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**POLICE  
SCOTLAND**

Keeping people safe

**POILEAS ALBA**

## **Drugs Investigation**

### **Standard Operating Procedure**

**Notice:**

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1.00	Initial Approved Version	26/03/2013
1.02	Introduction of Section 7 relating to the drug Khat	20/06/2014
2.00	Amendment made to Appendix 'E' due to an error in process	16/09/2015
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## **1. Purpose**

- 1.1 This Standard Operating Procedure (SOP) supports the Police Service of Scotland (hereafter referred to as Police Scotland), policies:
- Crime Investigation Policy
  - Serious and Organised Crime Policy
  - Specialist Operations Policy
  - Stop and Search Policy
- 1.2 The purpose of this SOP is to provide guidance and instruction to all members of Police Scotland on the subject of Drugs Investigations.
- 1.3 Drugs enquiries can be complex and highly specialised matters with the perpetrators continually devising new methods to avoid detection.
- 1.4 Large scale seizures and the associated enquiries are usually investigated by investigative teams. However, with drug misuse widespread across the country it is likely that any operational officer may be called upon to deal with drug offences.
- 1.5 As with all investigations, the processes described within this SOP will generate a variety of recorded information which should be retained for evidential purposes. Guidance regarding retention of these records can be found in the Record Retention SOP.

## **2. Section 23 of the Misuse of Drugs Act 1971**

- 2.1 Section 23(2) of the Misuse of Drugs Act 1971 states:

“If a constable has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Act or of any regulations made thereunder, the constable may:

- (a) Search that person, and detain him/her for the purpose of searching him/her;
- (b) search any vehicle or vessel in which the constable suspects that the drug may be found, and for that purpose require the person in control of the vehicle or vessel to stop it;
- (c) seize and detain, for the purposes of proceedings under this Act, anything found in the course of the search which appears to the constable to be evidence of an offence under this Act.”

**Note:** Further information regarding Stop and Search can be found within the Stop and Search SOP.

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- 2.2 This can result in removing that person to a police station for the purposes of the search. The suspect should also be notified that they are being detained for the purpose of the search (for further information see Care and Welfare of Persons in Police Custody SOP). The power to detain a person under this provision is removed once the search is complete. At the conclusion of this detention the suspect should therefore be released, arrested or detained under a different provision.
- 2.3 Under Section 23(4) of the Misuse of Drugs Act 1971, a person commits an offence if they:
- (a) intentionally obstruct a person in the exercise of their powers under this section; or
  - (b) conceals from a person acting in the exercise of their powers under subsection (1) above any such books, documents, stocks or drugs as are mentioned in that subsection; or
  - (c) without reasonable excuse (proof of which shall lie on them) fails to produce any such books or documents as are so mentioned where their production is demanded by a person in the exercise of their powers under that subsection.
- 2.4 Whether or not a presumptive test has been carried out, the reporting officer will record the offence as a substantive crime. Should a subsequent test be negative, the crime report will be amended to read **no crime** as outlined in the Police Scotland Crime Recording and Scottish Government Counting Rules.
- 2.5 The legislation does not empower officers to detain the suspect for the purpose of questioning or interview; this would require an additional detention under a different enactment. Any answers given to questions asked of a person whose liberty has been restricted is likely to be inadmissible until solicitor access process has been carried out in accordance with Police Scotland Solicitor Access Guidance Document. Any spontaneous admissions should be recorded.
- 2.6 In addition to the recording of information within the Official Police Notebook/PDA, officers should outline the grounds for any detention in any subsequent crime report (CR), Standard Prosecution Report (SPR) and Police statement.

### **3. Section 24 of the Misuse of Drugs Act 1971**

- 3.1 Under Section 24 of the Misuse of Drugs Act 1971 a constable may arrest without warrant a person who has committed, or whom the constable, with reasonable cause, suspects to have committed, an offence under this Act, if:
- (a) he/she believes that that person will abscond unless arrested; or
  - (b) the name and address of that person are unknown, and cannot be ascertained; or

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- (c) he/she is not satisfied that a name and address furnished by that person as their name and address are true.
- 3.2 This section provides a power of arrest without warrant by police officers and applies to any offence under the Act but is conditional on paragraphs (a) to (c) above.
- 3.3 All incidents of searches (positive or negative) will be recorded in accordance with Police Scotland Stop and Search SOP.
- 3.4 When dealing with any drug related incident, officers should also be aware of children and adults who may be at risk and take the appropriate action to ensure their safety, submitting appropriate reports in accordance with Police Scotland Child Protection SOP and Adult Support and Protection SOP.

