



Lexington Police Department

Lexington, Kentucky

GENERAL ORDER

BY THE AUTHORITY OF THE CHIEF OF POLICE

G.O. 1994-01B Drug Law Enforcement

Rescinds:

GO 1994-01A;

SO 1997-01B; TB 85B

Effective Date: 02/07/16

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1997; 1993

References: CALEA Chapter(s)

Distribution Code: B | All Department Employees

I. PURPOSE

This policy establishes the drug law enforcement policy for the police department.

II. POLICY

It shall be the policy of the Lexington Police Department that all department officers are responsible for enforcing Kentucky Revised Statutes, Chapter 218.A, the Controlled Substance Act of 1974, and the Uniform Narcotic Act of 1982.

It shall also be the policy of the department that officers will complete field tests of suspected narcotics according to prescribed training methods and current court opinions.

III. DEFINITIONS

Controlled Drugs: Legend drugs that are scheduled, (i.e. Lortab and Valium).

Legend Drugs: The label is required to bear the statement "Caution: Federal Law prohibits dispensing without prescription". Legend drugs can be controlled and non-controlled.

Non-Controlled Drug: Antibiotics are an example of non-controlled legend drugs.

IV. PROCEDURE

A. The Bureau of Investigation (BOI) is responsible for specialized investigative drug law enforcement strategies. The BOI Special Investigations Commander is responsible for keeping the Chief of Police informed about all significant drug enforcement issues.

B. All department officers are responsible for reporting and forwarding information about drug activity, suspects, and trafficking to the Narcotics Enforcement Unit lieutenant or his or her designee by verbal or written report. The preferred method of relaying information is the use of the Report of Information (ROI) form #665. Reporting is required to build documentation and continuity of information about suspected or confirmed drug trafficking or drug suspect activity in and around Fayette County. This information shall be computerized and maintained in the offices of the Special Investigations Section. The commander of the Narcotics Enforcement Unit will be responsible for establishing, monitoring and maintaining the system.

C. Officer may apply to the assistant chief of the Bureau of Patrol for on-the-job training (OJT) assignments in the Narcotics Enforcement Unit. The longevity of any OJT assignment shall be in accordance with the current collective bargaining agreements. The purpose of OJT assignments is to provide officers the opportunity to become more familiar with specialized drug enforcement procedures.

D. Drug Law Enforcement Units: The Bureau of Investigation shall maintain two units for the purpose of receiving and processing complaints and to establish specialized investigative capabilities for the department. Responsibilities of the units are:

1. Special Investigations Section, Narcotics Enforcement Unit: Investigation of street level sales of controlled substances and the coordination of any local drug task force efforts in which the department is a participant.
2. The Drug Enforcement Administration Task Force: Represents the department Federal Task Force for the purpose of investigating major drug trafficking violations which require long term efforts, as well as coordinate department resources in support of Federal Task Force efforts.

E. Drug enforcement units are mutually responsible for:

1. Obtaining, exchanging and coordinating information concerning drug suspects and drug trafficking within the department and other agencies.
2. Obtaining, documenting and coordinating the use of information concerning drug suspects and drug trafficking.
3. Management and supervision of activities of any long-term undercover controlled-buy operation in which the department is the only law enforcement department involved.
4. Implementation of undercover operations as necessary.
5. Development of drug law enforcement statistics regarding department activities.
6. Maintaining computerized records to include, but are not limited to:
 - a. A cross-index for all drug related reports
 - b. Controlled buy location file
 - c. Search warrant execution file
 - d. Drug arrests/disposition file
 - e. Prescription fraud file
 - f. Special operations file

- g. Classified information file
- h. Vehicle seizure/forfeiture file
- i. Assets seizure/forfeiture file
- j. Surveillance equipment inventory/record file
- k. Criminal specialty file
- l. Suspect location/address file

F. The lieutenant of the Narcotics Enforcement Unit is responsible for submitting monthly reports to the BOI Special Investigations Commander. The reports shall include:

1. A record of activity for each officer assigned to the unit(s)
2. Total assets seized/forfeited
3. Identification of the controlled substance most frequently encountered
4. Drug arrests
5. All other activity required by the Chief of Police

V. Field Testing Narcotics

A. If an officer believes it necessary, he or she may choose to test suspected illegal drugs at the scene where the suspected illegal drugs are encountered using the Quickcheck Cocaine Swab, the Narcopouch Test Kit, or similar test, so long as the officer testing the suspected substance properly follows the directions for using the test kit(s). Nothing in this policy is intended to require a field test at the scene.

