



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

760 - CONTROLLED SUBSTANCES

GENERAL ORDER: 2015-46
ISSUED: September 10, 2015

EFFECTIVE: September 10, 2015

REVIEWED/APPROVED BY:
Captain Mark Stanmeyer
DATE: August 23, 2016

ACTION: Amends General Order 2015-40 (August 24, 2015)

WILEAG STANDARD(S): 6.5.1, 11.2.1

760.00 PURPOSE

The purpose of this standard operating procedure is to identify the department's procedures regarding controlled substance investigations, arrests, and the inventorying of controlled substances or paraphernalia.

760.05 DEFINITIONS (WILEAG 6.5.1)

A. CONTROLLED SUBSTANCE

A drug, substance or immediate precursor included in Schedules I to V in subchapter II [Wis. Stat. § 961.01(4)].

1. Substances that have the appearance of a controlled substance but test "negative" shall be inventoried as controlled substances.
2. All prescription medications, scheduled or un-scheduled and "unknown" substances shall be inventoried as controlled substances.

B. RESIDUE

Minute traces of a controlled substance.

C. DRUG PARAPHERNALIA

Equipment, products and materials of any kind that are used, designed for use or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog in violation of Wis. Stat. § 961.

760.10 DISTRICT STATIONS (WILEAG 11.2.1)

- A. District commanders shall provide adequate workspace for drug testing.
- B. Only department personnel trained in the use of the Narcotics Pouch Test (NPT) are authorized to test for controlled substances using the narcotics pouch. District

commanders shall ensure their district is stocked with narcotic testing pouches. The Printing and Stores Section shall be contacted for additional pouches as needed.

- C. District stations drug testing areas shall be equipped with an electronic scale.
- D. A “drug safe” shall be located in all district stations, and kept in a secure location, as determined by the commanding officer. [REDACTED]
[REDACTED]
- E. Large quantities of seized narcotics that cannot fit into the district’s drug safe shall be conveyed to PCS and be inventoried.
(WILEAG 11.2.1.5)
- F. Security envelopes shall be used only to secure suspected or confirmed controlled substances. District commanders shall ensure that a sign out log is used to record the name of the officer using the security envelope. Any voided security envelopes shall be recorded as such and deposited in the district “drug safe.”
- G. District commanders shall ensure that adequate security envelopes are available. The Printing and Stores Section shall be contacted to obtain additional security envelopes when needed.

760.15 PROCESSING ARRESTS AND CONTROLLED SUBSTANCES (WILEAG 6.5.1, 11.2.1)

A. ARRESTS AND RECOVERED CONTROLLED SUBSTANCES

1. Officers effecting a controlled substances related arrest and/or recovering suspected controlled substances, except those assigned to the Narcotics Division, shall immediately notify the shift commander of the district in which the arrest or recovery occurred. This notification shall be made from the location of the arrest or recovery.
2. If a large or unusual amount of controlled substances is recovered, district shift commanders should contact a Narcotics Division supervisor for guidance regarding the controlled substances and/or arrest. [REDACTED]
[REDACTED] “No-case” controlled substances recoveries, as well as city possession of marijuana and paraphernalia cases, should be processed at a district station.
3. After receiving instructions from their shift commander regarding processing the case, officers shall immediately convey the arrested person and/or suspected controlled substances to be processed. Officers shall not convey prisoners from the original arrest scene prior to receiving instructions for processing the case. If exigent circumstances exist, and prior to receiving instructions where the arrest will be processed, the prisoner may be transported to a district station or to the Central Booking Section.
4. Controlled substances shall be inventoried by placing the substances in a security envelope (form PE-14S or M). If small items of paraphernalia are involved, they

may also be placed into the security envelope along with the controlled substances.

Any paraphernalia that does not contain residue shall be inventoried and stored in the general storage area of a district station or Property Control Section. If the controlled substances exceed the capacity of the security envelope, the controlled substance may be packaged in the larger envelopes (form PE-14M) or telescoping boxes provided for packaging controlled substances. If the security envelope is numbered, the number shall be entered on the inventory report above the inventory report number.

The member testing the controlled substance and a witness shall place his or her signature on the security envelope or box after the envelope has been sealed. After the inventory has been signed by a supervisor, the security envelope, as well as the inventory shall then be placed in the district drug safe. No other location may be used to store controlled substances except as authorized by the Chief of Police or designee.

(WILEAG 11.2.1.5)

5. The arresting officer(s) shall interview the suspect(s) in custody for state statutes narcotics related cases. If the arresting officer(s) believe that the suspect(s) should not be interviewed, they shall consult with their shift commander.

