

DATE: 8/22/05 1645 HRS
TO: ALL COMMANDS PAGE 1 OF 2
SUBJECT: UPDATE ON MEDICAL MARIJUANA ENFORCEMENT POLICY

AS A RESULT OF NUMEROUS FIELD INQUIRIES AND DISCUSSIONS WITH LEGAL COUNSEL REGARDING THE DEPARTMENT'S MEDICAL MARIJUANA POLICY, HPM 100.69, CHAPTER 1, CONTROLLED SUBSTANCES ARRESTS HAS BEEN REVISED. DEPARTMENTAL MEDICAL MARIJUANA POLICY IS AS FOLLOWS:

IT IS THE POLICY OF THE CHP THAT OFFICERS SHALL NOT CONDUCT TRAFFIC ENFORCEMENT STOPS FOR THE PRIMARY PURPOSE OF DRUG INTERDICTION IN THE ABSENCE OF PROBABLE CAUSE OF REASONABLE SUSPICION TO BELIEVE THE MOTORIST OR AN OCCUPANT OF THE VEHICLE IS INVOLVED IN ILLEGAL DRUG-RELATED ACTIVITY.

- WHEN A SECTION 11362.5 AND/OR 11362.7 HEALTH & SAFETY (H&S) CODE EXEMPTION IS CLAIMED AND THE INDIVIDUAL POSSESSES A STATE/LOCAL GOVERNMENTAL MEDICAL MARIJUANA IDENTIFICATION CARD (DESIGNATING WHETHER THE INDIVIDUAL IS A PATIENT OR PRIMARY CAREGIVER), OR A SIGNED PHYSICIAN'S WRITTEN RECOMMENDATION, OFFICERS SHALL:

- REVIEW THE STATE MEDICAL MARIJUANA IDENTIFICATION CARD FOR VALIDITY AND CONTACT THE LOCAL DISPATCH/COMMUNICATIONS CENTER FOR ACCESS TO THE DEPARTMENT OF HEALTH SERVICES INTERNET WEBSITE (WWW.CALMMP.CA.GOV).
- REVIEW THE LOCAL (CITY/COUNTY) GOVERNMENTAL CARD FOR VALIDITY AND CONTACT THE TELEPHONE NUMBER ON CARD.
- REVIEW THE PHYSICIAN'S WRITTEN RECOMMENDATION FOR VALIDITY. THE DOCUMENT MAY CONTAIN THE PHYSICIAN'S NAME, TELEPHONE NUMBER, ADDRESS, AND PHYSICIAN LICENSE NUMBER.
- IF THE STATE MEDICAL MARIJUANA IDENTIFICATION CARD IS VALID, AND THE INDIVIDUAL IS WITHIN THE STATE LIMITS DESIGNATED UNDER SB 420, (EIGHT OUNCES OF DRIED MARIJUANA, OR THE PLANT CONVERSION, AND NO MORE THAN SIX MATURE OR 12 IMMATURE MARIJUANA PLANTS) THE INDIVIDUAL IS TO BE RELEASED AND THE MARIJUANA IS NOT TO BE SEIZED.

NOTE: THE STATE (SB 420) LIMIT OF EIGHT OUNCES DOES NOT APPLY IF THERE IS A HIGHER LIMIT IN THE LOCALITY IN WHICH THE INDIVIDUAL IS STOPPED. AUTHORIZED LOCAL LIMITS SUPERCEDE THE STATE LIMIT.