B. Upon arresting a suspect(s) for possession or trafficking in an illegal substance, the evidence can be field tested, following the below guidelines, at the Division of Community Corrections prior to completing and turning in the Uniform Citation:

1. Field testing shall be performed by officers who have received training in the use of field testing kits. Only handling procedures described in the course of instruction and described by the manufacturer shall be used by an officer performing a field test.
2. Officers can request a test kit from Division of Community Corrections personnel.
3. Pocket knives and similar objects shall not be used to handle or measure drug evidence.
4. Field testing shall be witnessed by a person trained in the use of field test kits. The

witness may be an employee of the Division of Community Corrections who has been trained in this procedure.

5. Field tests performed in the corrections booking area shall be performed in the designated location. The testing officer is to maintain control of the evidence according to department procedures. The used test kit shall be disposed of prior to leaving the area. The testing area shall be cleaned following each test with products provided for this purpose.

6. Latex gloves shall be worn while performing a field test, regardless of the location. Hands should be washed after each test.

7. Field tests shall be documented on the currently approved electronic case report and uniform citation.

8. Drug evidence shall be weighed prior to removing a sample for field testing. The evidence shall be weighed after removing the sample for testing. Pre-test and post-test weights shall be recorded on the currently approved electronic case report and uniform citation.

9. If the suspect was holding suspected cocaine in multiple packages, the officer should conduct a field test on one of the packages. If the first package tested produces positive results, that package should be identified in the currently approved electronic case report as the item that produced positive field test results. No further field testing of packages will be required. If the first package tested produces negative results, a second package, and subsequent packages, may be tested to determine the presence of cocaine. Each test shall be documented on the currently approved electronic case report and uniform citation.

C. If, in the officer's opinion, there is an insufficient quantity of suspected illegal drugs to perform both the field test and the KSP Lab Test and still provide a visible quantity to display as court evidence, then field testing should not be performed.

1. Field testing should not be performed if only illegal drug residue is suspected.

D. Positive test results must be observed by at least two persons trained in the use of drug test kit procedures.

1. If the test fails to give a positive reaction at any step in the process, the test must be halted and considered negative.

2. Positive test results shall be documented in the currently approved electronic case report and by the following notation on the lower right hand corner of the post arrest complaint section of the uniform citation: "Positive Field Test for (the illegal drug being tested for)".

3. Negative test results shall be handled as follows:

a. If the officer and witness officer believe that the negative test result was caused by using a sample too small to cause a reaction, then a second test on the same evidence sample may be conducted. Both tests shall be recorded on the currently approved electronic case report and uniform citation. Circumstances requiring a second test on a single drug sample should be rare.

b. The negative test result shall be documented in the currently approved electronic case report and by the following notation on the lower right hand corner of the post arrest complaint section of the uniform citation: "Negative Field Test for (the illegal drug being tested for)".

c. If the suspect(s) were initially arrested for Trafficking in Cocaine or any other illegal drug, the officer is not authorized to change the charge to "Trafficking in a Simulated Substance" on the currently approved electronic case report and uniform citation. The court will determine if the charge will be amended or dismissed. The pretrial release officer at the detention facility shall be notified by the officer that the test is negative and that release on recognizance (ROR) is recommended. Notification of the pretrial release officer should be documented on the currently approved electronic case report and uniform citation. If the arresting officer feels that ROR would be inappropriate due to other arrest charges, the existence of those charges should be brought to the attention of the pretrial release officer. The decision to ROR is made by a judge, not the pretrial officer.

d. If suspect(s) are charged with Possession of Cocaine or any other illegal drug, then the officer should notify the pretrial release officer at the detention facility that the field test was negative and that the prisoner should be considered for ROR. No change in the arrest charge should be made by the officer. Notification of the pretrial release officer should be documented on the currently approved electronic case report and uniform citation.

