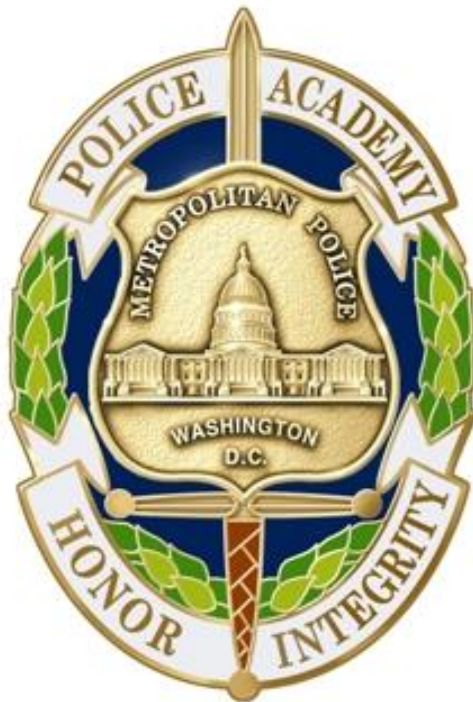


# Metropolitan Police Academy



## 10.1 Narcotic Offenses

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## Introduction

Narcotics enforcement is a complex topic, and many officers devote their careers to specializing in this area. This lesson will give you an overview of the most common illegal narcotics encountered in the District as well as the basic narcotics laws of the District of Columbia. We are going to discuss the types of drug-related calls you will be expected to handle as a patrol officer and the basic drug investigations you will need to complete. You will learn how to handle and prepare seized drugs as well as how to complete all of the required paperwork for drug-related arrests.

Although investigating and processing drug-related offenses can be more complicated than other offenses, it is an important job skill for a police officer. The illegal drug trade fuels violent crime, white collar crime, and many instances of property crime. Many individuals arrested and prosecuted for offenses test positive for drug use. You are certain, at one point or another in your career, to encounter a scene where illegal drugs are involved.

### 10.1.1 Acquire a basic knowledge of illegal narcotics commonly encountered in Washington, DC

Like many other big cities in the United States, Washington, DC struggles with the sale and consumption of illegal drugs. Although there are many different substances abused by individuals and a nearly infinite number of ways of packaging and transporting them, there are several general trends you will find in Washington, DC.

#### Cocaine

Cocaine is derived from the leaves of the *Erythroxylum coca* plant which grows throughout South America. In ancient times, South Americans would chew the leaves of the coca plant, which provided euphoria and stimulated the body. Europeans discovered it shortly after arriving in the western hemisphere, with explorers noting that South Americans routinely packed their cheeks with coca plant leaves. Cocaine was initially produced for medical purposes in Europe and North America. Cocaine is actually a very effective topical anesthetic and is still used in limited circumstances today. Coca-Cola was originally marketed as a medicinal cure for morphine and opiate addiction and contained coca leaves (though it no longer does today).

When cocaine is initially produced in South America, the coca leaves are processed into a sort of alkali sludge, to which hydrochloric acid is added and then the cocaine is filtered. This results in a substance which dries into a white, flaky or crystalline powder. This is known as **powder cocaine** or **cocaine hydrochloride** or **cocaine HCL**. Cocaine HCL is smuggled into the United States in kilogram packages where it is distributed to mid-level dealers for resale. It is a common practice for dealers to “cut” their cocaine HCL with another white powdery substance. Although this dilutes the purity of the cocaine, it creates a greater amount of total supply that they can break up for resale. In Washington, DC cocaine HCL is most often sold in retail quantities in small Ziplock bags (or “zips”) by the gram and is usually ingested through the nose by snorting.

The other common form of cocaine in Washington, DC is **cocaine base** (also known as “crack” or “crack cocaine”). Due to its chemical composition, cocaine has a very high vaporization point which makes it difficult to smoke because users must have some type of accelerant such as ether. This makes it volatile. In order to ingest cocaine by smoking, a very strong alkali must be introduced which turns it from a salt

into a base using a process called “freebasing” or “freeing the base.” Baking Soda is a common and safe alkali that is used to prepare cocaine base today. Cocaine base is white or off-white in color, and has a chunky or rock-like appearance, which has led to it being called “crack rocks.” It is commonly sold in small zips, with users making purchases according to the size of the rocks rather than any given weight.

Cocaine base is most often smoked with a small glass pipe called a “crack pipe” or “stem.” Usually a piece of wire mesh, similar to Chore Boy scouring pads, is placed in the pipe as a filter. A small, long piece of metal called a “push rod” is used to push the crack into the pipe. Smoking cocaine base leads to an even more intense feeling of euphoria than using powder cocaine, but the feeling fades extremely quickly.

The surge in use of cocaine base in the late 1970s and the 1980s was so damaging to many inner-city areas that it is referred to as the “crack epidemic.”

### **Heroin**

Heroin is an opiate which is a by-product of the *papaver somniferum* or poppy plant. Smoking opium is an ancient practice with a recorded history of over 5,000 years, going back to the ancient Sumerians. Today, opium is extracted in liquid form from poppy flowers, allowed to dry, and processed into heroin. Heroin is most commonly found as a brown, beige, or tan powder, though it is sometimes found as a dark colored tar.

Heroin produces a feeling of intense euphoria and severe drowsiness in users. Users develop a tolerance over time, which requires them to seek out purer heroin or to use greater amounts, which carries an increased risk of death from respiratory failure. Heroin is most commonly packaged in small zips. These include very small zips, usually ten (10) in number, rubber banded together and called a “ten pack.” These are not as common as they used to be in the 1990s and early 2000s. Somewhat larger zips for ½ and 1-gram amounts are also common. Another common method of packaging is a “bindle,” which is a single piece of paper folded over on itself several times to create an envelope.

