



CITY OF PUNTA GORDA

A Florida Accredited **EXCELSIOR AGENCY**

POLICE

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GENERAL ORDER

NUMBER: GO1907-03
DATE: July 23, 2019
TO: All Punta Gorda Police Department Personnel
SUBJECT: **SB 1020 Hemp Bill & Marijuana Investigations**
EFFECTIVE: July 23, 2019

AMENDS AND SUPERCEDES SOP 527.00 – CANINE UNIT

On July 1, 2019, SB 1020, also known as the “Hemp Bill” went into effect. The bill has two major effects on law enforcement. It creates a state hemp program and revises the definition of the term “cannabis,” amending Florida State Statute 893.02. Hemp, which is a specific strain of the Cannabis Sativa plant (the same plant as marijuana), is no longer a controlled substance under Florida law or federal law and can be legally sold, possessed, and used. The primary difference between hemp and marijuana is that legal hemp contains no more than 0.3% of THC, while marijuana typically contains between 2% and 30% of THC. This has a major impact on law enforcement for the following reasons:

1. There is no known way to distinguish hemp from marijuana based on sight or odor alone. Neither the sight of suspected marijuana, nor the detection of the odor of suspected marijuana, alone, whether by a canine or an officer, is no longer enough to establish probable cause to conduct a search.
2. Current THC presumptive field test kits are activated by the presence of any amount of THC and therefore are not capable of distinguishing between legal hemp and illegal marijuana. A positive result with current field test kits is no longer enough to establish probable cause for an arrest. There is a field test kit currently being used by Swiss law enforcement that will only activate if the substance being testing contains 1% or more of THC. These are being imported by Syndicate Alliance and being made available to agencies in the United States. The estimated cost of these field tests is \$15 per test.
3. Private laboratory testing would be required in order to provide definitive evidence that the suspected marijuana was, in fact, illegal marijuana and not legal hemp. The State Attorney’s Office has made it clear that they will not consider prosecuting any cases unless lab testing has been completed and that the high cost of the testing would need to be paid by the law enforcement agencies.

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Due to these issues, and after receiving information from the State Attorney's Office, the Florida Department of Law Enforcement, and the Florida Police Chief's Association the following procedural changes will go into effect immediately:

1. Probable cause based on sight or odor of suspected marijuana shall be determined using the "sight/odor plus standard." This means that an officer must have circumstantial evidence beyond the mere sight or odor of suspected marijuana in order to establish probable cause for a search (i.e. baggies, scales, paraphernalia, guns, other illegal substances, signs of impairment, or a statement). This would include canine free air sniffs.
2. If a search is conducted and suspected marijuana is located, but a criminal investigation is not pursued, the suspected marijuana should only be taken for destruction if it can be verified that the substance is marijuana and not legal hemp or if the owner agrees to allow it to be taken for destruction. The reason suspected marijuana was taken for destruction shall be documented in the narrative of the report.
3. Suspected marijuana must be field tested using both our current field test kit and a Syndicate Alliance field test kit. Due to the high cost of these field test kits, field testing shall only be done when a criminal investigation will be pursued and supervisor approval shall be required prior to any field testing of suspected marijuana. If the suspected marijuana tests positive in both field test kits it should be confiscated and a criminal investigation completed, but no arrest should be made on scene.
4. Due to the high cost of laboratory testing Command Staff approval will be required prior to the submission of the suspected marijuana to a laboratory. If approved, the suspected marijuana will be submitted for laboratory testing and upon the receipt of positive results a warrant request for the offender shall be submitted.



Pamela R. Davis
Chief of Police

PRD/dr