## 4. Obstruction

- 4.1 In any case where it is suspected that a person has consumed or concealed drugs internally, the primary consideration, regardless of the method of concealment, is for the health of the suspect.

The following control measures are required when dealing with a suspect who, it is believed has either placed in their mouth a package/controlled drugs, chewed or has swallowed drugs to avoid detection:

- Medical assistance should be summoned on observing drugs/package in suspect's mouth by requesting an Ambulance/Doctor;
  - Verbally encourage the suspect to give up the package/controlled drug and prevent the suspect from placing any further articles into his/her mouth;
  - **Do not** grip the suspect by the neck or throat, place anything in their mouth or place the suspect on the floor face up;
  - If the suspect is choking, render assistance and first aid;
  - In the event of the suspect swallowing the package:
    - (i) Seek immediate medical assistance and convey them to hospital, by ambulance if necessary in order to protect life;
    - (ii) If possible, identify the controlled drug
- 4.2 Once it has been established through medical examination that the health of the suspect is not at risk and the doctor in attendance has confirmed that there is no requirement for hospital admission, the fact that the suspect is then fit to be detained in Police custody must be recorded and:
- If the suspect has been previously detained under terms of Section 23 of the Misuse of Drugs Act 1971, or been advised that they were to be detained under this section and where there is sufficient evidence, the

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suspect should be arrested and cautioned and charged with the offence of obstruction under the Misuse of Drugs Act 1971.

- It is extremely important that the suspect be kept under constant observations and closely supervised whilst in custody in the event that the item is produced.
- Observations must be maintained until nature takes its course, any drugs are produced and/or a remand is sought.
- The Police information submitted to the Procurator Fiscal (PF) in respect of the incident should highlight the fact that the accused still has suspected controlled drugs within them and a request should be made to have the accused remanded to an establishment where observations can be maintained until the item is produced.

4.3 Further guidance in relation to the care of persons in custody can be obtained from the Care and Welfare of Persons in Police Custody SOP.

### 4.4 Toilet Traps

4.4.1 In various locations across the country there are toilets with specially designed traps to allow human faeces to be searched once passed. The following Police Stations have toilet traps in service:

- Falkirk Police Station
- Hawick Police Station
- Dumfries Police Station
- Annan Police Station
- Stranraer Police Station

Any arrangements to use these facilities should be made through the local custody supervisor.

## 5. Intimate and Internal Searches

5.1 **Definition** – An internal / intimate search is one which consists of the physical examination of the bodily orifices other than the mouth. **Police Officers must not undertake intimate / internal searches.**

5.2 The following guidance is for use in circumstances where Police Officers have detained a suspect under terms of Section 23(2) of the Misuse of Drugs Act 1971 for the purposes of a search, and during the course of the search see an item protruding from an orifice (banked), or where they suspect that a person has controlled drugs concealed internally.

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- 5.3 The suspect can be asked to remove the item, however as outlined previously the primary consideration has to be the health of the suspect. Likewise, care should be taken that they do not use this opportunity to further conceal the item. **Officers are reminded that a person must only be searched by a person of the same gender.** For further information please refer to the Care and Welfare of Persons in Police Custody SOP.
- 5.4 If the suspect refuses to remove the item, the following procedure should be followed at the completion of the Section 23 procedure:
- The suspect should be arrested on suspicion of obstruction under terms of Section 23(4) of the Misuse of Drugs Act 1971 under section 1 of the Criminal Justice (Scotland) Act 2016 and afforded their rights as soon as reasonably practicable. Officers can refer to the Criminal Justice (Scotland) Act 2016 (Arrest Process) SOP and Police Scotland Solicitor Access Guidance Document for further information.
  - If the suspect does not require the attendance of a solicitor, they should be asked if they will submit voluntarily to an internal or X-ray examination.
  - If the suspect refuses to submit to an internal examination, inform the suspect of the intention to apply for an intrusive search warrant and document any refusal appropriately. If refusal remains, through the Procurator Fiscal, seek a Sheriff's warrant for an internal search. The suspect should be conveyed to the local Accident and Emergency Department.
  - If the suspect has requested the attendance of a solicitor to preserve the integrity of the process, consent to any examination **should** be sought through allowing the suspect access to the solicitor. If in doubt the investigating officer should seek guidance from the Duty Procurator Fiscal.
  - If, following or without solicitor consultation, the suspect agrees, arrange through the Duty Officer to have the person examined by a Police Surgeon.
  - If, following solicitor consultation, the suspect refuses to submit to an internal examination, inform the suspect and their representative of the intention to apply for an intrusive search warrant and document any refusal appropriately. If refusal remains, through the Procurator Fiscal, seek a Sheriff's warrant for an internal search. If necessary consult the Police surgeon to confirm the type of examination required.
  - Specify in the warrant application the precise procedures that may be carried out by the examining Doctor, for example; examination by X-ray, proctoscopy (examination of the rectum), gastroscopy (examination of the stomach interior) or colposcopy (examination of the vagina and cervix).
  - The consent of the suspect will be required by the medical examiner prior to the examination. The guidance for doctors from the British Medical Association states "The BMA considers that such searches (under warrant) should be carried out by a doctor only when the individual has given his consent. If consent is not given, the doctor should refuse to participate and have no further involvement in the search".