There are two main methods used to ingest heroin. The first method is to inject it using a syringe. Officers should be extremely cautious if they have cause to search a suspected heroin user, as many times he or she will have uncapped syringes on his or her person. Spoons, bottle-caps, lighters, and cotton balls are also commonly found with intravenous heroin users. The second method of ingestion is to snort the heroin, often through a straw cut at a 45-degree angle. Heroin can also be smoked.

### **Fentanyl**

Fentanyl is a powerful synthetic opioid that is 50-100 times more potent than morphine. It can be used to treat patients with severe pain after surgery or patients who have chronic pain. Synthetic opioids are now the most common drugs involved in drug overdose deaths in the United States. In 2017, 59 percent of opioid related deaths involved fentanyl. In its illegal form, fentanyl is sold as a powder, dropped onto blotter paper, put in eye droppers or nasal sprays, or made into pills that look like prescription opioids. Sometimes fentanyl is mixed with other drugs such as heroin, cocaine, methamphetamine, and MDMA. This can cause an overdose because the body is not used to the stronger opioids.

### **Phencyclidine (PCP)**

Phencyclidine, or PCP, was originally developed as an animal tranquilizer and its abuse became such a problem that it is no longer legitimately manufactured today. PCP is a stimulant that causes auditory hallucinations, confusion, and violent actions. Those under the influence of PCP exhibit an altered mental state, often have the “1,000-yard stare,” and do not respond to pain stimuli. PCP users often sweat

excessively and will remove their clothes in an attempt to cool themselves. A radio assignment that makes mention of a naked individual often indicates that the subject is under the influence of PCP. These are extremely volatile situations and may require numerous officers. Although not all encounters with PCP users result in the use of physical force, it can take several officers to control a subject high on PCP.

PCP is most commonly encountered in liquid form. It is usually amber in color and has a very strong and distinctive chemical or ether odor. It is sold in small glass vials. Sometimes instead of buying liquid PCP, users will purchase a **dipper**, which is a cigarette that has been immersed in PCP. It is common for users to supply their own cigarette and the dealer to charge for dipping it into the supply of PCP to saturate the cigarette. Dippers will be wet to the touch, and officers should utilize caution when handling them to avoid accidental exposure. Although seen less frequently, PCP can also appear as a crystalline structure.

### **Methamphetamine (Meth)**

Amphetamines are central nervous system stimulants that have current medical uses for treating Attention Deficit Hyperactivity Disorder (ADHD) and obesity. Adderall and Ritalin are examples of medically prescribed amphetamines. Methamphetamine (also known as crystal meth or crank) is most commonly found as an extremely addictive recreational drug, though it can be prescribed by a licensed practitioner in rare circumstances.

Meth is commonly found as chunky crystals, with purer products appearing more translucent. The purest forms of meth will appear like crystals of ice or glass, while less pure forms will be cloudier. Meth has a long lasting high, providing increased energy and activity and little to no appetite. It is common for meth users to binge on meth, staying awake and hyperactive for days at a time until they crash and rest for a prolonged period.

Meth is most commonly packaged in zips. You may also encounter it packaged by being wrapped in tin foil. Similar to heroin and cocaine HCL, meth is packaged and sold as fractions or multiples of a gram. The most common method of ingesting meth in Washington, DC is to smoke it, usually out of a glass pipe.

Manufacturing methamphetamine is a fairly complicated process and most of the high quality and high-volume meth distributed in the United States is manufactured in chemical laboratories in the western states and Mexico. However, it is also possible to manufacture meth using pseudoephedrine, an ingredient found in cold medicines such as Sudafed. Some users and distributors cook their own meth using improvised, home-made laboratories. Although they used to be found almost exclusively in more rural areas, in the last few years several home-made meth labs have been discovered in Washington, DC.

These labs present a severe officer safety risk, particularly when they are actively making a batch of meth. Risks include explosion, fire, and inhalation of dangerous chemical fumes. If you ever encounter one of these labs, you need to back out and summon assistance from the Violent Crime Suppression Division (VCSD), Special Operations Division (SOD) and/or Domestic Security Operations.

### **Suboxone**

Suboxone is an opioid narcotic that is used to treat heroin addiction and produces a high similar to other opioids. Suboxone is most commonly seen in pill form as an orange, hexagonal pill stamped with "N8" or "N2" (indicating an 8mg or 2mg dose). Suboxone is also sold as a strip that dissolves under the tongue. Suboxone is legal to possess with a prescription; however, individual pills are commonly sold illegally on the street. Heroin users will often attempt to purchase suboxone to satisfy their addiction if they are unable to locate any heroin to buy.

### **Methadone**

Methadone is a medication approved by the FDA to treat Opioid Use Disorder (OUD) as well as for pain management. When taken correctly, methadone is safe and effective. But when abused, it can cause severe psychological and physical dependence. It is sold in the form of tablets, oral solutions, or an injectable liquid.

### **Oxycodone (and other related pain killers)**

Codeine is a narcotic medicine that is often prescribed as a painkiller and sedative. Medications that include codeine produce highs similar to heroin and other opioids when abused. Like suboxone, these medicines are legal to possess with a prescription. However, recreational use of these drugs has been increasing in recent years, particularly among teenagers. Since they produce a similar high, it is suspected that prescription pain killer abuse has been fueling the recent rise in heroin abuse as users seek stronger effects. When sold illegally, these painkillers are usually priced per pill, which is the common form found in the District. An example of this type of narcotic is Percocet which is popular among younger users.

