470  MEDICAL MARIJUANA

470.1  PURPOSE AND SCOPE

The purpose of this policy is to provide Officers of this Department with guidelines for investigating the acquisition, possession, transportation, delivery, production, or use of marijuana under Missouri's medical marijuana laws (Mo. Const. art. XIV, § 1).

470.2  DEFINITIONS

Definitions related to this policy include (Mo. Const. art. XIV, § 1; 19 CSR 30-95.010):

**Marijuana** – Cannabis indica, Cannabis sativa, and Cannabis ruderalis, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products.

**Medical use** – The production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product (e.g., edible products, ointments, tinctures, concentrates), or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

**Physician certification** – A document, whether handwritten, electronic, or in another commonly used format, signed by a physician and stating that, in the physician’s professional opinion, the patient suffers from a qualifying medical condition.

**Primary caregiver** – An individual 21 years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver’s application for an identification card under this section or in other written notification to the Department. A primary caregiver may have up to three (3) Qualifying Patients.

**Qualifying patient** – A Missouri resident diagnosed with at least one qualifying medical condition.

470.3  POLICY

It is the policy of the Columbia Police Department (CPD) to prioritize resources to avoid making arrests related to marijuana that the arresting Officer reasonably believes would not be prosecuted by state or federal authorities.

Missouri medical marijuana laws are intended to provide protection from arrest, prosecution, civil liability, or sanctions under Missouri law to those who use, possess, deliver, or produce marijuana to mitigate the symptoms of certain chronic or debilitating medical conditions. However, Missouri medical marijuana laws
do not affect federal laws, and there is no medical exception under federal law for the possession or
distribution of marijuana. The Columbia Police Department will exercise discretion to ensure laws are
appropriately enforced without unreasonably burdening both those individuals protected under Missouri
law and the resources of the Columbia Police Department.

**470.4** ALLOWABLE AMOUNTS OF MARIJUANA – The amount includes (19 CSR 30-95.030):

**470.4.1** PURCHASE LIMITATIONS (30-Day Supply)

a. Qualifying Patient (QP)

   1. A QP may purchase four (4) ounces of dried marijuana, or its equivalent, in a 30-day period.

b. Primary Caregiver (PC)

   1. A PC may purchase four (4) ounces of dried marijuana or its equivalent per patient cared for
      (and self if a QP).

**470.4.2** POSSESSION LIMITATIONS (60-Day Supply)

a. Qualifying Patient

   1. A QP may possess or instruct a PC to possess on their behalf up to a 60-day supply (8 ounces)
      of dried marijuana or its equivalent in other forms.

b. Primary Caregiver

   1. A PC may possess up to a 60-day supply (8 ounces) dried marijuana or its equivalent per
      patient cared for (and self if a QP)

**470.4.3** CULTIVATION POSSESSION LIMITATIONS (90-Day Supply)

Qualifying patients and primary caregivers who also have cultivation identification cards may grow and
possess dried marijuana or its equivalent under the following conditions:

a. Qualifying Patient

   1. A QP may possess up to a 90-day supply of dried marijuana or its equivalent, so long as the
      supply of medical marijuana remains on the QP’s or PC’s property and under their control;
   2. A QP may grow six flowering marijuana plants;
   3. Six non-flowering marijuana plants (over 14 inches tall); and
   4. Six clones (plants under 14 inches tall).
b. Primary Caregiver

1. A PC may possess up to a 90-day supply for each QP (and self if QP);
2. A PC may grow six flowering marijuana plants per patient;
3. Six non-flowering marijuana plants (over 14 inches tall) per patient; and
4. Six clones (plants under 14 inches tall) per patient.

470.5 INVESTIGATION GUIDELINES

Investigations involving the possession, delivery, production or use of marijuana generally fall into one of several categories. This section will address the following as it pertains to medical marijuana:

a. Consumption prohibited in public places;

b. Non-cardholder possession of marijuana;

c. Investigations involving a medical claim;

d. Cardholders possessing over the allowed amount;

e. Operating a motor vehicle; and

f. Odor of marijuana and probable cause.

470.5.1 CONSUMPTION PROHIBITED IN PUBLIC PLACES

a. No QP can consume marijuana for medical use in a public place. This includes sidewalks, streets, bridges, parks, schools, and businesses.

b. When encountering a person consuming marijuana in a public place, first ask for evidence of a medical card.

c. If they do not have or otherwise possess a medical card, then proceed pursuant to state and city marijuana laws, ordinances, and Department policy for handling possession of marijuana.

d. If the person possesses a medical card, the officer can take enforcement action based on the circumstances and their discretion. The officer should advise that medical marijuana may not be consumed in a public place and report the violation to the Department of Health and Senior Services (DHSS) via email to medicalmarijuanainfo@health.mo.gov or by phone at 1-866-219-0165. Include the following information:

1. Patient’s name;
2. Medical marijuana identification number;
3. Synopsis of what happened; and
4. A call back number.
470.5.2 NON-CARDHOLDER POSSESSION OF MARIJUANA

In any investigation involving the possession, delivery, production, or use of marijuana or drug paraphernalia where no person claims or produces a medical, caregiver or cultivation card, the Officer should proceed with a criminal investigation pursuant to applicable law and Department policy. A medicinal claim may be raised at any time, so Officers should document any statements and observations that may be relevant to whether the marijuana was possessed or produced for medicinal purposes.