- IF AN INDIVIDUAL CLAIMS SECTION 11362.5 OR 11362.7 H&S AND POSSESSES AN IDENTIFICATION CARD FROM ANOTHER GOVERNMENTAL ENTITY (E.G., CITY/COUNTY IDENTIFICATION CARD), OR A WRITTEN RECOMMENDATION FROM A LICENSED PHYSICIAN, OFFICERS SHALL USE SOUND PROFESSIONAL JUDGMENT TO DETERMINE THE VALIDITY OF THE PERSON'S MEDICAL CLAIM. BASED ON THE TOTALITY OF THE CIRCUMSTANCES PRESENT, IF THE OFFICER REASONABLY BELIEVES THE MEDICAL CLAIM IS VALID, AND THE INDIVIDUAL IS WITHIN THE STATE/LOCAL LIMITS (WHICHEVER APPLIES) THE INDIVIDUAL IS TO BE RELEASED AND THE MARIJUANA IS NOT TO BE SEIZED.
- IF AN INDIVIDUAL HAS VALID MEDICAL MARIJUANA DOCUMENTATION, BUT IS OVER THE STATE/LOCAL LIMIT (WHICHEVER APPLIES), ENFORCEMENT ACTION SHALL BE TAKEN AND ALL THE MARIJUANA SHALL BE SEIZED. THOSE INDIVIDUALS CLAIMING A NEED FOR THE MARIJUANA SHOULD BE ADVISED TO FILE A MOTION WITH THE APPROPRIATE COURT SEEKING AN "ORDER OF RETURN." AREA COMMANDERS SHOULD APPRISE THE DISTRICT ATTORNEY'S OFFICE OF THE SEIZURE AND POTENTIAL FOR SUCH AN ORDER BEING SOUGHT.

DATE: 8/22/05 1645 HRS
TO: ALL COMMANDS PAGE 2 OF 2
SUBJECT: UPDATE ON MEDICAL MARIJUANA ENFORCEMENT POLICY

- THOROUGHLY INVESTIGATE AND DOCUMENT THE INCIDENT. OFFICERS SHOULD BE PARTICULARLY ALERT FOR (AND DOCUMENT) INDICATIONS OF NON-MEDICAL USE OF MARIJUANA SUCH AS PAY/OWE SHEETS, LARGE QUANTITIES OF MARIJUANA, PACKAGING FOR SALE, AND LARGE AMOUNTS OF CASH. SECTION 11362.77 H&S STATES THAT A QUALIFIED PATIENT OR PRIMARY CAREGIVER MAY POSSESS NO MORE THAN EIGHT OUNCES OF DRIED MARIJUANA PER QUALIFIED PATIENT. IN ADDITION, A QUALIFIED PATIENT OR PRIMARY CAREGIVER MAY ALSO MAINTAIN NO MORE THAN SIX MATURE OR 12 IMMATURE PLANTS PER QUALIFIED PATIENT. HEWEVER, SECTION 11362.77 H&S STATES THAT COUNTIES AND CITIES MAY ESTABLISH THEIR OWN LIMITS.
- IT IS THE RESPONSIBILITY OF AREA COMMANDS TO MEET WITH LOCAL DISTRICT ATTORNEY (S) AND COURT OFFICIALS TO DETERMINE GUIDELINES FOR AUTHORIZED POSSESSION AMOUNTS FOR CITIES AND COUNTIES WITHIN THEIR JURISDICTION.

AN EXAMPLE OF A MEDICAL MARIJUANA TRAFFIC STOP: AN OFFICER INITIATES AN ENFORCEMENT CONTACT ON A VEHICLE AT 0200 HOURS FOR A MECHANICAL VIOLATION AND OBSERVERS A SMALL BAGGIE OF WHAT APPEARS TO BE MARIJUANA SITTING ON THE SEAT NEXT TO THE DRIVER. THE DRIVER CLAIMS 11352.7 H&S AND PRESENTS A NOTE FROM A PHYSICIAN RECOMMENDING MEDICAL MARIJUANA. THE OFFICER SHOULD CONTACT THE LOCAL COMMUNICATIONS/DISPATCH CENTER TO ATTEMPT TO VERIFY THE VALIDITY OF THE CLAIM. IF THE CLAIM IS VALID, AND THE INDIVIDUAL IS WITHIN THE STATE/LOCAL LIMIT, NO ENFORCEMENT ACTION SHOULD BE INITIATED REGARDING THE MEDICAL MARIJUANA.

THIS INFORMATION WILL BE INCLUDED IN THE NEXT REVISION TO HPM 100.69, GENERAL LAW ENFORCEMENT POLICY MANUAL, CHAPTER 1.

CHP HDQTRS/OFFICE OF THE COMMISSIONER/RPS/KTP