4. Inconclusive test results:

a. In the event the test results cannot be agreed upon by the officer performing the test and the witness, the test shall be marked as inconclusive on the currently approved electronic case report and uniform citation. The following notation shall be made on the lower right corner of the uniform citation's post arrest complaint section: "Inconclusive Field Test for (the illegal drug being tested for)."

b. The pretrial release officer shall be notified for a recommendation for ROR. Documentation of pretrial notification shall be made on the currently approved electronic case report and uniform citation. If the arresting officer feels that ROR would be inappropriate due to other arrest charges, the existence of those charges should be brought to the attention of the pretrial release officer. The decision to ROR is made by a judge, not the pretrial officer.

5. KSP Lab Requests

a. Cocaine and crack cocaine shall be booked into evidence and submitted to the KSP Lab for confirmation testing, regardless of the results of the field test. Officers shall not list the results of the field test on either the KSP Lab Request Form or the Property and Evidence Record form.

b. If the field test on the evidence is negative, yet the KSP Lab results indicate that the drug evidence is a controlled substance, the officer shall notify the Commonwealth's Attorney to request presentation of the information to the Grand Jury.

1. KSP Lab reports are accessible to officers via the KSP web portal Bar-code Evidence and Statistical Tracking (BEAST) system.

2. Officers can login to BEAST, via their assigned user name and password, to access lab report and, if necessary, to print the report.

3. The web address and instructions on how to use the site are in the Appendix of this policy.

c. Officers shall identify the item(s) that were field tested on the KSP Lab Request Form and the Property and Evidence Form. If multiple samples are tested, then the request form shall state the sequence of the testing. Example: Item 1, Suspected Crack Cocaine, Field Tested, Test 1 of 3. Officers shall not list the results of the field test on either the KSP Lab Request Form or the Property and Evidence Record form.

E. Narcotics Operations

Personnel assigned to the Bureau of Investigation Narcotics Enforcement Unit shall abide by the aforementioned directive when making a physical arrest for Possession or Trafficking in Cocaine or its derivatives. Suspects transported directly to the Division of Community Corrections following arrest shall be processed as previously prescribed. Exceptions to this procedure are as follows:

1. When a detective makes a controlled drug buy for the purpose of presenting evidence for grand jury indictment or warrant procurement.

2. When the suspect has agreed to cooperate in a narcotics investigation through an agreement with the Commonwealth's Attorney.

3. When the chain of evidence may be broken by a lengthy interview process that delays transporting the prisoner to the detention facility.

4. When, in the opinion of the Narcotics Enforcement Unit supervisor, the quantity of cocaine drug evidence is so great that evidence integrity would be difficult to maintain should it be transported to the detention facility.

- a. In such instances, field tests shall be conducted at a location determined by the Bureau of Investigation, Special Investigations Commander or designee.
- b. Proper testing procedures shall be adhered to, and all tests shall be documented on the currently approved electronic case report and uniform citation.
- c. Another officer trained in the use of the field test shall witness the test. For circumstances outlined in section E 1 and 2 above, the currently approved electronic case report shall be forwarded to the Fayette Commonwealth's Attorney.
- d. When circumstances described in section E 3 and/or 4 exist, then the uniform citation shall be delivered to the detention facility at the time of prisoner booking.

F. Juvenile Offenders

There is no requirement to conduct a field test of narcotics when obtained from a juvenile suspect. If an officer wishes to test evidence seized from a juvenile suspect, then the test must be performed utilizing the forms specified in Sections A, B, and C of this order. No supplies will be readily available for this testing. However, personnel may conduct the field test using an approved field test kit. If a kit is not available, personnel may request an approved test kit from the Narcotics Enforcement Unit. Another trained officer may witness the tests under the circumstances indicated in this section. The testing area must be cleaned to remove possible drug residue following each test. If a test is performed, then the court designated worker (CDW) shall be notified of the test results and supplied with a currently approved electronic case report and uniform citation. If field testing is conducted for a juvenile offender, the same documentation procedure is utilized as specified in sections A, C, and D of this order.