### **Club Drugs**

There are a number of hallucinogens which are commonly used socially at nightclubs and bars among young adults and teenagers. They are particularly popular among attendees at raves and dance parties and have come to be known collectively as “club drugs.” The most commonly known is Ecstasy (also called MDMA, short for methylenedioxyamphetamine). MDMA produces feelings of euphoria, relaxation, and friendliness/empathy. It also suppresses hunger, thirst, and fatigue which allows users to dance and party for extended periods of time. MDMA is most commonly found as small, brightly colored pills stamped with a variety of designs, corporate logos, and cartoon characters. Dealers charge by the pill.

Recently, pure MDMA has become popular among club drug users and is known as “Molly.” However, much of what is sold as Molly is actually regular MDMA, other amphetamines, other chemicals, or caffeine pills. There have been a number of deaths in recent years associated with the use of MDMA/Molly at parties.

### **Synthetic Cannabinoids**

The most recent drug that has come to be widely abused is synthetic marijuana or synthetic cannabinoids. Most commonly referred to as K2, synthetic marijuana consists of inert shredded plant leaves coated with psychoactive chemicals. The packages are often labelled as bath salts or incense or may contain the disclaimer “not for human consumption.” Although the DEA has been attempting to outlaw the most common chemicals found in these drugs, the manufacturers often change the chemical composition of the product to keep their chemistry a step ahead of the law.

In Washington, DC, synthetic marijuana is most commonly smoked in a hand-rolled cigarette known as a joint. There has been a wide range of reported effects from consuming synthetic marijuana, from a marijuana-like high to psychotic behavior and ill health. This likely stems from the fact that one can never know exactly what the chemical formula is that they are ingesting as the drugs are manufactured clandestinely and the packages do not contain an ingredient list. This has been challenging for law enforcement as there are currently no field test kits and it is more difficult to test in the lab as the chemical make-up of these substances often varies. Due to the Revised Synthetics Abatement and Full Enforcement Drug Control Emergency Amendment Act of 2018, the need for a field test has been eliminated.

## 10.1.2 Acquire a basic knowledge of the Uniform Controlled Substances Act

The Metropolitan Police Department enforces the Uniform Controlled Substances Act (commonly called the UCSA), which is found in Title 48, Subtitle III, Chapter 9 of DC Code. The majority of the arrests and enforcement actions taken by the Department in regard to illegal drugs are for violations of the UCSA.

### **Controlled Substance (§48-901.02(4))**

DC Code defines controlled substance as “a drug, substance, or immediate precursor, as set forth in Schedules I through V of subchapter II of this section.”

The different drug schedules are the system that the federal government originally devised to classify drugs that need to be tightly controlled and regulated. The scheduling system was adopted for a number of reasons:

- It allows different controlled substances to be regulated with different levels of intensity based on their general properties.
- It allows lawmakers to write laws more easily; they can refer to “all Schedule III drugs” instead of having to list over twenty (20) different substances every time a law is written.
- It allows flexibility, as the government can move drugs between different schedules without having to rewrite the law every time it does so.

Drugs on the schedule system are tightly controlled and can only be obtained or possessed with a prescription or a license. You can compare such drugs to so-called over-the-counter drugs like aspirin. Aspirin is not on a schedule and can be freely purchased and possessed by anyone. There are five (5) different schedules of controlled substances in the DC Code.

### **Schedule I Controlled Substances (§48-902.03-902.04)**

These are the most highly regulated controlled substances. “The Mayor shall place a controlled substance on Schedule I if the Mayor finds that it:

1. Has high potential for abuse; and
2. Has no accepted medical use in the United States or in the District of Columbia or lacks accepted safety for use in treatment under medical supervision.”

Examples of the controlled substances found in Schedule I include heroin, LSD, GHB (the “date rape” drug), and psilocybin (“magic mushrooms”).

### **Schedule II Controlled Substances (§48-902.05-902.06)**

These are still highly controlled substances, though they do have limited medical uses. “The Mayor shall place a substance on Schedule II if the Mayor finds that it:

- Has high potential for abuse;
- The substance has currently accepted medical use in treatment in the United States or the District of Columbia, or currently accepted medical use, with severe restrictions; and
- The abuse of the substance may lead to severe psychological or physical dependence.”

Examples of the controlled substances found in Schedule II include cocaine, PCP, amphetamines, and methamphetamine.

### **Schedule III Controlled Substances (§48-902.07-902.08)**

These are regulated substances with middling addictive properties and accepted medical uses. “The Mayor shall place a substance on Schedule III if the Mayor finds that:

- The substance has a potential for abuse less than the substances listed in Schedules I and II;
- The substance has currently accepted medical use in treatment in the United States or the District of Columbia; and
- The abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.”

Examples of the controlled substances found in Schedule III include testosterone and cannabis (marijuana).

### **Schedule IV Controlled Substances (§48-902.09-902.10)**

These are regulated substances with milder addictive properties and accepted medical uses. “The Mayor shall place a substance on Schedule IV if the Mayor finds that:

- The substance has a low potential for abuse relative to substances in Schedule III;
- The substance has currently accepted medical use in treatment in the United States or the District of Columbia; and
- The abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.”

Examples of the controlled substances found in Schedule IV are diazepam (Valium) and clonazepam (a sedative and anti-seizure medication).

### **Schedule V Controlled Substances (§48-902.11-902.12)**

These are regulated substances with the lowest addictive properties. “The Mayor shall place a substance on Schedule V if the Mayor finds that:

1. The substance has a low potential for abuse relative to the controlled substances listed in Schedule IV;
2. The substance has currently accepted medical use in treatment in the United States or the District of Columbia; and
3. The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.”

