a Form 117, Juvenile Referral/Custody Report, for juveniles).
 2. Seize the marijuana-THC and submit it for analysis pending further investigation.
- May, under circumstances that do not support a criminal charge for felony possession, or distribution, but do provide probable cause to believe the subject possesses 10 or more grams of marijuana-THC:
 1. Arrest the subject, and complete the required charging document, if the arrest is intended to further another criminal investigation.
 2. Charge the subject with criminal possession of 10 or more grams of marijuana-THC in the event the subject has been arrested for other criminal charges.
 3. Seize the marijuana-THC and submit it for analysis pending further investigation.
 4. Seize the marijuana-THC and issue the subject a civil citation for possession of less than 10 grams of marijuana-THC.

NOTE: In cases where the subject is arrested, the charging document will explain how the arresting member preliminarily determined the amount of marijuana-THC recovered was 10 grams or greater based upon the member's training, knowledge and experience.

- Under circumstances that do not provide probable cause to believe the subject was in possession of a felonious amount of, or distributing marijuana-THC, and the amount of marijuana-THC is less than 10 grams or undetermined, will seize the marijuana-THC and:
 1. Issue the subject a civil citation for possession of less than 10 grams of marijuana, or
 2. Submit it to the EMU pending further investigation.
- Will not complete a civil citation if the marijuana-THC being seized is an element of a traffic or criminal charge.

SUSPECT IDENTIFICATION

- Members will not arrest subjects to determine their identities when issuing a civil citation in reference to possession of marijuana-THC.
- Subjects being issued civil citations shall not be compelled to present valid identification.
- Members who cannot identify a subject in reference to a civil marijuana-THC violation will:
 1. Seize the marijuana and submit it to the EMU.
 2. Follow-up all available information to determine the subject's identity.
 3. Issue a civil citation only after the subject's identity has been confirmed.

MEMBERS COMPLETING CIVIL CITATIONS

- Request the precinct desk officer conduct a search of the court system's civil citation records, to determine if the suspect has prior civil violations for possession of less than 10 grams of marijuana-THC.

NOTE: Only adult offender records will be available in the court system's records. Members may also use InPursuit and personal knowledge to determine the number of prior violations.
- Indicate the appropriate fine on the citation, based upon the number of prior violations discovered.

NOTE: If the number of prior violations is unknown or cannot be determined, members will charge the subject indicating it is their first violation.
- Place a sufficient number of their assigned criminal court dates on the Form DC/CR4.
- Will use the command's copier to scan the packaged marijuana-THC. Members will place a copy of the scanned image into their case file and attach a copy to the citation.

SPECIAL ORDER #2014-06 (Continuation)

MEMBERS SUBMITTING MARIJUANA-THC TO THE EVIDENCE MANAGEMENT UNIT

- Follow current procedures addressing the packaging and submitting of marijuana-THC.
- Will not submit a Form 98, Request for CDS Analysis, if only charging a subject with a civil violation.
- Complete a Form 128, Disposition of Property/Evidence, indicating disposal/destruction if the suspect was issued a civil citation.

IMPLEMENTATION: This Special Order will be distributed electronically to all Department members and non-sworn supervisors. Shift/unit supervisors will be responsible for the posting and referencing of this Special Order.

By order of,

James W. Johnson
Chief of Police