

SPECIAL ORDER



DISTRICT OF COLUMBIA

Title
Marijuana Possession Decriminalization Amendment Act of 2014
Number
SO-14-04
Effective Date
July 17, 2014
Related to:
GO-SPT-401.01 (Field Reporting System)

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I. PURPOSE

The purpose of this special order is to inform Metropolitan Police Department (MPD) members of the enactment of the *Marijuana Possession Decriminalization Amendment Act of 2014*, effective July 17, 2014, which amends the District's laws regarding drug enforcement including but not limited to D.C. Official Code § 48-904.01 *et seq.*, (District of Columbia Uniform Controlled Substances Act).

II. DEFINITIONS

1. District Notice of Violation (NOV) Coordinator – A member with the rank of sergeant or above who is designated by their District Commander to handle the processing of NOVs for their element.
2. MPD NOV Coordinator – A member who serves as the liaison between the MPD and the Office of Administrative Hearings (OAH) and attends all OAH hearings for marijuana-related NOVs. The MPD NOV Coordinator may be contacted at mpdnov.coordinator@dc.gov.
3. Smoke – to inhale, eat, drink, or otherwise introduce marijuana into the body, or to hold or carry a lighted roll of paper or other lighted smoking

equipment filled with marijuana.

III. REGULATIONS

A. The *Marijuana Possession Decriminalization Amendment Act of 2014* provides:

1. Possession or transfer without payment of one ounce or less of marijuana is a civil violation and not an arrestable offense.
2. Possession of drug paraphernalia associated with possession of one ounce or less of marijuana (e.g., bongs, cigarette rolling papers, cigar wrappers) is not an arrestable offense.
3. A person stopped by a member for possession of one ounce or less of marijuana shall provide the member with his/her name and address, but **shall not** be required to possess or display any proof of their identity.
4. It is a criminal offense for a person to smoke or otherwise consume marijuana in a public space or any of the following places:
 - a. A street, alley, park, sidewalk, or parking area;
 - b. A vehicle in or upon any street, alley, park, or parking area;
or
 - c. Any place to which the public is invited.
5. Reasonable Articulate Suspicion
 - a. None of the following shall, individually or in combination with each other, constitute reasonable articulable suspicion of a crime:
 - (1) The odor of marijuana;
 - (2) The possession of, or the suspicion of possession of, marijuana without evidence of quantity in excess of one ounce;
 - (3) The possession of multiple containers of marijuana without evidence of quantity in excess of one ounce;
or

- (4) The possession of marijuana without evidence of quantity in excess of one ounce in proximity to any amount of cash or currency.
 - b. However, Part III.A.5 **shall not** apply when a member is investigating whether a person is operating or in physical control of a vehicle or watercraft while intoxicated, under the influence of, or impaired by alcohol or a drug.
 6. A member **shall not** request or apply for a search warrant if the sole basis for its issuance would be the possession or transfer without payment of marijuana weighing one ounce or less.
- B. Members **shall not** arrest persons on public space or someone else's private property for being impaired by marijuana.
- C. Members shall refer to SO-13-08 (Medical Marijuana) for guidance on handling incidents involving medical marijuana.
- D. Nothing contained in this order is intended to prevent or discourage members from making arrests for possession of more than one ounce of marijuana, the sale of any amount of marijuana, or the distribution of more than one ounce of marijuana.

IV. PROCEDURES

A. Impairment

When conducting a traffic stop involving an impaired person who is suspected of operating a vehicle while under the influence of marijuana, members shall:

1. Handle the incident in accordance with GO-PCA-502.02 [Handling Cases Involving Persons Suspected of "Driving While Intoxicated" and/or "Driving While Under the Influence" (DUI and/or DWI)].
2. If an arrest is made, process any recovered marijuana as evidence.
3. If no arrest is made, confiscate any visible marijuana in accordance with Part IV.C.2-3 of this order.

B. Arrests for Public Consumption of Marijuana

1. Members arresting violators for public consumption of marijuana shall complete a field report in the records management system (RMS) for "Public Consumption of Marijuana."

