

MESA POLICE Department Policy Manual	Marijuana Protocols	DPM 2.5.55 Effective 05/02/2012 Revised 10/08/2024
Approved by: Chief of Police	Chapter: First Responder Incidents	Page: 1 of 6

1. PURPOSE

This policy provides Mesa Police Department (MPD) members with guidelines for both recreational marijuana and the medical marijuana program.

2. DEFINITIONS

Designated Caregiver: A person registered with the Department of Health Services (DHS) who provides assistance to a qualifying patient by helping them to obtain and administer medical marijuana treatments.

DHS Registry Identification (ID) Card: A digital card issued by DHS to a qualifying patient, registered designated caregiver, or registered non-profit medical dispensary agent.

Dispensary: Entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells, or dispenses marijuana or related supplies and educational materials. Dispensaries and Dispensary Agents must be registered with DHS.

Medical Marijuana: Per the American Medical Marijuana Association (AMMA), all parts of any plant of the genus cannabis, whether growing or not, and the seeds of such plant. The Arizona Supreme Court interpreted this to include resin or its extract, as they are “part of the plant”, [State v Jones, 246 Ariz. 452, 440 P.3d 1139 \(2019\)](#).

Medical Marijuana Allowable Amount(s):

- **Qualifying Patient:**
 - 2.5 ounces (70.8 grams) of usable marijuana.
 - If the qualifying patient’s registry ID card states that the qualifying patient is authorized to cultivate marijuana, 12 marijuana plants.
- **Caregiver:**
 - 2.5 ounces (70.8 grams) of usable marijuana for the designated caregiver; and
 - 2.5 ounces (70.8 grams) each for up to five patients assisted by the designated caregiver.
 - Can possess up to a total of 15 ounces (425 grams).
 - If the designated caregiver’s registry identification card provides that the designated caregiver is authorized to cultivate marijuana, 12 marijuana plants.

MESA POLICE Department Policy Manual	Marijuana Protocols	DPM 2.5.55 Effective 05/02/2012 Revised 10/08/2024
Approved by: Chief of Police	Chapter: First Responder Incidents	Page: 2 of 6

Medical Marijuana Cannabis Mixture: For the purposes of this policy, marijuana resins, extracts, mixtures or preparations made from up to 2.5 ounces (70.8 grams) of dried flowers.

Paraphernalia: A glass tube, pipe, etc. used to smoke marijuana.

- **With Residue:** Used paraphernalia that contains remnants of that substance.
- **Without Residue:** Paraphernalia that is clean and appears not to have been used.

Qualifying Patient: For the purposes of this policy, a person who has a current DHS Registry ID card and has been diagnosed by a physician as having a debilitating medical condition defined in [ARS 36-2801](#).

Recreational Marijuana: Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

- Includes cannabis as defined in [ARS 13-3401](#).
- Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, or sterilized seeds of the plant that are incapable of germination.
- Does not include the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

Recreational Marijuana Allowable Amount(s): Per [ARS 36-2852](#), anyone at least 21 years of age may possess, consume, purchase, process, manufacture by manual or mechanical means, including sieving or ice water separation but excluding chemical extraction or chemical synthesis, or transport 1 ounce (28.3 grams) or less of marijuana, except that not more than 5 grams of marijuana may be in the form of marijuana concentrate.

Additionally, anyone at least 21 years of age may possess, transport, cultivate or process not more than 6 marijuana plants for personal use at the individual's primary residence, and possess, process and manufacture by manual or mechanical means, including sieving or ice water separation but excluding chemical extraction or chemical synthesis, the marijuana produced by the plants on the premises where the marijuana plants were grown if all of the following apply:

- Not more than 12 plants are produced at a single residence where 2 or more individuals who are at least 21 years of age reside at one time.
- Cultivation takes place within a closet, room, greenhouse or other enclosed area on the grounds of the residence equipped with a lock or other security device that prevents access by minors. Cultivation takes place in an area where the

MESA POLICE Department Policy Manual	Marijuana Protocols	DPM 2.5.55 Effective 05/02/2012 Revised 10/08/2024
Approved by: Chief of Police	Chapter: First Responder Incidents	Page: 3 of 6

marijuana plants are not visible from public view without using binoculars, aircraft or other optical aids.