VI. INVESTIGATION OF FORGED PRESCRIPTIONS

- A. Suspects will attempt to obtain prescriptions (controlled and/or non-controlled) illegally by:
1. Altering either the type of drug, refills, drug strength, date to obtain drug, fill an outdated prescription, and/or quantity on a legally obtained prescription for any legend drug; or
 2. Obtain a controlled substance prescription using a fictitious name and/or address; or
 3. Steal blank prescription forms or computer generated blanks, photocopy blank and forge the entire prescription for any legend drug; or
 4. A forged controlled substance will be phoned in to the pharmacy by someone posing as a doctor; or
 5. The suspect will use multiple doctors to obtain a controlled substance prescription.

B. Forged prescriptions are usually reported to the department by a pharmacy. Patrol officers will be the unit dispatched in these investigations. The pharmacist shall be contacted to explain how the discrepancy was identified. Although the pharmacist may have contacted the “issuing physician” to confirm the validity of the prescription, the investigating officer should also make contact with the physician to confirm discrepancies. The category of the drug (controlled or non-controlled), must be determined before a correct charge can be placed.

C. Responding Officer Responsibilities

1. Complete a currently approved electronic case report.
2. Have the pharmacist sign and date the back of the original prescription blank. A copy of the blank, signed and dated by the officer should be left at the pharmacy. This step is required by the Board of Pharmacy. No one should write on the face of a blank, except the doctor and/or the pharmacist.
3. All original pharmacy records, print outs and signature logs that can be obtained from the pharmacy should be booked in evidence.
4. Make every effort to apprehend and/or F.I. the suspect(s) when an attempt is made to pick up the prescription.

D. Phoned in Forged Controlled Substance Prescriptions

1. If the officer(s) can ascertain that the person picking up the prescription did in fact phone it in, then probable cause has been established, (i.e. the pharmacist can identify the voice, knows the caller to be the suspect, or the suspect admits to be the caller).
2. If probable cause cannot be established, then F.I. the suspect and forward all information to a narcotics detective.
3. Regardless of whether an arrest is made, officers should forward a copy of all pertinent information to the Bureau of Investigation Narcotics Enforcement Section.

E. Investigating officers should take the same precautions when dealing with suspects in prescription forgery cases as would be taken with any other drug offense suspect.

Note: The Appendix begins on the next page.

Appendix

BEAST Website Instructions

Note: The website only works with Internet Explorer.

BEAST website address: <http://162.114.1.6/beastweb>

- A. Download the Report Viewer FIRST. Without it, you won't be able to view or print the reports.
- B. Use the back button on the BEAST web page and not the back button on your internet application. You will get an error.
- C. Instructions for Use

1. Case Inquiry Tab

- a. The most important thing to remember when doing a search is, the more information there is to match, the more difficult it is for the system to find a match.
- b. You have access to only your department's reports. It will never be necessary to enter your department name or ORI number.
- c. It is recommended to perform searches using only the subject name field.
- d. You can search by either a victim or suspect name and you do not have to indicate whether it is the victim or suspect.
- e. Search for subject's name, the agency's case number or a laboratory number. The easiest way to search is by the last name only.
 - 1. If it is a common last name, also use a first initial. It is recommended to only use a first initial, because if the name is entered as "Jim", a search using "James" will not work.
 - 2. If the last name is hyphenated, search by using the "first" last name with no hyphen (for example, Garcia-Rodriguez enter just Garcia).
 - 3. Do not use Jr., Sr., etc.
 - 4. To search using only the last name of the investigating officer, place a "%" and then the last name in the name field.
 - 5. Agency case # - This is the submitting agency's actual case number. The case number has to be entered exactly as it was entered into the system, which can make it difficult to use in a search.

f. To see more information on a submission, the user must select a case and click on the “Open Case” button. The screen will then show information about the case such as the analyst, the type of case and the date completed.

2. Once the Case is Opened

a. If the report has been approved to be released, the user can click on “Download Report” to print a copy.

b. A submission designated “Assigned to Analyst” means that analysis has not been completed.

c. A submission designated “Draft Printed” means that the report must still be reviewed and signed by the analyst. The report must also be peer reviewed before it is ready to be released.

d. A submission designated “Ready for Peer Review” has been completed and signed by the analyst, but still must have a final review before being released.