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- Once the warrant is obtained, allow the suspect to read the warrant and ensure they understand the content. If the suspect is unable to understand or requires further assistance, the services of an Appropriate Adult or Interpreter may be required. For further guidance please refer to the Interpreting & Translating Services SOP and Appropriate Adult SOP.
  - This confirmation should be recorded.
  - Inform the suspect they will be conveyed to the place of examination where the Doctor will carry out the examination.
  - Whether the suspect initially consents or not the suspect must be conveyed to the hospital detailed in the warrant. Regardless of the suspect's initial response to the terms of the warrant being explained, it is imperative that he or she be formally required to comply in the presence of the Police Surgeon and two Police Officers.
  - The medical practitioner(s) should then see the suspect, read over the contents of the warrant to the suspect and explain the requirement to the suspect to comply with the warrant. If the suspect has withheld their consent it should be ascertained whether this is still their position depending on the medical procedure required.
  - If the suspect continues to withhold consent and there is to be no medical examination a statement must be noted from the medical practitioner in relation to the suspect's refusal. Recent consultations with the Crown Office indicates that passive refusal to consent to an intimate search may not be, in itself, sufficient to constitute a crime however this will be a matter for the court to decide.
  - The suspect must remain on constant observations at all times whilst in Police custody. The suspect should remain in custody to appear at court on the next lawful day and a remand in custody sought to allow recovery of the concealed item. The custody transfer staff should be fully briefed when the prisoner is transferred to their care. If remanded in custody by the court, the receiving Prison should also be made aware of the prisoner's attendance and the requirement to have the prisoner placed in isolation under observation in an effort to recover the concealed item.
- 5.5 Where any item is removed by the suspect or Police Surgeon, care should be exercised when handling any production, particularly when retrieved from the anal passage or vagina. Items recovered from these areas of the body should be treated and labelled as 'Biohazard'.
- 5.6 If the suspect agrees to remove the item, but is unable to do so, arrangements should be made to have a Police Surgeon contacted and local procedures adhered to.
- 5.7 For all cases of intimate and internal searches officers should record all direction given by Procurators Fiscal in their official Police notebooks/PDAs.
- 5.8 Officers can refer to Management Guidelines for Persons Suspected of Having Drugs Concealed Internally for further information.

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## **6. Cannabis Cultivations**

6.1 The Lord Advocate's Guidelines to the Police on the Seizure, Retention and Disposal of Productions from Cannabis Cultivation Sites provides guidance in the investigation of cannabis cultivations.

6.2 Cannabis is a Class 'B' controlled drug under the provisions of Part II of Schedule 2 of the Misuse of Drugs Act 1971. Possession, supply and cultivation of cannabis are an offence. Where there is evidence of cultivation of cannabis, contraventions of Section 4 of the Misuse of Drugs Act 1971 should be considered.