Most of the controlled substances on this schedule are prescription medications that contain a small amount of a controlled substance, like cough syrup that contains codeine.

The schedules in the DC Code closely, but do not exactly follow, the Federal Controlled Substance Act schedules. Perhaps the most noteworthy difference is that DC Code now defines cannabis (marijuana) as a Schedule III controlled substance whereas the US Code still defines it as a Schedule I substance.

Most, if not all, of the narcotics-related arrests you will make as a patrol officer will be for violations of the Uniform Controlled Substances Act. However, in the case of an extremely large seizure of a controlled substance with an arrest, you can charge the defendant with a violation of the Federal Controlled Substances Act and present the case to the US Attorney’s Office which may decide to prosecute it federally. Typically, such federal charges are appropriate for a seizure of significant fractions of kilograms or the equivalent.

### 10.1.3 Classify the elements of narcotics related offenses

#### **Prohibited Acts – Possession (§ 48-904.01(d)(1))**

It is unlawful for any person to knowingly or intentionally possess a controlled substance unless he or she has a valid prescription, license, or authority.

This is the basic possession statute used by the department for simple possession of illegal narcotics (with the exception of liquid PCP). All it requires is that someone possesses a measurable amount of a controlled substance without authorization. It is normally charged as **UCSA – Possession of (name of appropriate controlled substance)**. This offense is also referred to as simple possession.

A prescription can be issued for any controlled substance from schedules II – V. Per DC Code §48-903.08(e), there will be a label attached to the container of any controlled substance issued pursuant to a prescription. That label will contain:

- The name of the controlled substance.
- The name of the patient (or animal owner if prescribed for an animal).
- The date filled.
- The name and registry number of the practitioner.

Possession of a Controlled Substance is a misdemeanor punishable by up to 180 days in jail.

#### **Prohibited Acts – Possession of Liquid PCP (§ 48-904.01(d)(2))**

The DC Code specifically makes simple possession of liquid PCP a felony. The elements are the same as possession of any other controlled substance. But if the controlled substance is liquid PCP, it is a higher charge.

The PCP must be in a liquid form A dipper, despite having been saturated with liquid PCP, does not count as liquid PCP for this statute. This statute is normally charged as **UCSA – Possession of Liquid PCP**.

For example, you are patrolling the 1400 block of R Street, NW. You walk into the south alley and observe Sam next to a dumpster. He has a cigarette in his mouth and is about to light it. When he notices you, he appears to become very nervous and quickly removes the cigarette from his mouth, drops it on the ground, and walks a few feet away. When you examine the cigarette, you smell a strong chemical odor consistent with PCP and it appears to be wet. You recover the dipper and would arrest Sam for UCSA – Possession of PCP, a misdemeanor charge.

In a different example: When you walk into the alley, Sam is holding a small glass vial. Upon noticing you, he quickly places it on the dumpster and walks a few feet away. When you approach the vial, you notice that it contains an amber liquid and can smell the strong chemical odor of PCP. You recover the vial and would arrest Sam for UCSA – Possession of Liquid PCP, a felony charge.

Possession of Liquid PCP is a felony punishable by up to three (3) years in prison.

#### **Prohibited Acts – Manufacture, Distribute, Possess with Intent to Distribute (§ 48-904.01(a)(1))**

It is unlawful for anyone without a license or authorization to knowingly manufacture, distribute, or possess with the intent to distribute any controlled substance.



This statute outlines three different felony charges enforced by the department:

1. The first is **Manufacturing a Controlled Substance**. Manufacturing means to grow or produce a controlled substance through any process. This would include making drugs like methamphetamine in a laboratory, adding baking soda and heat to cocaine HCL to make cocaine base, or growing psilocybin mushrooms. This offense would be charged as **UCSA – Manufacture of (name of appropriate controlled substance)**.
2. The next offense defined by this statute is **Distribution of a Controlled Substance**. Distribute means the actual or attempted transfer of a controlled substance. Although this is the charge utilized when someone is arrested for selling drugs in exchange for money, goods, or services, it is not a required element of distribution that anything of value be exchanged for the controlled substance. This offense would be charged as **UCSA – Distribution of (name of appropriate controlled substance)**.

For example, Ray is standing in the 4300 block of Georgia Avenue, NW. Kelly approaches Ray and gives him a \$20 bill in exchange for a small red zip of heroin. Ray could be arrested for Distribution. This is the typical scenario most people think of for distribution of heroin.

Ray is standing in the 4300 block of Georgia Avenue, NW. He has just received a new shipment of heroin and wants to put the word out on the street that he has a high-quality batch. Thomas, a local addict, approaches Ray. Ray tells Thomas that he has just gotten a good shipment in and gives Thomas a small red zip of heroin for free. Ray could still be arrested for Distribution as he transferred the controlled substance from himself to Thomas, despite not receiving anything in return for it.

3. The third offense defined by this statute is **Possession with Intent to Distribute**, often abbreviated as “PWID.” This offense involves the possession of *any* amount of a controlled substance along with the intent to distribute it. To sustain a charge of PWID, it must be probable that the controlled substance possessed by the defendant is not for personal use, which would only warrant a possession charge.

There are a number of factors that can help establish the intent to distribute:

- **Location:** Is this area known for drug sales?
- **Packaging:** Is the controlled substance contained in one package or many small ones? Most users will only have a few zips or doses in their possession at any given time.
- **Currency:** Is the defendant in possession of an amount or type of currency consistent with distribution of narcotics? For example, if the defendant is in possession of packages of drugs that are commonly sold for \$20 each, having a large number of \$20 bills on his person would help articulate intent to distribute as it could be inferred that the money came from previous sales of similar packages of drugs.
- **Statement:** Did the defendant admit to or make a statement that the controlled substance was for distribution? (e.g., “I’m making money out here all day.”)
- **Behavior:** Did you arrest the defendant for distributing a controlled substance? Often if the defendant has an additional quantity of the controlled substance he distributed, intent to distribute of the amount he is now in possession of is inferred from the fact of his previous distribution.