2. Members may use a PD Form 61D (Violation Citation) to make a non-custodial arrest for “Public Consumption of Marijuana. Members shall be guided by SOP-05-02 [PD Form 61D (Violation Citation)] in determining whether the specific circumstances of an arrest allow for use of the PD Form 61D, or if they must instead make a custodial arrest.
 3. When an offender is arrested for this offense, either through a custodial arrest or by issuance of a PD Form 61D, he or she may be eligible for citation release or elect to forfeit.
 - a. Members shall process the arrestee in accordance with existing Department procedures.
 - b. The collateral amount for an elect to forfeit is \$25.00.
- C. Issuing an NOV for Possession of One Ounce or Less of Marijuana
1. Members who witness a person in possession of one ounce or less of marijuana shall:
 - a. Issue an NOV (Form OAH-1) (Attachment A), carrying a fine of \$25.00, to the violator. The issuing member shall:
 - (1) Check the “Possession of Marijuana” violation box on the NOV;
 - (2) Check the box labeled “D.C. Code 48-1201” in the section titled “DC Code/DCMR Reference”;
 - (3) List on the back of Copy C of the NOV the results of the field test and the name and CAD number of the member who conducted the test; and
 - (4) Direct the violator to the language on the back of the NOV describing the procedural guidelines on how to pay or contest the NOV, and the timelines given; **or**
 - b. Issue a warning NOV to a person in possession of one ounce or less of marijuana when the member feels it to be in best interest of justice.
 2. In all cases, members shall confiscate any **visible** marijuana and paraphernalia.
 3. Members who seize marijuana shall:

- a. Conduct or request a field test to confirm the product is marijuana.
 - b. Make the appropriate entry on the district's property book.
 - c. Complete a PD Form 81 (Property Record), and place the marijuana in a heat-sealed DEA Form 7 (Report of Drug Property Collected, Purchased or Seized) in the drug collection box for destruction as contraband.
 4. Members shall retain:
 - a. Their copy of the Form OAH-1;
 - b. Any notes related to the incident; and
 - c. Any photographs or sketches related to the incident, when taken.
 5. Members shall comply with the provisions of GO-SPT-304.13 (The Use of Photographs in Criminal Investigations) when photographing violators.
- D. Violator Refusals to Provide Name and Address
1. Members shall:
 - a. Request that violators provide a valid name and address. Absent any articulable facts and circumstances supporting a member's belief that a violator is intentionally providing false or fictitious information, the violator's verbal disclosure of their name and address shall be accepted.
 - b. **Not** demand or require violators to produce identification for the violation.
 - c. Inform violators who refuse to provide a valid name and address that the law requires them to provide this information, and if they refuse they may be arrested.
 - d. Make a custodial arrest when violators still refuse to provide a valid name and address for "Pedestrian – Failure to Identify – Marijuana".
 2. Issue a completed NOV once the subject's identity has been established.

E. Submission of NOVs and Related Forms

1. Prior to the end of their shift, members shall submit the following to their check-off official:
 - a. The NOV Copy A;
 - b. Either the original or a copy of the member's notes on Copy C; and
 - c. The corresponding PD Form 81.
2. The check-off official shall place all completed NOV paperwork in the NOV box.
3. District NOV Coordinators or their designees shall ensure all NOV paperwork is forwarded to the MPD NOV Coordinator by interoffice mail for each NOV issued.

F. Hearings for Contested NOVs

1. Upon receiving notice from the OAH that an NOV is to be adjudicated, the MPD NOV Coordinator shall contact the member who issued the NOV by email and request a telephone conference to discuss the specifics of the case.
 - a. The MPD NOV Coordinator shall copy the designated District NOV Coordinator on the email.
 - b. The email shall be sent as early as possible, but no later than five business days prior to a scheduled hearing.
2. The member shall contact the MPD NOV Coordinator to discuss the case within his or her next two shifts of the MPD NOV Coordinator's email being sent.
 - a. The MPD NOV Coordinator can be reached by phone between 0600 and 1600 hours, Monday through Friday. The phone number for the MPD NOV Coordinator is (202) 345-1007.
 - b. The MPD NOV Coordinator can be reached by email at mpdnov.coordinator@dc.gov.
3. If the issuing member has not contacted the MPD NOV Coordinator within two business days of the email being sent, the MPD NOV Coordinator shall contact an official from the member's administrative office, who shall make the member available.