### **6.3 Health and Safety**

6.3.1 The priority at any cannabis cultivation is to most importantly ensure the safety of all persons present

6.3.2 Cannabis scenes should be approached with care and a site and personal risk assessment should be conducted by all officers in attendance. The following checklist provides guidance on particular issues that should be considered:

- **Electrical equipment / supply** - Large amounts of electricity are normally required to heat and light a cannabis cultivation. It is normal practice for the electricity supply to be by-passed. Under no circumstances should the electrical supply or any electrical equipment be touched until a professional Utilities Engineer has made the supply / scene safe. Once the premises are secured officers should remove themselves from the building until it is made safe by the relevant utility company. It may be appropriate to have the utility company maintain or connect a safe light source within the site if there is no alternative light source.
- **Gas Supply** - Carbon Dioxide (CO<sub>2</sub>) generators can be used at cannabis cultivation sites. If CO<sub>2</sub> generating equipment is found within a site, it should not be touched. Expert help should be sought through Service Overview. As with a by-passed electricity supply, officers in attendance should remove themselves from the building until it is made safe by the relevant utility company.
- **Protective Clothing** - Protective clothing must be worn at all times at the locus. This clothing will consist of disposable coverall suit, disposable gloves, plastic safety goggles and FFP3 face masks. Cultivation sites may have poor air quality and be infested with mites and it is for this reason protective clothing should be worn. If there are small flies visible around the cultivation, this generally indicates infestation and windows should be opened to allow the air to circulate.
- **Heat** - The lighting equipment used is powerful and often left on for long periods of time, becoming very hot. Officers should exercise caution to prevent the risk of burns. The reflector shield of many cultivation lighting units can have sharp edges and corners, care should be exercised at all times to avoid injury.

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- **Structural considerations** - Care must be exercised in moving around the site. Cable for lighting and pumping equipment may be overhead or underfoot, structural improvisations such as compromised support beams and precariously placed equipment are hazardous. This danger is increased if inaccessible areas, such as attics have been used. All flooring should be checked for any faults such as voids and rot in derelict properties.
- **Chemicals** – The nutrients used in cannabis cultivation are generally harmless however there is always a possibility that some may be corrosive or hazardous if they come into contact with the skin or eyes. For this reason all chemicals should be properly assessed and handled with care.
- **Fire and Explosion** - Hot lighting equipment, water, electricity, chemicals and gases under pressure may all be present and must be properly assessed. If in any doubt assistance should be requested through Service Overview.
- **Skin irritation** – Cannabis plants and Rockwool blocks can cause irritation if they come into contact with the skin. As such, all areas of the skin should be covered and protective gloves worn.
- **Ventilation** - The odour from cannabis plants can be strong. In addition, some sites have quantities of ‘moth balls’ (Naphthalene) present near the point of entry or at any openings to mask the smell of the plants. When dismantling a cultivation site there should be proper ventilation at all times.
- **Booby traps** – A number of English and Welsh police forces have identified ‘booby-trapped’ cannabis cultivations. Traps have consisted of electricity connected to doors and window frames and physical devices to restrict entry. Some “Gardeners” may also establish escape routes. The use of an escape route by suspects working inside must be a consideration when the police approach a suspected cannabis cultivation site.
- **Confined Spaces** - Care needs to be taken when working within confined spaces. It is important to monitor the area to ensure sufficient ventilation.
- **Concealments** - Some “Gardeners” will have an area prepared where they can hide to avoid detection. All sites should be thoroughly searched to ensure there are no hiding areas in use.
- **Moving & Handling of Equipment & Containers** - Injury can occur due to poor planning and / or lifting techniques. Officers should avoid unnecessary lifting where possible and make use of mechanical aids if available. Appropriate footwear and gloves should be worn and any lifting must be properly assessed to minimise the risk of injury and other dangers.

### 6.4 Actions at a Cultivation Site

#### 6.4.1 The first officer at the scene must:

- Ensure the premises are properly searched and secured and remain under the control of the police.
- Contact the Area Control Room to create and record the incident.

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- Request the control room contact the relevant utility engineers.
- In cases involving cultivation for supply, once the locus has been made safe and where practical within business hours, the Statement of Opinion (STOP) Unit should be contacted and apprised of the circumstances. In cases involving very large cultivations the STOP Unit should be contacted out of hours through the Area Control Room.
- At that stage, advice will be given as to whether the cultivation is for personal use or a commercial enterprise. This assessment will determine a proportionate police response. If required, out of normal business hours the STOP Unit can be contacted through Service Overview.
- Contact the Scene Examination Branch and make arrangements for a Scene Examiner to attend and take internal and external photographs of the premises. It is preferable to have video footage of the cultivation. This can be done by any police resource at the scene with a police video camera. The video does not require to be narrated. If the STOP Unit attend they will video and narrate the scene.

6.4.2 The Lord Advocate has issued Guidelines on the Seizure, Retention and Disposal of Productions from Cannabis Cultivation Sites. The document outlines initial scene assessment, plant retention, equipment seizure, for evidential purposes and retention of remaining equipment.

