


AURORA POLICE DEPARTMENT DIRECTIVES MANUAL

08.43	Title: MARIJUANA INVESTIGATIONS	
	Approved By: Nick Metz, Chief of Police	
	Effective: 09/09/2011	Revised: 01/16/2018
	Associated Policy:	
	References: Amendments 20 & 64, CRS 18-18-406, AMC 22-573	
Review: Narcotics Section Lieutenant		Page 1 of 6

**Duty
Honor
Integrity**

8.43 Marijuana Investigations

The purpose of this directive is to establish procedures in response to complaints and reports of the possession of marijuana under circumstances that may fall within the ambit of Amendments 20 (Medical Marijuana) and 64 (Recreational Marijuana) of the Colorado Constitution and relevant statutes and ordinances that concern marijuana.

Note: In these investigations, investigators should make appropriate efforts to determine whether the subject(s) of the investigation may raise a reasonable affirmative defense that possession / use / distribution of the marijuana is protected by Amendments 20 and 64 of the Colorado Constitution and related statutes and local ordinances, particularly Aurora Municipal Code 22-573 which sets forth strict guidelines pertaining to growing marijuana within and outside of residential structures.

It is the intent of this directive to give the Aurora Police Department a standardized response to enforce violations of state and local laws regarding criminal possession, use or distribution of marijuana, as well as any abuses of Amendments 20 and 64 of the Colorado Constitution. It is also the intent of this directive to provide the Aurora Police Department with a standardized response to enforce violations of CRS § 18-18-406 *et seq.* (Offenses relating to marijuana and marijuana concentrate).

8.43.1 Procedures for Contacts and Arrests

Cultivation

Six Plants or Less: If any person is contacted with a marijuana grow and his/her grow is no more than six (6) marijuana plants, the following steps should be followed:

- Confirm if the subject(s) is a medical marijuana patient or care-giver by inspection of any pertinent documentation. If not a medical marijuana patient or care-giver, then note that in the report.
- No arrest will be made at this time or evidence seized.

- Create an exceptionally cleared cultivation report, and forward it to the Narcotics Unit.

More than Six Plants: If any person is contacted with a marijuana grow and his/her grow exceeds six (6) marijuana plants, the following steps should be followed:

- Confirm if the subject is a medical marijuana patient or care-giver by inspection of any pertinent documentation.
- Contact the on-call Narcotics supervisor for response, who will assume responsibility for the investigation.
- At the direction of the on-call Narcotics supervisor, take photographs of the marijuana grow (i.e. plants (documenting height), lights, grow rooms and any other items that appear to be part of the cultivation of marijuana as defined by CRS 18-18-406.)
- Create a General Offense cultivation report, and forward it to the Narcotics Unit.

Distribution

Distribution was not contemplated by Amendment 20 of the Colorado Constitution (medical marijuana). However, it allows for the primary care-giver to provide and grow for a patient, as per section 2(A) III of Amendment 20. Distribution is not allowed under Amendment 64 of the Colorado Constitution (recreational marijuana). However, it allows for a distribution sale system subject to state and local regulations.

If an officer comes into contact with an individual and believes there is probable cause for a violation of CRS § 18-18-406, distribution of marijuana, he/she may arrest, photograph, and fingerprint this individual.

The Narcotics Unit will be notified and may assume responsibility for the investigation.

Possession

Amendment 20 of the Colorado Constitution (medical marijuana) provides an affirmative defense for any registered marijuana patient or primary care-giver to possess two (2) ounces or less of marijuana.

Amendment 64 of the Colorado Constitution (recreational marijuana) allows any person over 21 years of age to possess up to one (1) ounce of marijuana.

Thus, a registered medical marijuana patient or primary care-giver who is 21 years of age or older may be in possession of a total of three (3) ounces of marijuana.

Two Ounces or Less - Medical: If any person (no matter the age) is contacted and found to be in possession of two (2) ounces or less of marijuana and presents a medical

marijuana registry identification card or patient documentation, the following steps should be followed:

- Confirm the name on the registry identification card with a valid identification.
- No arrest will be made at this time or evidence seized.

Two Ounces or Less - Recreational: If any person is contacted and found to be in possession of two (2) ounces or less of marijuana, the following steps should be followed:

- Confirm the name and age with a valid identification.
- For individuals under 21, issue municipal summons, seize evidence.
- For individuals 21 and over, no arrest will be made at this time or evidence seized.

Three Ounces or less Medical/Recreational: A registered medical marijuana patient or primary care-giver who is 21 years of age or older may be in possession of a combined total of three (3) ounces of marijuana.