Anyone at least 21 years of age may transfer 1 ounce or less of marijuana, of which not more than 5 grams may be in the form of marijuana concentrate, to an individual who is at least 21 years of age if the transfer is without remuneration and is not advertised or promoted to the public. Additionally, anyone at least 21 years of age may transfer up to 6 marijuana plants to an individual who is at least 21 years of age if the transfer is without remuneration and is not advertised or promoted to the public.

Recreational Marijuana Concentrate: Means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.

- Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.

3. MARIJUANA GENERAL GUIDELINES

3.1 Authorizing Legislation

- A. The **Arizona Medical Marijuana Act (AMMA)** allows for persons diagnosed by a medical practitioner as having a debilitating medical condition to be in possession of an allowable amount of marijuana.
- B. **Proposition 207** legalized the possession or use of recreational marijuana in certain allowable amounts to anyone at least 21 years of age.

3.2 Cannabis Mixtures

- A. In order for a member to seize or enforce a potential violation regarding cannabis mixtures, the member must have articulable facts that the mixture contains an amount above the allowable amounts.

3.3 Encountering Marijuana & Initial Investigation

- A. When members encounter an individual with marijuana, its concentrate, or plants, before taking enforcement action, investigate the following to determine if the individual is in legal possession of the marijuana:
 1. The individual's age.
 2. If the individual is a qualifying patient.
 3. If the individual possesses a legal quantity of recreational or medical marijuana.
- B. When an individual claims to be a qualifying patient, designated caregiver, or dispensary agent, they should have a digital DHS registry ID card or be able to provide the 20-digit code. Members can conduct a records check via the

MESA POLICE Department Policy Manual	Marijuana Protocols	DPM 2.5.55 Effective 05/02/2012 Revised 10/08/2024
Approved by: Chief of Police	Chapter: First Responder Incidents	Page: 4 of 6

[AZDHS Website](#) or contact Communications to verify the status of AZDHS registry ID cards.

1. Examples of digital medical marijuana cards can be found in the reference document [Digital Medical Marijuana Card Samples](#).
 2. Caregiver cards will also list the registry ID card number for the patient(s) to whom they are licensed to give care.
- C. If a qualifying patient presents an out-of-state DHS registry ID card or 20-digit code, members will presume it is legitimate unless information dictates otherwise.
- D. When an individual has a valid registry ID card, treat this situation as any other involving individuals legally possessing prescription medication.

3.4 Driving Under the Influence & Companion in Vehicle

- A. It remains illegal to drive while impaired by marijuana. However, in order to charge for [ARS 28-1381\(A\)3](#), a person must also be impaired to the slightest degree. See [ARS 36-2852\(B\)](#).
- B. It is a petty offense to consume marijuana in an operating vehicle, even as a passenger. See [M.C.C. 6-25-8](#).
- C. Pursuant to [ARS 36-2852\(C\)](#), the odor of marijuana or burnt marijuana does not by itself constitute reasonable suspicion of a crime. This does not apply when an officer is investigating whether a person has violated [ARS 28-1381](#).

3.5 Permitted Activity & Violations in Public Places

- A. [ARS 36-601.01\(A\)9](#) defines a public place as:
 1. *Any enclosed area to which the public is invited or in which the public is permitted, including airports, banks, bars, common areas of apartment buildings, condominiums or other multifamily housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theaters, and waiting rooms.*
 2. *A private residence is not a "public place" unless it is used as a child care, adult day care, or health care facility.*
- B. Marijuana smoking remains banned in public places and is a petty offense. See [ARS 36-2853\(C\)](#).
- C. Marijuana consumption (other than smoking) is permitted under state law in public places, meaning people can consume edibles and vape.
 1. However, [M.C.C. 6-25-3](#) prohibits marijuana possession, consumption, or transfer on City owned or controlled property.