470.5.3 INVESTIGATIONS INVOLVING A MEDICAL CLAIM

A qualifying patient is required to possess an identification card or physician certification when in possession of marijuana. Officers shall not take enforcement action against a qualifying patient for possession of the allowable amount of marijuana if the patient has his/her identification card or physician certification (Mo. Const. art. XIV, § 1). However, Officers should treat a person without an identification card or physician certification in his/her possession as if it were in his/her possession if the person's status can be verified through query or other sources.

Officers should not ask where the marijuana was obtained or request to see a receipt for the purchase of the marijuana.

470.5.4 CARDHOLDERS POSSESSING OVER THE ALLOWED AMOUNT

When an officer encounters a person who is in possession of a medical card and in possession of marijuana, unless a scale or measurement device is readily available, the officer can only perform a visual determination as to whether the amount possessed is within the legal limit. Officers who do not have access to a measuring device and cannot verify that the person with a valid medical card possesses more than the legally allowable amount should not ticket or arrest said person. An officer who encounters what would be considered a “large” overage amount should contact a supervisor and take necessary steps to verify the amount of marijuana that is over what can be legally possessed before any marijuana is seized.

Officers shall not take enforcement action in cases where a qualifying patient possesses an amount of marijuana that exceeds the allowable amount if the qualifying patient’s physician certification indicates that the patient requires a greater amount (Mo. Const. art. XIV, § 1; 19 CSR 30-95.030).

When a medical card holder is in possession of marijuana in a quantity that is clearly above the authorized limits, an Officer may ticket or arrest for the amount of marijuana possessed that is beyond what is allowed. Officers may not seize any legally-possessed marijuana as this is tantamount to seizing a person’s lawful medications. Furthermore, if lawfully possessed marijuana is seized and then needs to be returned to the citizen, the Department faces the issue of whether we have “dispensed” what is an illegal drug under Federal law.
Regulations authorize DHSS to fine identification holders for possessing unauthorized amounts of marijuana, so rather than seize potentially lawful medical marijuana, officers should report an overage to DHSS. This is one alternative to handling smaller amounts of marijuana overage. Overages should be reported via email to medicalmarijuanainfo@health.mo.gov or by phone at 1-866-219-0165. Include the following information:

a. Patient’s name;
b. Medical marijuana identification number;
c. Synopsis of what happened; and
d. A call back number.

**470.5.5 INVESTIGATIONS INVOLVING PRIMARY CAREGIVERS**

Primary caregivers may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient (Mo. Const. art. XIV, § 1; 19 CSR 30-95.030).

Primary caregivers are required to possess a valid primary caregiver identification card. Officers shall not take enforcement action against a primary caregiver for possession of the allowable amount of marijuana if the caregiver is in possession of their identification card (Mo. Const. art. XIV, § 1). Officers should treat a caregiver without an identification card in his/her possession as if it were in his/her possession if his/her status can be verified through query or other sources.

**470.5.6 OPERATING A MOTOR VEHICLE**

The Constitutional Amendment does not permit a person to operate, navigate, or be in actual physical control of any dangerous device, motor vehicle, aircraft or motorboat while under the influence of marijuana. It does not explicitly prohibit consuming marijuana in a vehicle or operating a vehicle after any marijuana use. Based on this language, officers should continue to enforce impaired driving laws as they are presently enforced by law and Department policy. If the marijuana is suspected as a contributing factor to the impairment the marijuana may be seized.

**470.5.7 ODOR OF MARIJUANA AND PROBABLE CAUSE-VEHICLE SEARCHES**

Production of a medical marijuana card could give officers a reasonable belief that the marijuana is legal and probable cause of criminal activity may no longer exist. However, note that if there are no other/additional signs of criminal activity, the totality of the circumstances test still applies. When officers smell the odor of marijuana and medical identification is provided, officers can still point to other/additional signs of suspected criminal activity to establish probable cause to search a vehicle.
470.6 FEDERAL LAW ENFORCEMENT

Officers should provide information regarding a marijuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the Officer believes those authorities would have a particular interest in the information.

470.7 EVIDENCE

470.7.1 OFFICER RESPONSIBILITIES

The investigating Officer should notify the receiving Evidence Custodian/Property Technician in writing when seized marijuana may be the subject of a medical claim.

470.7.2 EVIDENCE CUSTODIAN RESPONSIBILITIES

The Evidence Custodian should ensure that marijuana, drug paraphernalia, or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed. The Evidence Custodian is not responsible for caring for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, the dismissal of charges or an acquittal, the Evidence Custodian should as soon as practicable contact the prosecutor's office for disposal instructions or a court order authorizing the destruction of the marijuana and associated property.

The Evidence Custodian may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Support Services Commander.