

3-9 Court Ordered Return of Medical Marijuana

NARCOTICS BUREAU

DETECTIVE DIVISION

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

Bureau Order Number: **3-9**

Subject: **COURT ORDERED RETURN OF MEDICAL/ RECREATIONAL MARIJUANA**

Effective Date:	04/08/2008	Last Date Revised:	10/15/2019
Last Date Reviewed:	04/01/2021	Next Review Date:	04/01/2021

I. **CONCEPTS AND ISSUES**

A. **Purpose of the Document**

The purpose of this order is to establish policy and procedure for returning medical marijuana to qualified patients pursuant to the Compassionate Use Act (Proposition 215). If a person is requesting the return of their marijuana under the Adult Use of Marijuana Act (Proposition 64), or Health and Safety Code section 11362.1, that person should be directed to the patrol station evidence custodian. If someone presented a medical marijuana defense, however they meet the requirements of Health and Safety Code 11360.1, the marijuana shall be returned per Smith v. Superior Court of San Francisco, 2018.

B. **Background**

In 1996, California voters approved the Compassionate Use Act which delineates the process for certain individuals to acquire and possess limited amounts of marijuana to alleviate pain and discomfort upon

recommendation of a doctor. California case law has ruled in favor of returning marijuana evidence seized by law enforcement personnel to persons who possess the required medical recommendation (through a licensed physician) and where there is no additional judicial requirement for the seized evidence. In November 2016, voters approved the Adult Use of Marijuana Act, which is detailed in Health and Safety Code section 11362.1, and commonly referred to as recreational marijuana. This order does not cover recreational marijuana which should be booked as, "personal property". Marijuana booked as "personal property" will be the patrol station responsibility.

C. Scope of Policy

This policy is designed to outline a method for returning seized medical marijuana to certain patients, who have acquired a court order, signed by a magistrate, serving the Superior Courts of the state of California, County of Los Angeles.

D. Training

The Bureau Unit Commander will ensure that all Bureau Personnel are trained and familiar with this policy.

II. POLICY

1) All Narcotics Bureau personnel, presented with a signed court order to return medical marijuana, shall accept the order and immediately notify either their Crew Sergeant or Zone Lieutenant.

2) The Crew Sergeant shall verify the authenticity of the order by contacting the concerned court clerk in person or by telephone.

Since the recent implementation of the Property, Evidence, Laboratory Information Management System (PRELIMS), the protocol for releasing/obtaining

evidence/property from Central Property and Evidence (CPE) has changed.

The Evidence Disposition Order, Authority for Release of Property (SH-AD 121)

form and the signed Court Order are no longer needed by CPE to obtain the

property requested. All requests and information pertaining to property/evidence

release is to be submitted by the I/O or Crew Sergeant, via the PRELIMS and

assigned to "will-call" for pick up. Remember to include the following:

1. Reference the evidence/property by file number
2. Click on the item(s) requested
3. State the name of the person coming to pick up the items
4. Date/time of pick up
5. Add any important comments in the comment section if needed

Release of property to owner at the station:

Once you have verified all of the owners identification, be sure to make a

copy of his/her CDL and have the owner either sign for the items on the

electronic signature pad or on the hard copy.

Once signed, be sure all pertinent associated documents are scanned into the

PRELIMS under the associated file number (this includes the signed court order). Remember to transfer the custody of the property from yourself to the claimant/owner. Should for any reason the owner does not arrive at the

arraigned time and you need to hold/secure the evidence at the station,

remember to go back into PRELIMS and transfer the evidence from your custody to the station narcotics box for safekeeping until you release it to the owner or

return it to CPE. Remember: until you transfer the custody of the property from

your name to either a location or person, you are responsible for it.

3) The release of the evidence shall be conducted at the sheriff station where the case originated or at an arraigned acceptable alternate location. Reasonable efforts shall be made to accommodate the patient. The I/O or Crew Sergeant and the Zone Lieutenant shall wait a reasonable amount of time for the arrival of the patient at the predetermined sheriff's station. If for whatever reason the patient does not arrive, arrangements to release the evidence will need to be rescheduled. The Zone Lieutenant shall be advised of the new arrangements.

ORIGINAL SIGNED

LOYL. MCBRIDE, CAPTAIN

NARCOTICS BUREAU