The random sampling protocols that should be applied are:

1 - 2 plants	=	1 sample
3 - 4 plants	=	2 samples
5 - 10 plants	=	3 samples
11 - 60 plants	=	4 samples
More than 60 plants	=	5 samples

An example would be a cultivation involving 100 plants which has been assessed as one growing area. Five plants would be seized as productions, with a further sample being taken and seized from each of these plants, creating a total of 10 productions. An additional production would be taken from one of the seized plants for the purpose of presumptive testing. This would result in a total of 11 productions. All samples must be dried out before the production bag is sealed and then correctly packaged and labelled. It is essential that cannabis plants are properly dried before being sealed in a production bag otherwise they will rot and the production will be lost.

For further guidance please refer to Police Scotland Productions SOP.

6.4.3 All cannabis cultivations regardless of size **must** be photographed and ideally filmed by officers at the scene or by the Scene Examination Unit. Officers should not, unless in exceptional circumstances, use personal mobile phones whilst on duty to take photographs or other recordings for evidential capture or any other purpose. Additional information in relation to the use of mobile phones can be obtained from the Use of Personal Mobile Phone Whilst on Duty SOP.

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- 6.4.4 Preservation of items for forensic examination including DNA and fingerprint evidence must also be a consideration. The protocols for preserving this type of evidence should be observed and recorded as this may be led in evidence. Productions seized for DNA testing should be focused on those involved in the set up and running of the site. The use of a Crime Scene Manager may be a consideration.
- 6.4.5 The utility company will make the power supply to the cultivation site safe. There may be a requirement for temporary lighting to be able to work safely. Consideration could be given to allow the utility company to leave the power safely connected. If this is not feasible, police emergency lighting should be installed and can be arranged through Service Overview.

### 6.5 Productions

- 6.5.1 A production officer should be nominated at the cultivation site. Video and/or photographic images of the locus must be taken. The cannabis plants must be quantified and any loose cannabis or evidence of previous cultivations should be seized. It is essential to establish the exact number of plants along with an indication of their maturity.
- 6.5.2 All equipment **must** be quantified by the nominated production officer, for example the number of plant pots, lights, ballast boxes, should be accurately counted and recorded. A sample of each type of equipment should be seized as a production. A label in lieu can be completed and submitted to reflect the number of other items of equipment present. The equipment described on a 'label in lieu' must be photographed and removed from the site. After consultation with the Procurator Fiscal (PF) the 'label in lieu' equipment may be suitable for disposal. The 'label in lieu' must be lodged however the equipment it refers to can be stored and if permission is given by the PF, subsequently disposed of. The single samples of equipment seized must be lodged as productions. There is some evidential value in establishing the amount of money spent on equipment and it is therefore prudent to note details of the make, model and serial number of anything being used in the process. **Facilities will be provided by Criminal Justice Division for the safe and secure disposal of items that do not require to be retained for evidential purposes.**
- 6.5.3 Cannabis cultivation cases can be progressed on the basis of presumptive testing. It is important that sample material be taken from a sample plant and that evidence of the time, date and location of the corroborated presumptive test is recorded.
- 6.5.4 The appropriate number of sample plants should be obtained as per this standard operating procedure. Other documents which may assist include the Lord Advocate's Guidelines on the Seizure, Retention and Disposal of Productions from Cannabis Cultivation Sites. Further guidance on productions can be sought from the Productions SOP and Forensic Science Gateway SOP.

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- 6.5.5 When a large quantity of cannabis requires to be seized as a production, there must be consultation with local policing regarding the provision of secure drying areas or facilities and Productions staff / Forensic Services regarding drying and packaging procedures.
- 6.5.6 If an extensive cultivation within commercial premises has been identified, it may be appropriate to appoint a Crime Scene Manager to co-ordinate the locus. A sketch of the area **must** be undertaken to assist with subsequent court proceedings.
- 6.5.7 There is no set number of plants that indicate the cultivation is for personal use or supply. Each case must be considered on its own merits. The STOP Unit should be contacted if further guidance is required.
- 6.5.8 It is the responsibility of the enquiry officer to ensure that all productions seized are labelled, packaged and recorded appropriately in accordance with the Productions SOP.