4. The MPD NOV Coordinator shall make arrangements with the issuing member on how to deliver any notes, photographs/sketches, or any other evidence pertaining to the case.
5. The MPD NOV Coordinator, or his or her designee, shall represent the MPD in all hearings of NOVs contested to the OAH.
 - a. If there is a need for the issuing member to be present, the MPD NOV Coordinator or his or her designee shall notify the member of the date, time, and location of the hearing by email.

NOTE: In most cases, issuing members will not attend hearings.

- b. Emails from the MPD NOV Coordinator or his or her designee requesting the member's presence at a hearing or specifying a date and time by which the member must contact the MPD NOV Coordinator shall serve as an official Computer Assisted Notification System (CANS) notice.
6. Members shall immediately contact the MPD NOV Coordinator in the event that they are unable to attend a hearing (i.e., unforeseen, emergency circumstances) and shall explain why they cannot attend.
 - a. Between 0600 and 1600 hours, Monday through Friday, members shall contact the MPD NOV Coordinator by telephone at (202) 345-1007.
 - (1) If members are unable to contact the MPD NOV Coordinator, they shall:
 - (a) Leave a voicemail message for the MPD NOV Coordinator containing their contact information along with the reason they are unable to attend the hearing; and
 - (b) Contact their District administrative office.
 - b. During all other times, members shall:
 - (1) Contact an official in their command, and
 - (2) Send an email containing their contact information to both the MPD NOV Coordinator and their District

Administrative Office with the reason they cannot attend the hearing.

V. ROLES AND RESPONSIBILITIES

- A. Designated District NOV Coordinators and their designees shall be responsible for:
1. Ensuring that NOVs are properly collected, logged onto a transmittal sheet, and forwarded to the MPD NOV Coordinator and the OAH Hearings in accordance with this order; and
 2. When notified by the MPD NOV Coordinator of an issuing member's failure to appear at an OAH Hearing or failure to comply with the requirements of this order, obtain incident summary (IS) numbers in accordance with MPD policies and procedures.
- B. District Commanders shall be responsible for:
1. Designating a District NOV Coordinator from their administrative office in accordance with this order.
 2. Establishing a secure repository for NOVs.

VI. CROSS REFERENCES

- A. GO-SPT-304.13 (The Use of Photographs in Criminal Investigations)
- B. GO-PCA-502.02 [Handling Cases Involving Persons Suspected of "Driving While Intoxicated" and/or "Driving While Under the Influence" (DUI and/or DWI)]
- C. SO-13-08 (Medical Marijuana)

VII. ATTACHMENT

1. Attachment A: Office of Administrative Hearings Form-1



Cathy L. Lanier
Chief of Police



Government of the District of Columbia
METROPOLITAN POLICE DEPARTMENT

Civil Infraction Notice of Violation

OFFICE OF ADMINISTRATIVE HEARINGS FORM 1
CIVIL INFRACTION NOV
JULY 2014

No. Series _____

Officer _____

Dept. and Element _____

ATTENTION

Tickets in this book are for civil infractions adjudicated by the Office of Administrative Hearings (OAH) only. They are not to be used for criminal infractions under the jurisdiction of the D.C. Superior Court, nor are they to be used to enforce Traffic Violations.

DISTRIBUTION

Copy A OAH Control Copy to Station Clerk
Copy B Violator's Copy
Copy C Officer's Copy

OAH NOTICE OF VIOLATION TABLE

The following are the proper references to the District of Columbia Official Code or District of Columbia Municipal Regulations that can be used in conjunction with the Notice of Violation in this ticket book.