- **Quantity:** How large was the quantity of the controlled substance recovered? Generally, larger quantities of controlled substances are more persuasive to establish an intent to distribute.

**NOTE:** Generally, aside from a confession, there is no single factor that *automatically* establishes the intent to distribute. Officers will have to describe the *totality of the circumstances* that leads them to believe that they have probable cause to charge PWID. The more articulable factors that an officer can describe in detail, the better the chance of sustaining a PWID charge.

This offense would be charged as **UCSA – PWID (name of appropriate controlled substance)**.

The Manufacture of, Distribution of, or Possession with Intent to Distribute a Controlled Substance is a felony offense punishable by up to thirty (30) years in prison (depending on the controlled substance involved).

#### **Drug Paraphernalia - for Personal Use is Decriminalized (§48-1103(a)(1)(1A))**

The DC Code allows a person to use or possess with the intent to use drug paraphernalia for personal use of a controlled substance.

**Drug Paraphernalia** is any item used to:

- ingest a controlled substance, such as a glass pipe or syringe, rolling papers, or metal wire meshes.
- pack or store a controlled substance, such as empty zips, baggies, vials, and scales.
- manufacture a controlled substance, such as grow lights, beakers, and pans.
- conceal a controlled substance, such as clothing with covert pockets and “dugout” style lighters.

Most, if not all, of the items that can be drug paraphernalia have a legitimate use. Officers have to articulate as many facts and circumstances as possible that support the assertion that an item is intended to be used with a controlled substance. DC Code **§48-1102** has an extensive list of what can be considered in determining whether an item is drug paraphernalia or not. Some of these factors include:

- the proximity of the item to a controlled substance.
- the presence of residue of a controlled substance on the item.
- instructions, written material, or advertising connected with the item.
- the scope of the item’s legitimate use.
- expert testimony.

#### **Prohibited Acts - Drug Paraphernalia (§48-1103(b))**

It is unlawful for anyone to deliver or sell or to possess or manufacture with the intent to deliver or sell drug paraphernalia knowing (or reasonably knowing) that it will be used as drug paraphernalia.

On the first conviction, this charge is a misdemeanor punishable by up to six (6) months in jail.

For a subsequent conviction, the charge is a felony punishable by two (2) years in prison.

Community-based organizations are allowed to deliver, sell, or possess with the intent to deliver or sell drug paraphernalia for the personal use of controlled substance. A community-based organization is a nonprofit organization that provides services, including medical care, counseling, homeless services, or drug treatment, to individuals and communities affected by drug use. The term "community-based

organization" includes all organizations currently participating in the Needle Exchange Program with the Department of Human Services.

#### **Needle Exchange Program (§48-1103.01)**

The Department of Health has established a needle exchange program to combat the public health risks associated with intravenous drug use, such as the spread of HIV and Hepatitis. The **DC Needle Exchange (DC NEX)** provides clean needles to drug users along with harm reduction supplies such as bandages, bottle caps, and cotton swabs. The DC Code specifically makes an exemption for needles and syringes distributed as part of the program from the prohibition against Possession of Drug Paraphernalia. Such syringes and needles shall be marked with a sticker "DC NEX" that is affixed to the packaging. Participants will be provided with official DC NEX cards, called "Palm Cards," though they are not required to carry them.

#### **Synthetic Cannabinoids**

Synthetic cannabinoids (marijuana), also known as "K2," "Spice," "Bizarro," or "Scooby Snax," are covered by the same DC Code sections we have just examined and are charged exactly the same way. Departmental policy mandates that individuals who have no other charges besides simple possession of synthetic cannabinoids should not be summarily arrested. Instead, the synthetic cannabinoids should be seized as evidence and members should apply for an arrest warrant. If there is another charge against the defendant, then members can arrest and also charge the defendant with **UCSA – Possession of Synthetic Cannabinoids**. If the defendant would be charged with distribution, then members may arrest as usual.

For example, you find Christopher to be in possession of a packet of Scooby Snax. He is guilty of no other offenses. You should seize the Scooby Snax as evidence, identify Christopher, send him on his way, and then apply for an arrest warrant because you have no field test available to verify the substance you seized.

Another example: You arrest Adam for unlawful entry. When you search him incident to arrest, you discover that he is in possession of a packet of Bizarro. You should seize the Bizarro as evidence, charge Adam with both Unlawful Entry and UCSA – Possession of Synthetic Cannabinoids.

A last example: Brian sells a packet of K2 to an undercover police officer. You should arrest Brian for **UCSA – Distribution of Synthetic Cannabinoids**.

### **10.1.4 Describe how to investigate drug complaints**

The illegal drug trade contributes to a large amount of both violent and property crime that occurs in Washington, DC. Additionally, it creates many quality-of-life issues for residents in impacted neighborhoods. The department receives a large amount of information and complaints about drug-related crime in the form of 911 calls and information from confidential sources and informants.

The department has divided efforts to combat drug-related crime into two categories: drug complaints and drug investigations.

**Drug complaints** include drug-related calls for service, drug complaints received from citizens either in person or electronically, and anonymous tips. Patrol officers have the primary responsibility for handling drug complaints.