### **6.6 Disposal of Plant Material and Equipment**

- 6.6.1 The Lord Advocate's Guidelines on the Seizure, Retention and Disposal of Productions from Cannabis Cultivation Sites direct that all non-sample plant material can be disposed of provided all the safeguards are in place namely, that the locus has been videoed, using digital photography, and that the recording has been checked.
- 6.6.2 A full audit of the number of plants being disposed of and the officers involved should be retained and the Procurators Fiscal notified of this. In addition to this, the Productions Staff will liaise with Police Scotland Health & Safety Team, as necessary, to ensure that disposal meets current legislative requirements.
- 6.6.3 The Lord Advocate's Guidelines on the Seizure, Retention and Disposal of Productions from Cannabis Cultivation Sites direct that one piece of each type of equipment should be retained as a sample. In the event that a true owner is traced, a disclaimer should be sought for disposal of the remaining equipment. If the true owner cannot be traced at this time then the officer in charge should seek early communication with the Procurator Fiscal. Direction should be sought on the disposal of the remaining equipment and if granted the same procedure should be adopted as the disposal of plant material.
- 6.7 The police response must be proportionate in terms of any investigation and likely outcome. At an early stage the Police Scotland Statement of Opinion (STOP) Unit for the area concerned, should be contacted if there is any uncertainty on what police action should be taken.
- 6.8 It is not an offence to possess cannabis seeds and the offence of cultivation is only complete when the seed germinates or an attempt is made to germinate it.

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- 6.9 Organised crime groups can control one or more large commercial sites or a number of smaller satellite cultivations. Officers attending a cultivation should consider those involved may form part of a more complex criminal network.
- 6.10 In cases where the suspect(s) speak limited or no English an interpreter will be required. Guidance in relation to this is contained in the Interpreting and Translating Services SOP.
- 6.11 Assess whether any person found operating a cannabis cultivation may be a potential victim of human trafficking. This should be considered on a case by case basis taking into account all relevant factors. If there is evidence of human trafficking please refer to Police Scotland Human Trafficking SOP. Early consultation with the Crown Office and Procurator Fiscal's Service (COPFS) is essential in all suspected people trafficking cases.

### 6.12 Retention of Remaining Equipment

- 6.12.1 On all occasions the Procurator Fiscal must be contacted prior to the disposal of any equipment seized from a cultivation site.
- 6.12.2 For further guidance please refer to Lord Advocate's Guidelines on the Seizure, Retention and Disposal of Productions from Cannabis Cultivation Sites and the Productions SOP.

## 7. Suspected Drugs Labs

- 7.1 If a suspected illicit laboratory is discovered the police should withdraw and contact the STOP Unit witnesses immediately via the control room. Further advice should be sought from Forensic Scientists regarding safety procedures. Officers should then withdraw from the scene and ensure the area is secured.
- 7.2 The dangers of methamphetamine production pose serious risks to public health and safety in a wide variety of ways. Manufacturing processes are often crude, uncontrolled and extremely dangerous. Many of the precursor chemicals (either alone or in combination) are reactive, explosive, flammable, corrosive, and/or toxic. Unless decontaminated, the buildings where the drug is produced – sometimes people's homes – are not safe for people to live or work in. The drug's manufacture produces a great deal of toxic waste.
- 7.3 In the event of discovery, **leave the site immediately** and remain at a safe distance in case of fire, explosion or chemical contamination. Action should be taken to ensure all Police personnel and premises occupants:
- **Do not** use phones/radios until clear of the site.
  - **Do not** turn on/off any lights or electrical appliances.
  - **Do not** shut down any ongoing chemical process or remove power source to the premises.

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- **Do not** touch, open or remove any bottles or containers. Some chemicals involved can be fatal if inhaled and death may occur in seconds.
- **Do not** allow persons to re-enter the site.
- **Do** Inform control room

### **8. Drug Search Warrants**

8.1 The procedures to be adopted by officers when applying for a Search Warrant in respect of all drugs related cases are outlined below.

#### **8.2 Requests for Search Warrants**

8.2.1 All requests for Search Warrants must be submitted to the Procurator Fiscal in writing during normal working hours. The requests must outline the basis of the intelligence case or full circumstances of the current case for the application in respect of the Search Warrant. Generally the Procurator Fiscal will thereafter apply to a Sheriff.

8.2.2 There will be instances when it will not be practicable to adhere to normal procedures and include circumstances where a warrant is sought:

- When urgent.
- Where the Procurator Fiscal or Police Officer is unable to contact a Sheriff.
- Authority is given by the Procurator Fiscal.