MESA POLICE Department Policy Manual	Marijuana Protocols	DPM 2.5.55 Effective 05/02/2012 Revised 10/08/2024
Approved by: Chief of Police	Chapter: First Responder Incidents	Page: 5 of 6

2. Consuming marijuana in a public place but that is also private property where the owner prohibits such conduct and provides notice of the prohibition is prohibited. See [M.C.C. 6-25-7](#).

3.6 Enforcement Action

- A. If members find a violation and take enforcement action, after determining the individual's age, qualifying patient status, and quantity, the member needs to determine the appropriate violation and court to cite the individual.
 1. Refer to [DPM 2.5.55A1 Marijuana Charging Table](#).
- B. Charges related to invalid registry ID cards and/or amounts exceeding thresholds should be filed via long-form complaint. Examples of charges may include possession of marijuana, possession of paraphernalia, or forgery.
 1. Exception: If a physical arrest is being made for unrelated felony charges.

4. SUBMISSION INTO EVIDENCE

- A. Medical/recreational marijuana may be impounded for **safekeeping** following [DPM 3.2.50 Impounding Evidence & Property – Special Handling](#) and [EVI 1.7 Packing & Submission Guidelines](#) when an individual:
 1. Is physically arrested for an unrelated offense; and
 2. Is legally authorized to possess the marijuana; and
 3. It is inappropriate to leave the marijuana at the scene; and
 4. It is an allowable amount.
- B. When medical/recreational marijuana is lawfully seized for destruction or as evidence of a crime, follow procedures in [DPM 3.2.50 Impounding Evidence & Property – Special Handling](#) and [EVI 1.7 Packing & Submission Guidelines](#).

5. RELEASE

5.1 Medical Marijuana

- A. If, after seizure of medical marijuana, it is determined an individual is a valid medical marijuana card holder or designated caregiver, and the medical marijuana seized is in the acceptable threshold level as outlined in the AMMA, members will:
 1. Complete an electronic disposition authorizing the release of the medical marijuana and appropriate paraphernalia to the owner.
 2. Complete a supplemental report.
- B. Evidence will verify registry ID card validity the day of release and will only release medical marijuana if the card is valid.

5.2 Recreational Marijuana

MESA POLICE Department Policy Manual	Marijuana Protocols	DPM 2.5.55 Effective 05/02/2012 Revised 10/08/2024
Approved by: Chief of Police	Chapter: First Responder Incidents	Page: 6 of 6

- A. If, after seizure of recreational marijuana, it is determined that the individual is at least 21 years old and the marijuana seized is within an allowable amount, members will complete an electronic disposition authorizing the release of the marijuana and appropriate paraphernalia to the owner.
1. If the owner is between the ages of 18 and 21, the marijuana may be released to a third party designated by the owner who is over the age of 21.
 2. If the owner is a juvenile, the marijuana may be released to a guardian over the age of 21.
 3. Members will also complete a supplemental report.

6. FIREARMS

Absent a state criminal violation, firearms **should not be seized** from a medical marijuana card holder.

REFERENCES

- [ARS 13-3401](#)
- [ARS 28-1381](#)
- [ARS 36-2801](#)
- [ARS 36-2852](#)
- [ARS 36-2853](#)
- [ARS 36-601.01](#)
- [AZDHS Website](#)
- [Digital Medical Marijuana Card Samples](#)
- [DPM 2.5.55A1 Marijuana Charging Table](#)
- [DPM 3.2.50 Impounding Evidence & Property – Special Handling](#)
- [EVI 1.7 Packing & Submission Guidelines](#)
- [M.C.C. 6-25-3](#)
- [M.C.C. 6-25-7](#)
- [M.C.C. 6-25-8](#)
- [State v Jones, 246 Ariz. 452, 440 P.3d 1139 \(2019\)](#)