**Drug investigations** are long-term or more complex investigations that require techniques such as search warrants, controlled purchases, and the use of undercover officers. The types of situations that are categorized as drug investigations include:

- Chronic street-level drug complaints
- Incidents that occur inside a residence
- Incidents that are multi-jurisdictional
- Incidents that involve businesses selling synthetic drugs
- Incidents that involve drug nuisance properties
- Are more complex in nature or require long-term resources (e.g., buy-busts, search warrants, undercover officers, etc.)

The various units of the Violent Crime Suppression Division have the primary responsibility for handling drug investigations.

As a patrol officer, you will be given radio assignments to respond to citizen complaints of individuals selling and using drugs. Unless advised by an official or unless a specialized unit comes over the radio to take over responsibility for the assignment, you must respond to every drug-related radio assignment you are given, even if it seems to fall into one of the categories that VCSD is responsible for solving.

For example, the dispatcher sends you to respond to a corner store on Good Hope Road, SE due to a citizen calling 911 and stating that the store is selling Scooby Snax to customers. Unless an official provides different instructions, you should respond. If an appropriate specialized unit is monitoring the radio, they will come up on the air, identify themselves via their call sign and ask the dispatcher to reassign the radio run to them.

You will not always be able to resolve *drug investigation* assignments you are dispatched to, as you will not have access to the necessary resources. However, the actions you take at the scene can still prove vital to VCSD's efforts. The first thing you need to consider is exercising some discretion about how much information you release to people at the scene of the assignment. Indicating that you are there in response to a complaint about drug use or dealing could jeopardize a current or future investigation.

Take the example we just discussed about being dispatched to a corner store that is allegedly selling synthetic cannabinoids. It is likely that the packets of Scooby Snax will be placed somewhere that a uniformed police officer who just happens to walk in the store will not be able to see. If you tell the store employees that someone called the police and stated that the store is selling illegal drugs, it will be much harder for VCSD to conduct a controlled purchase at a later date. Instead, you can give some other plausible reason for your presence at the location.

The observations you make about the area can provide important information to investigators later. If you can identify individuals present through field contacts, you can perhaps make a key contribution to a complex case. Identifying drug sellers is one of the most important and can also be one of the most difficult tasks of a long-term drug investigation. Work by diligent and observant patrol officers can assist with this absolutely vital aspect of a case.

After you clear the assignment, you need to pass on any pertinent information you have gathered. You can share the information with your PSA sergeant, who can help further distribute it throughout the department.

Many of the drug complaints you will handle will not rise to the level where VCSD's involvement is needed. A single call for an individual selling drugs or for several people using drugs at a location is the type of assignment patrol officers are expected to handle.

The key to being successful at investigating narcotics crime is developing your powers of observation. Drugs and drug paraphernalia are often very small items and attempts to hide or discard them can be subtle and easily missed if you are not paying careful attention. Attention to detail can be important for your safety as well. Noticing clues that someone appears to abuse intravenous drugs (like track marks near injection points) not only alerts you, if searching, that you should look for such drugs but also warns you to be extra careful about uncapped needles and sharp hazards.

Small details and inconsistencies often provide the building blocks for reasonable suspicion or probable cause. As you have learned, you will need to develop individualized probable cause to search or arrest each individual suspect – the courts do not recognize “guilt by association.” While small details are important when investigating narcotics crimes, it is critical that you do not overstate your observations. In the example above, you appear to have witnessed one individual hand a small object to another, which is commonly called a “hand-to-hand transaction.” However, you could not clearly see what was handed over. There are many small items that it would be perfectly legal to give to somebody, such as a quarter, a cigarette, a piece of paper with a phone number, a matchbook, etc.

For example, say you approach the second male and he discards a single zip of crack cocaine when he sees you. First, you should not overstate your observations here either. If you cannot see that the object is a small zip of crack cocaine, which would usually be very difficult unless you were extremely close to him, you should not describe it as such. You should instead describe that you saw the defendant toss a small object to the ground and when you inspected that object, you discovered that it was a small zip of crack cocaine.

You cannot use *ex post facto* (after the fact) reasoning when describing your observations. Although you discovered the individual had tossed a zip of drugs, you were not able to tell that when you made your initial observation. It is becoming more probable that the individual standing at Third and Elm handed the second individual drugs, but you still must not use what you discover later to enhance your initial observation. Rather, describe *exactly* what you saw and how subsequent investigation led you to take further actions.

Defense attorneys will vigorously question officers' observations in court to try to suppress or discredit evidence gathered against their clients. If jurors believe that you are not accurately describing what you saw or that you seem to have “superhuman” vision, they may not vote to convict. If a judge believes you are not being completely truthful in your testimony about your observations, you could be formally found not to be a credible witness, which could open you to administrative and/or criminal sanctions.

This warning about *ex post facto* reasoning applies only to descriptions of your observations. It is entirely proper to use the fact that after observing the hand-to-hand you later discovered that the second individual was in possession of drugs in developing and articulating probable cause. Although this single observation would not rise to the level of either reasonable suspicion or probable cause, if you observed this same series of events occur several more times and all of those people were found to be in possession of identically packaged drugs, you would likely have a strong basis for probable cause.

A crucial element in offenses regarding possession, distribution, and manufacture of illegal drugs is articulating probable cause that the substance you recovered is a controlled substance. The easiest way to do this is by **field testing** the substance.

**Field test kits** are tools provided by the department to test for certain controlled substances. A small portion of the suspected controlled substance is placed inside of a glass vial or plastic pouch. The test kits contain small ampules of chemicals that are then broken open. The chemicals mix with the suspected controlled substance and will turn a certain color indicating the presence of specific drugs. If the chemicals turn the specified color for the suspected drug, this is described as a **positive color reaction**.

For example, the cocaine kits used by the department turn blue in the presence of cocaine. If you place a small amount of suspected cocaine in the kit, break the ampules and the chemicals turn blue, you have a positive color reaction for cocaine.