8.2.3 In these situations and where it is competent, the Police may apply directly to a Justice of the Peace.

#### **8.3 Obtaining a Drugs Search Warrant**

8.3.1 When it is necessary to obtain a search warrant in respect of a drugs related enquiry the applying officer should ensure that the most recent intelligence, with grading, is presented in the warrant application. A warrant application lacking the most current intelligence or appropriate grading may result in the application being refused. For further guidance please refer to the Crown Office and Procurator Fiscal Service, Association of Chief Police Officers in Scotland Joint Guidance on Search Warrants and Warrants SOP.

8.3.2 A 'firewall' must be utilised to ensure source protection and confidentiality are maintained; officers involved directly in the intelligence gathering process must not form part of the evidential chain and/or warrant application process.

8.3.3 Furthermore the applying officer should also consider whether non police officers or "any assistance deemed necessary" may require to be specified on the warrant. There are some regional differences in terms of interpretation of the law by Sheriffs and PF's as a result. If any doubt this should be clarified with the PF to ensure that the correct information / nominal's are included on the warrant.

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8.3.4 In the event that officers are in attendance at a dwelling house or other premises for an unrelated matter and observe drugs or have grounds to suspect that drugs or related evidential material is present, the officers should ensure the security of the locus. Thereafter officers should apply for a Misuse of Drugs Act warrant as outlined above to allow the premises to be searched and the necessary evidence seized.

### **8.4 Forced Entry to Premises**

- 8.4.1 Officers involved in the execution of warrants granted under the auspices of the Misuse of Drugs Act 1971 will invariably be required to force entry to premises prior to undertaking the search. Section 2 of the Health and Safety at Work etc Act 1974 imposes a duty to the Chief Constable to ensure, so far as is practicable, the health, safety and welfare of all his employees. This includes the provision of Personal Protective Equipment (PPE) and suitable training regarding its use, in terms of the Regulation under the above act.
- 8.4.2 Where it is necessary for officers to force entry into a building or premises, this will be only be undertaken by suitably trained officers. These officers are also required to complete a risk assessment prior to forcing entry which will consider a variety of factors including:
- Number of children present
  - Dogs
  - Type and construction of door
  - Warning signs for occupants
  - Additional security features
- 8.4.3 Obtaining this information may require dialogue between the officer applying for the warrant and the Method of Entry staff from Support Services to ensure the information is obtained without compromising the ongoing enquiry.
- 8.4.4 Additional information in relation to search warrants can be found in the Crown Office and Procurator Fiscal Service, Association of Chief Police Officers in Scotland Joint Guidance on Search Warrants and Warrants SOP.

## **9. Prison – Recovery of Drugs**

- 9.1 Scottish Prisons have their own processes and procedures for dealing with the discovery of controlled drugs. If Police are called to a Prison the incident should be dealt with following the same procedures as for any other drugs investigation.
- 9.2 Further guidance can be obtained from the Memorandum of Understanding (MOU) between Scottish Police Service, Scottish Prison Service (SPS) and the Crown Office & Procurator Fiscals Service (COPFS) on the Recovery of Drugs in Prisons.

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## **10. Statement of Opinion (STOP) Unit**

- 10.1 Police Scotland has a drugs expert witness capability. The Units are known as Statement of Opinion (STOP) Units. The personnel within these Units are recognised by the courts as 'experts' and they are available to provide advice and assistance in police operations at all levels. The Units are also responsible for the publication of drug prices in their respective areas.
- 10.2 When drug supply cases are being reported to the Procurator Fiscal a brief opinion should be included from a named drugs expert witness indicating the value of the drugs and whether or not the circumstances of the case infer unlawful supply or simple possession. The named drugs expert in the case summary should not automatically be included in the list of witnesses for giving this opinion where they have no other involvement in the case, it should be included in the non-disclosable section of an SPR. The Procurators Fiscal require this information at the case reporting stage and no report should be submitted without the value of drugs being included along with a drug experts comment.
- 10.3 It is important you know who provides this service in your area as there should be a regular exchange of drug trend information between the drug expert units and operational police officers. STOP Unit staff will be able to look at all the evidential elements in a case which may include:
- Number of deals
  - Recognised weights
  - Tick lists
  - Forensic reports
  - Interviews and admissions
  - Witness statements
  - Commodity and purity information
  - Knowledge of drug prices
  - Circumstances indicating supply
- 10.4 Through the examination and assessment of the above information STOP Unit staff will be able to advise the enquiry officer whether an individual should be reported for supply or possession offences.