B. NARCOTICS INCIDENT REPORT

1. A *Narcotics Incident Report* (form PV-3A, PV-3B or PV-3C) shall be completed whenever controlled substances are recovered. Only one PV-3A, PV-3B or PV-3C is required for seizures that occur at one location during a short time period even if it involves multiple types of controlled substances and/or multiple arrests.
2. A supervisor may determine that a *Department Memorandum* (form PM-9E) (lieutenant's report) should be filed in lieu of the PV-3A, PV-3B or PV-3C. A lieutenant's report is filed in cases involving a significant seizure, buy-bust, search warrant, etc.
3. The PV-3A shall be used for all seizures and controlled substance arrests made by the Narcotics Division.
4. The PV-3C shall be used for all seizures and controlled substances arrests made by non-Narcotics Division personnel. The PV-3C shall be reviewed and signed by a supervisor.
5. The PV-3B shall be used in addition to PV-3A or PV-3C whenever multiple arrests are made and/or multiple seizures of controlled substances occur during one incident.
6. The lieutenant's report shall be faxed to the Narcotics Division upon completion if the case is processed at a district station.

7. All completed PV-3C reports shall be sent to the Narcotics Division weekly [REDACTED]
[REDACTED]

C. ASSET FORFEITURE REQUIREMENTS (MONEY SEIZURES)

1. Federal Money Seizure Requirements are:

- a. \$5,000 and above from one person or from one location with an arrest for a qualifying charge.
- b. \$5,000 and above from one person with no arrest and reasonable suspicion it is proceeds of drug trafficking. Department members shall contact a Narcotics Division supervisor prior to seizing monies with no arrest.

2. State Money Seizure Requirements are

\$1,000 and above from one person or from one location with an arrest for a qualifying charge. Department members are prohibited from seizing any money below \$1,000 under federal or state seizure laws.

Note: The mere possession of money in and of itself does not constitute a crime and the mixing of funds from more than one person or from more than one location is prohibited.

3. Time Lines

Federal forfeiture proceedings must be initiated within 10 days of the arrest. State forfeiture proceedings must be initiated within 30 days of the arrest. Weekends and holidays count toward these deadlines. Timely submission of reports to the Narcotics Division is imperative.

- #### 4. Officers finding money which is believed to be the proceeds of drug trafficking shall make a cursory inspection of the money to ensure that the money is eligible to be seized under federal or state seizure laws with a qualifying charge. Qualifying seizure charges include:

- a. Possession of a Controlled Substance with Intent to Deliver
- b. Delivery of a Controlled Substance
- c. Conspiracy to Deliver a Controlled Substance
- d. Conspiracy to Possess a Controlled Substance with Intent to Deliver
- e. Maintaining a Drug Trafficking Place (Keeper of a Drug House)
- f. Manufacture of a Controlled Substance
- g. Delivery of an Imitation Controlled Substance

- #### 5. When an arrest is made for a qualifying charge and there are assets the arresting officer believes are subject to forfeiture under Wis. Stat. § 961.55 he/she shall contact his/her shift commander to ensure that the asset(s) in question are eligible for seizure. If the shift commander believes that a Narcotics Division response is warranted, the shift commander shall contact a Narcotics Division supervisor. [REDACTED]

REDACTED

6. The final count of the money shall be documented in all reports and memorandum books of the supervisor on scene and the seizing officer. A supervisor from the Narcotics Division shall determine who the seizing officer is, but when appropriate the shift commander can also make this determination.
7. If money is found during an investigation and/or arrest, and if no one claims ownership of the money, the shift commander or the investigating member shall contact a Narcotics Division supervisor for advice and guidance prior to the member(s) leaving the scene with said money.
8. Money shall not be inventoried or taken to any police facility and the person arrested or in possession of said money shall not be conveyed from the scene of the seizure, unless prior authorization is obtained from the member(s) shift commander, or a supervisor from the Narcotics Division (notification to and from the Narcotics Division shall be conducted through the shift commander).

REDACTED

9. If it is determined that the investigating officers are to inventory the money, the person arrested and in possession of the money shall be listed as the "claimant" on the *Inventory Report* (form PP-32), unless he/she expressly denies ownership. In such cases, this information shall be documented in the "Circumstances" field of the PP-32.
- D. When money is seized under a state (\$1,000 and above) or federal (\$5,000 and above with an arrest or \$5,000 or above with no arrest) money seizure requirement the investigating member shall:
1. Ensure a supervisor responds to the scene to supervise the counting of the monies.
 2. Document final count of the money in all reports and memorandum books of the supervisor on scene and the seizing officer. A supervisor from the Narcotics Division shall determine who the seizing officer is, but when appropriate a shift commander can also make this determination.
 3. Inventory the money as evidence.
 4. Complete all necessary reports related to the arrest.
 5. Make an effort to determine where the monies came from. This shall be documented in the narrative of the incident report.
 6. Send a notification REDACTED containing the following information:
 - a. Incident number;