DC Code/ DCMR Reference	Violation	Collateral
21 DCMR §700.4	Littering	\$75.00
D.C. Code 48-1201	Possession of Marijuana	\$25.00

Government of the District of Columbia
METROPOLITAN POLICE DEPARTMENT

Notice of Violation

00001

Violator's Name

FIRST MIDDLE LAST

DATE OF BIRTH

Street Address

NUMBER STREET APT./SUITE

CITY STATE ZIP CODE

Violation Details

DATE / / TIME AM PM

LOCATION OF INCIDENT DISTRICT

LITTERING/21 DCMR §700.4 (\$75) POSS. OF MARIJUANA/DC CODE §48-1201 (\$25)

OTHER VIOLATION

DC CODE/DCMR REFERENCE \$ FINE

PHOTOS TAKEN? YES NO NCIC CHECK? YES NO

SWORN OFFICER'S TESTIMONY

I personally observed and/or determined that the Violator committed the violation charged above. I certify that I served this Notice on the Violator by personal service.

I further certify under penalty of perjury that (CHECK ONE):

- the Violator is not in the military service of the United States
- the Violator is in the military service of the United States
- I am unable to determine whether the Violator is in the military service of the United States.

OFFICER'S SIGNATURE FULL NAME (PRINTED)

ELEMENT CAD # BADGE NO. RANK DATE

VIOLATOR'S ACKNOWLEDGMENT

I hereby acknowledge receipt of this Notice of Violation. Acknowledgment of receipt IS NOT an admission of liability.

VIOLATOR'S SIGNATURE DATE

INCIDENT DETAILS

Was there a vehicle involved? YES NO

If Yes, describe fully:

MAKE MODEL

YEAR TAG/STATE

COLOR VIN#

Is there physical evidence? YES NO

ELEMENT PROPERTY BOOK PAGE #

Notes

Notes section with multiple horizontal lines for text entry.

OFFICER'S SIGNATURE PRINT NAME

ELEMENT BADGE NO. CAD NO.

Answering a Notice of Violation

You are charged with violating the District of Columbia regulation stated on the other side of this Notice. You **MUST** answer this Notice within 14 calendar days of the day you receive it. If you do not, you will be subject to an order finding you in default and assessing both the fine stated on the other side, and an additional penalty equal to the amount of that fine.

You must answer with a plea of **ADMIT**, **ADMIT WITH EXPLANATION**, or **DENY**. See the instructions below.

1. To Admit and Pay the Fine. If you wish to Admit liability and pay the fine, sign at the bottom and check the Admit box. Mail or bring this form, with a personal check, cashier's check, or money order for the amount of the fine payable to "DC Treasurer" to the address below. **We cannot accept cash payments.** Write the notice of violation number on your check or money order.

2. To Admit with Explanation and Request a Hearing by Mail. If you wish to Admit liability, but want to submit an explanation that you would like an Administrative Law Judge to consider in deciding whether the fine should be reduced or suspended, sign at the bottom and check the Admit with Explanation box. Mail or bring this form, along with your written explanation and any supporting documents, photographs or other materials, to the address below.

3. To Deny and Request an In-Person Hearing. If you wish to Deny liability for the violation, sign at the bottom and check the Deny box. Mail or bring this form to the address below. You will receive a notice from the Office of Administrative Hearings with information about your hearing date. The hearing will be conducted by an independent Administrative Law Judge.

MAILING ADDRESS/OFFICE LOCATION	HOURS OF OPERATION
Office of Administrative Hearings 441 4th Street, NW Washington, DC 20001	9 AM-5 PM Monday through Friday

OAH INFORMATION LINE: 202-442-9094

ANSWER

Admit Admit with Explanation Deny

SIGNATURE _____

PRINT NAME _____

ADDRESS _____

PHONE NUMBER _____

OAH Form 1 Civil Notice of Violation / JULY 2014