Over One and Under Three Ounces: If any person 21 years of age or older is contacted and is found to be in possession of over one (1) ounce but under three (3) ounces of marijuana and does not possess a medical marijuana registry identification card or patient documentation, the following steps should be followed:

- Issue the suspect a state or municipal summons for the misdemeanor possession of marijuana as defined by CRS § 18-18-406 or Aurora Municipal Ordinance 94-218, respectively.
- Officers may seize either all or part of the amounts greater than one (1) ounce of usable product.

Between Three and Twelve Ounces: If any person 21 years of age or older is contacted and found to be in possession of over three (3) ounces but under twelve (12) ounces of marijuana and presents a medical marijuana registry identification card or patient documentation, the following steps should be followed:

- Confirm the name on the registry identification card with a valid identification. If not a medical marijuana patient or care-giver, then note that in the report.
- Issue the suspect a state or municipal summons for the misdemeanor possession of marijuana as defined by CRS § 18-18-406 or Aurora Municipal Ordinance 94-218, respectively.
- If a medical marijuana patient or care-giver, then officers may seize either all or part of the amounts greater than three (3) ounces of usable product.

- If not a medical marijuana patient or care-giver, then officers may seize either all or part of the amounts greater than one (1) ounce of usable product.

Over Twelve Ounces: If any person is contacted and found to be in possession of over twelve (12) ounces of marijuana, the following steps should be followed:

- Confirm the name on the registry identification card with a valid identification. If not a medical marijuana patient or care-giver, then note that in the report.
- The suspect may be arrested, photographed and fingerprinted for the violation of possession of marijuana and marijuana concentrate, as defined by CRS § 18-18-406.
- The officer shall notify the on-call Narcotics supervisor, who may assume responsibility for the investigation.
- Evidence, such as cash, guns and/or dry marijuana that can be linked to the violation of possession of marijuana or marijuana concentrate as defined by CRS § 18-18-406, will be collected.
 - If a medical marijuana patient or care-giver, then officers may seize either all or part of the amounts greater than three (3) ounces of usable product.
 - If not a medical marijuana patient or care-giver, then officers may seize either all or part of the amounts greater than one (1) ounce of usable product.

8.43.2 Hazards

Marijuana grow operations are extremely hazardous. These hazards can include the air quality in confined spaces, wiring, and associated chemicals; as well as the collection of plants and grow equipment. These hazards pose a safety risk to first responders, evidence technicians and the general public. First responders should take steps to ensure their safety to include, limiting the amount of time spent inside marijuana grow operations and by wearing available safety equipment.

If first responders identify major safety concerns which could impact the safety of the first responders, occupants and/or the general public, the on-call Narcotics supervisor should be notified.

8.43.3 Marijuana Concentrate/Butane Hash Oil Manufacturing

Amendment 64 (recreational marijuana) of the Colorado Constitution allows any person over 21 years of age to possess up to two (2) ounces of marijuana concentrate.

Puruant to CRS § 18-18-406.6, it is unlawful for any person to manufacture marijuana concentrate by using an inherently hazardous substance to include butane. This statute does not apply to properly licensed commercial marijuana concentrate manufacturing facilities.

Clandestine butane hash oil laboratories are extremely hazardous. These hazards can include the major fire/explosion dangers. These hazards pose a safety risk to first responders, evidence technicians and the general public. First responders should take steps to ensure their safety. If first responders encounter a clandestine butane hash oil laboratory, the premises should be evacuated and the on-call Narcotics supervisor will be notified immediately.

8.43.4 Evidence

Evidence collection should be as follows:

- If dried marijuana is taken, it may be stored as evidence in the Aurora Police Department Property Section provided that the marijuana weighs less than one (1) pound gross weight.
- Should dried marijuana be taken, and its weight is over one (1) pound, the officer will notify the on-call Narcotics supervisor and will make arrangements for the marijuana to be placed into the Aurora Police Property Section.
- If paraphernalia, indicia, and/or other related evidence are seized, it may be stored as evidence in the Aurora Police Department Property Section.
- The entire marijuana grow operation should be photographed and documented. Marijuana plants will only be collected by Narcotics Section personnel; however, small samples of marijuana plants may be collected by officers.

8.43.5 Marijuana Plant Collection

No marijuana plants will be collected, moved or damaged without directions from a Narcotics supervisor. Cell phone numbers for the on-call Narcotics supervisors are on the G-Drive under Narcotics On-Call or APPS. All questions should be directed to a Narcotics supervisor.

8.43.6 Release of Information about Medical Marijuana Patients

Confidential Information sent from or received by the Department of Human Services marijuana registry shall remain confidential. Pursuant to CRS § 18-18-406.3(5) (Medical Use of Marijuana by Persons Diagnosed with Debilitating Medical Conditions), any person including, but not limited to, any officer, employee, or agent of any local law enforcement agency who releases or makes public any confidential record or any confidential information contained in any such record that is provided to

or by the marijuana registry of the department without the written authorization of the marijuana registry patient, commits a class 1 misdemeanor.