A positive color reaction with a field test kit is considered by the courts in Washington, DC as a reliable *presumption of probable cause* for police officers in the field. Therefore, you should field test any drugs that you seize as evidence to solidify your basis of probable cause and describe the field test in your arrest and report narratives.

Field tests exist for many of the illegal drugs that are illicitly manufactured. Some controlled substances that require a prescription to possess legally, such as suboxone, do not have field test kits. If you wind up seizing some of these pills as evidence, you can call a poison control center or use an online pill identifier to identify the controlled substance in lieu of a field test. Field test kits are often available to the patrol districts through VCSD.

You should always make a diligent effort to locate a field test kit either at your station or from another officer working. Sometimes, however, you will not be able to locate a field test kit for any number of reasons. If you cannot locate a field test kit after a reasonable effort, you can still seize the suspected controlled substance and make an arrest if appropriate. The appearance, packaging, and odor (if applicable) combined with officer experience, knowledge, and training can be used to articulate probable cause, though until you gain more experience you may have to consult with a more experienced officer about your suspected controlled substance.

This alternative can still provide a sufficient basis for probable cause, but it is not as strong as a positive color reaction and leaves more openings for the seizure to be challenged in court. If you truly are unable to locate a field test kit, you should briefly describe your efforts to locate one and how they were unsuccessful in your arrest narrative. You should then describe the factors about the suspected controlled substance that leads you to believe it is an illegal drug.

### **Good Samaritan Law**

When members believe that a community member is experiencing an overdose, they need to call for emergency medical services immediately. If a law enforcement member has reason to believe that the community member is experiencing an opioid overdose, he or she can administer Naloxone according to training.

If a law enforcement member or community member administers Naloxone, he or she is covered under the **Good Samaritan Overdose Prevention Amendment Act of 2012 (DC Law 19-243)**. The act “decriminalizes certain offenses for a person who seeks health care for someone reasonably believed to

be experiencing a drug or alcohol-related overdose, including himself or herself, and for the person experiencing the overdose...”

The act applies to a person who:

- “Reasonably believes that he or she is experiencing a drug or alcohol-related overdose and in good faith seeks health care for himself or herself”
- “Reasonably believes that another person is experiencing a drug or alcohol-related overdose and in good faith seeks health care for that person”
- “Is reasonably believed to be experiencing a drug or alcohol-related overdose and for whom health care is sought”

The act states that the following shall not be considered crimes for a person meeting any one of the above definitions when the so-called crime arises from the same circumstances which lead the person to seek health care:

- Unlawful Possession of a Controlled Substance [DC Code § 48-904.01(d)]
- Unlawful Use or Possession with Intent to Use Drug Paraphernalia [DC Code § 48-1103(a)]
- Possession of Alcohol by persons under twenty-one (21) years of age [DC Code §25- 1002]
- Situations where the person is a minor least sixteen (16) years of age and the provider is twenty-five (25) years of age or younger, purchasing an alcoholic beverage for the purpose of delivering it to a person under twenty-one (21) years [DC Code § 25-785(a)]; contributing to the delinquency of a minor with regard to possessing or consuming alcohol, or without a prescription a controlled substance [DC Code § 22-2811(a)(2)]; and the sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age [DC Code § 25-781(a)(1)].

This act states that “it shall not be considered a crime for a person to possess or administer an opioid antagonist (such as Naloxone), nor such person be subject to civil liability in the absence of gross negligence...”

**Overdose** is defined as “an acute condition of physical illness, coma, mania, hysteria, seizure, cardiac arrest, cessation of breather, or death, which is or reasonably appears to the be the result of consumption or use of drugs or alcohol and relates to an adverse reaction...”

When you administer Naloxone, you must provide the community member with a Department of Behavioral Health (DBH) overdose pocket card. This provides the community member with information about what happened and resources for treatment.

### **10.1.5 Identify the forms utilized in preparation of seized narcotics**

How you handle drug evidence can be equally important to your case as the work you put in to discover and seize the illegal drugs. Drug evidence is processed very similarly to the way you process any other evidence with some important differences. Most of the differences exist because the department has to send suspected controlled substances to the DEA lab for chemical analysis. This analysis, combined with testimony by the DEA chemist as an expert, is how the US Attorney’s Office proves the identity of the controlled substance to the degree of *beyond a reasonable doubt* in court.

You will first need to complete a **Property Record (PD-81)** for the controlled substance like you would for any other evidence that you seize. When you describe the items, you should generally describe them by their packaging and appearance instead of calling them the suspected drug. For example, if you seized two red zips of suspected crack cocaine, you would describe them in your paperwork as “two red zips of a white rock substance.”

You will need to classify the seized drugs. Typically they will either be classified as evidence or for destruction. Sometimes citizens discover illegal drugs and will call the police to collect them. In these cases, the drugs have no connection to a criminal case and are classified as **Turned Over to Police For Destruction** (B on the PD81). You should take an incident report, complete the necessary paperwork, and the Property Division will arrange for the eventual controlled destruction of the drug(s).

When you complete the narrative of the PD81, you should give a very brief account of how the drugs came into the department’s custody. Typically, one sentence can accomplish this. You should not copy and paste your entire arrest narrative into the PD81. You should also ensure that your narrative on the PD81 does not introduce inconsistencies with your other reports, as defense attorneys will use such inconsistencies to have your case dismissed. For example, all you need to write is, “The listed items were recovered on [today’s date] in connection with the arrest of defendant Smith for UCSA – PWID Heroin” or “The listed items were found by Mr. Smith on [today’s date] and were turned over to MPD for destruction.”