- b. Suspect name;
 - c. Property to be seized;
 - d. Arresting officers contact information.
7. Make an extra copy of all reports, including a copy of the signed search warrant if applicable.
 8. Forward copies of all reports to the Narcotics Division by the next day.
- E. The Narcotics Division shall prepare all necessary reports needed to commence any federal or state asset forfeiture process if applicable.
- F. PROPERTY CONTROL SECTION (PCS)
1. PCS shall be responsible for the retention of evidence in all narcotics cases.
 2. PCS personnel shall retrieve all items within the departments' "drug safes" Monday through Friday.
 3. Upon receipt of the envelope, the PCS officer shall stamp, initial, and date the security envelope.
 4. The PCS officer shall date and initial the security envelope before transporting the envelope to the regional crime laboratory.

760.20 "NO CASE" CONTROLLED SUBSTANCES RECOVERY (WILEAG 6.5.1)

- A. When a shift commander determines that recovered controlled substances will be processed as a "no case" (e.g., baggie of marijuana found by a citizen mowing his lawn, [REDACTED] suspected marijuana blunt discovered by the landlord in his vacant boarded-up property) the suspected controlled substances shall immediately be conveyed to the district station.
- B. The district shift commander shall have the suspected controlled substance tested and the weight recorded. The district shall retain the original PV-3C.

Note: Suspected controlled substances shall be processed without delay.

760.25 CITY MARIJUANA CASES (WILEAG 6.5.1)

A. MUNICIPAL CITATION

1. Officers shall issue a municipal citation pursuant to Milwaukee city ordinance 106-38-2 for possession of 28 grams or less of marijuana that appears to be solely for personal use except as noted in subsection 2.

2. Under the following circumstances, possession of any quantity of marijuana shall be considered a violation of state statutes and processed through the Milwaukee County District Attorney's Office:
 - a. The amount of marijuana is more than 28 grams.
 - b. The amount of marijuana is 28 grams or less and evidence of drug trafficking exists.
 - c. The suspect has a history of violence, including any firearms related offense.
 - d. The present offense involved the use, possession, or presence of a firearm or other dangerous weapon.
 - e. Persons on probation or parole.
 - f. The present arrest came out of the execution of a search warrant.

Note: This provision is intended to allow for district attorney review of charges related to the target(s) of a search warrant. In the event a non-related subject possessing small amounts of marijuana is located at the scene of a search warrant – a municipal citation may be issued in lieu of state charges with the member's immediate supervisor's permission.

- g. The suspect is a "known member" of a drug network.

Note: This provision is more than a hunch by the officer that the suspect is a part of a drug network. Rather it must be based on facts known to the officer, such as the suspect being a member of a drug trafficking organization. The [REDACTED] can provide information relative to a suspect's ties to an organization involved in the distribution of drugs.

- h. Investigations involving simple possession of marijuana may also be referred to the District Attorney's Office with the officer's supervisor's approval, if other aggravating circumstances are present.

Note: A Narcotics Division supervisor may be contacted for a final determination of a city or state case.

- B. If a Narcotics Division supervisor determines the case should be processed as a city case under Milwaukee City Ordinance 106-38-2, the suspected controlled substance shall immediately be conveyed to the district station.
- C. The district shift commander shall have the suspected controlled substance tested and the weight recorded. A PV-3C shall be completed and retained at the district. The arresting officer shall question the suspect in custody. A PA-45A and PA-45B shall be completed.

Note: Suspected controlled substances shall be processed without delay.

760.30 RELEASE/DESTRUCTION OF CONTROLLED SUBSTANCES (WILEAG 6.5.1)

- A. Any commanding officer or a supervisor designee can review and authorize the release or destruction of narcotics from a controlled substance case. If a member of one of the Geographic Investigations Division is in charge of the controlled substance case, then only a commanding officer or supervisor designee from the respective Geographic Investigations Division shall review and authorize the release or destruction of said narcotics.
- B. The PCS shall be responsible for the destruction of controlled substances and related paraphernalia as outlined in SOP 560.
1. In cases where constructive possession cannot be proven (e.g., "no case" controlled substances), as well as municipal cases, inventoried controlled substances and/or paraphernalia can lawfully be disposed of according to current retention schedules.
 2. With a disposition order, controlled substances from misdemeanor and/or felony cases may be lawfully disposed of one (1) year following the date of final disposition of the case, if no appeal has been filed.



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