## **11. Video Recording of Premises Searches**

- 11.1 Officers involved in the search of premises should consider video recording the proceedings especially if the accused is not present during the search. This video recording capability may be available on request from Scenes of Crime officers or STOP Units subject to local arrangements.

## **12. Drugs Prices**

- 12.1 For up to date drugs prices and glossary of terms contact your local STOP Unit as these documents will be updated on a regular basis.

## **13. Prevention**

- 13.1 Police Scotland is committed to reducing the tragic impact of drugs on individuals, families and communities in Scotland. Enforcement is but one means of tackling this problem and we recognise the value and importance of prevention and effective partnership engagement.
- 13.2 When identifying drug related issues within our communities' consideration should always be given to prevention based approach and local engagement. By working closely with partner's action can be taken to tackle the issues prior to any need for enforcement action. Where enforcement action has taken place and an investigation is underway appropriate partnership engagement and prevention messaging still have a role to play. Whilst this prevention approach will often be adopted locally consideration should also be given to seeking support from Safer Communities.
- 13.3 It is important when significant drug related incidents occur that Police Scotland messages are consistent and that any media release is both factual and appropriate and opportunities are taken to highlight drug prevention and harm reduction messages. It is critical that any police media release is consistent with those of key partners including Public Health, NHS and Scottish Government. There may also be a requirement for wider consultation with drug services.

### **13.4 Media Statements re Significant Drug Incidents**

- 13.4.1 Police Scotland frequently responds to high profile enquiries in relation to incidents involving drug related deaths, serious incidents involving drugs and significant drug seizures. Invariably this type of incident will involve engagement with the media in some form.
- 13.4.2 Police Scotland drug related media statements play an important role in supporting public reassurance. Media statements highlight any immediate risk to public health.
- 13.4.3 The respective area Statement of Opinion (STOP) Units can provide valid drug trend information and valuations that will assist and they should be consulted at the earliest opportunity.
- 13.4.4 Where a media release or health warning is being considered, the Senior Investigating Officer (SIO) should consult with Police Scotland Detective Inspector for Substance / Harm Prevention and / or the STOP Unit co-ordinator. They will collaborate to ensure the accuracy of any threat, risk and harm message and ensure its delivery is in line with force policy.

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13.4.5 Where an incident is confirmed as 'critical' in terms of the Critical Incident Management SOP, this requires the creation of a Community Impact Statement or where further guidance or external partner liaison is required, SCD Safer Communities can provide assistance. These actions will ensure the publication of validated and consistent media messages.

**List of Associated Legislation**

- Misuse of Drugs Act 1971
- Civic Government (Scotland) Act 1982
- Health and Safety at Work etc Act 1974
- Criminal Justice (Scotland) Act 2016
- Asylum and Immigration Act 1996

## **List of Associated Reference Documents**

### **Policies**

- Crime Investigation Policy
- Serious and Organised Crime Policy
- Specialist Operations Policy
- Stop and Search Policy

### **Standard Operating Procedures**

- Stop and Search SOP
- Criminal Justice (Scotland) Act 2016 (Arrest Process) SOP
- Child Protection SOP
- Adult Support and Protection SOP
- Care and Welfare of Persons in Police Custody SOP
- Interpreting and Translating Services SOP
- Human Trafficking SOP
- Productions SOP
- Warrants SOP
- Use of Personal Mobile Phone Whilst on Duty SOP
- Record Retention SOP
- Appropriate Adults SOP
- Forensic Science Gateway SOP
- Critical Incident Management SOP

### **Reference Documents**

- Police Scotland Crime Recording and Scottish Government Counting Rules
- Police Scotland Solicitor Access Guidance Document
- Crown Office and Procurator Fiscal Service Association of Chief Police Officers in Scotland Joint Guidance on Search Warrants
- Memorandum of Understanding (MOU) between Scottish Police Service, Scottish Prison Service (SPS) and the Crown Office Procurator Fiscals Service (COPFS) on the Recovery of Drugs in Prison
- Management Guidelines For Persons Suspected of Having Drugs Concealed Internally

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- Lord Advocate's Guidelines to the Police on the Seizure, Retention and Disposal of Productions from Cannabis Cultivation Sites

**List of Associated Forms**

- 051-032 Police Interview Rights of Suspect
- National Referral Mechanism Form: child – Scotland and Northern Ireland