The narrative portion of the Property Record also needs to contain the **chain of custody**. The chain of custody is a complete account of who had possession of the drugs, usually starting with the defendant. Sometimes, the chain of custody will start with a physical location (like a glovebox or the ground) in the case of constructive possession. Every person who takes control of the drugs from that point in time needs to be documented on the chain of custody so that they can be called upon in court, if needed.

Defense attorneys will try to question the chain of custody if it is improperly or illegibly documented. If the defense attorney can introduce the idea that the specific substance their client is alleged to have possessed was tampered with or mistakenly swapped with another exhibit, that may constitute *reasonable doubt* that can result in dismissal of the case or a finding of not guilty. To prevent this, you need to thoroughly document the chain of custody.

**NOTE:** You should not unnecessarily give possession of drugs you recover to other officers. Every officer in the chain should have a specific reason explaining why he or she was in possession of them.

You should indicate **which officer field tested the drugs** in the chain of custody. This is typically done with the abbreviation of “(f/t)” after the officer’s name. You should also indicate **which officer heat sealed the drugs** with the abbreviation of “(h/s)” after their name.

The chain of custody should end with the Property Book and Page Number that the drugs were placed on when you drop the evidence in the secured container in the station or with your element’s property office.

The **Heat Seal Envelope (PD 95)** is a heavy plastic envelope that is similar to the property bag you are already familiar with. Drug evidence is always placed inside of a heat seal; it is *never* placed inside of a prisoner’s property envelope. The heat seal is used to package the suspected controlled substance for shipping to DEA; they will not accept any evidence packaged in our property bags.



The front of the heat seal has a label on which you will record information about the evidence, similar to the front of a property bag. After you fill out the bag, you will place the suspected controlled substance inside of the bag. Then you should take a black marker and place your initials, badge number, and the date *inside* of the bag near the top. Then you should place the top of the bag inside of the heat sealer, which is a kind of iron that will melt the plastic of the bag, fusing it shut. Depress the lever for just a few seconds, remove the heat seal, and inspect it to make sure that the entire top of the envelope is sealed shut.

Sealing the PD 95 in this way helps assure the integrity of the evidence while it is in MPD custody. Your initials and the date will be used later at court to verify that the exhibit in question is the same envelope that you prepared, and its contents have not been tampered with.

As noted above, you need to be aware of sharp hazards when taking drug evidence into custody. Sometimes you will recover narcotics packaged in glass containers or uncapped hypodermic needles. Although the heat seal envelope is made of thick plastic, it is not thick enough to prevent glass from breaking or a needle from puncturing the plastic and pricking you or a fellow officer. You can get plastic containers designed to protect glass or sharp objects from the property office at your element.

You should also be aware that large quantities of PCP are extremely hazardous to collect and store. The department has certified officers who know special procedures for handling large quantities of PCP. If you encounter a seizure of PCP in an amount that is greater than a small glass vial, you should request assistance from a certified officer from your element or NSID instead of attempting to handle it yourself.

The final form you need to fill out in connection with drug evidence is the **DEA-7 (Report of Drug Property Collected, Purchased or Seized)**. This is a form required by the DFS to have evidence chemically analyzed by their lab. This form is similar to other evidence forms you have encountered. Some specific fields you need to be aware of:

- **How obtained:** As patrol officers, you will almost always check “Seizure.”
- **File number:** CCNs
- **Program Code:** N/A
- **G-Dep Identifier:** Felony or Misdemeanor (depending on charge)
- **File Title:** Name of the defendant or “Seized for Destruction”
- **Alleged Drugs:** This is the *only* time you should describe your suspected controlled substance by name on departmental property forms.
- **Marks or Labels:** This is where you should describe the evidence in a similar fashion to a Property Record (PD 81). For example, “green zips of tan powder substance.”

The narrative field should be the same as the narrative on your Property Record, to include the chain of custody. The DEA-7 needs to be signed by the officer submitting the evidence and an official.

A copy of the DEA-7 needs to be stapled to the Heat Seal after you have sealed it shut. A copy of all three (3) forms needs to be included in your arrest packet.

Typically, drug paraphernalia is not submitted to the DEA lab for chemical analysis. Drug paraphernalia should be packaged as regular evidence in a Property Bag (PD 14) and only requires a Property Record (PD 81). Reminder: If dealing with sharp hazards, such as uncapped needles or jagged ends of glass drug pipes, you should still protect yourself and your coworkers by packaging them safely.

You do not have to complete a DEA-7 for drug paraphernalia unless it is going to be submitted to DFS to have residue analyzed. Although you are not absolutely prohibited from submitting paraphernalia to the lab to have it tested, given that drug paraphernalia for personal use has been decriminalized, in the overwhelming majority of cases involving paraphernalia the department does not submit it for tests. Generally speaking, you should have a compelling reason why you submit paraphernalia for analysis.

### **10.1.6 Process drugs taken into custody of the Metropolitan Police Department**

Fill out online forms.

### **10.1.7 Complete an Event Report, Arrest/Prosecution Report, Property Record, and Report of Drug Property Collected, Purchased, or Seized for the offenses in this Instructional Unit**

Fill out online forms.

## **Summary**

As you have learned today, narcotics enforcement is a very complex topic. This lesson has only touched on and given you an overview of the most common illegal narcotics encountered in the District as well as the basic narcotics laws of the District of Columbia. We discussed the types of drug-related calls you will be expected to handle as a patrol officer and the basic drug investigations you will need to complete. You have learned and reviewed the process of how to handle and prepare seized drugs as well as how to complete all of the required paperwork for drug related arrests. You will at some point in your career have a scene in which narcotics are present, so please ensure you following the policies and guidelines of MPD.

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