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CONFIDENTIAL MEMORANDUM

Date: July 14, 2006

From: David W. Paulson, District Attorney *Dave*
To: Solano County Sheriff and Law Enforcement Agency Chiefs
→ CC: Deputies District Attorney

Subj: Marijuana Investigations and Prosecutions

In light of recent court rulings and the new criminal jury instructions from the California Judicial Council, it is appropriate that I set forth some guidelines with regard to marijuana investigations and prosecutions, particularly those with a likely defense that the drug was possessed for medicinal purposes pursuant to Proposition 215.

1. Notwithstanding any evidence that marijuana was possessed for a serious medical condition, a suspect WILL BE PROSECUTED for possession of marijuana for sale if there is independent evidence of an intent to sell – such as packaging, scales, money, records of sales, admissions, or any other relevant and admissible evidence.
2. Persons in possession of marijuana (other than for sale) WILL BE PROSECUTED unless:
 - a. The suspect has an identification card authorizing the use of marijuana for a medical condition issued by a California county or city pursuant to directives from the California Department of Health Services, **OR**
 - b. The suspect has a written authorization from a physician recommending the use of marijuana for a medical condition, **OR**
 - c. The suspect claims to have an oral recommendation to use marijuana for a medical condition and such recommendation can be readily confirmed by calling the suspect's physician, **AND**
 - d. The suspect has LESS THAN 8 OUNCES of marijuana, FEWER THAN 12 PLANTS under cultivation, or only a very small amount of concentrated cannabis, **OR**
 - e. The suspect has a specific authorization from his/her physician for a quantity of marijuana in excess of the amounts set forth above and the amount possessed is less than or equal to the amount recommended.

Note: Possession of a cannabis club card is NOT evidence of a physician's authorization or recommendation.

In any case involving marijuana or concentrated cannabis, the ARRESTING OFFICER MUST BE PREPARED TO DO THE NECESSARY ON-SCENE AND FOLLOW-UP INVESTIGATION incident to a claimed medical defense.

- The officer should seize and make copies of any identification cards, physician authorizations or notes, cannabis club cards, or other items relating to the claimed medical use.
- The officer should request and record the name, address and phone number of the suspect's physician. If the claimed recommendation is oral, the officer should attempt to verify the claim by contacting the physician.
- The officer should confirm that the suspect admits the marijuana is his/hers – that it is not possessed by him/her as a caregiver for a patient (someone else)
- If the suspect claims to be a caregiver, the officer should request and record the name of the patient, the name, address, and phone number of the patient's physician, and specifically how the caregiver consistently assumes responsibility for the patient's health, housing and safety.
- Any marijuana or concentrated cannabis that is seized should be maintained by the arresting agency, as required by Health & Safety Code section 11479.

In those cases where the suspect does not affirmatively assert the medical use defense, the arresting officer should ask the suspect if he/she suffers from any serious medical condition. If the answer is yes, the officer should then ask if the suspect has a physician's authorization for medical use of marijuana. All questions and answers should be recorded in the officer's report.