

JACKSONVILLE POLICE DEPARTMENT
PRESCRIPTION DRUG MONITORING PROGRAM

Policy: 11-7
Effective: 06-08-16
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PURPOSE: To establish guidelines for the Department regarding the use of the Prescription Drug Monitoring Program (PDMP) for all certified law enforcement officers and for those who have been certified through specialized training as certified law enforcement drug diversion investigators and approved by the Chief of Police.

POLICY: It is the policy of this Department to adhere to all conditions and regulations in regards to the access and use of the PDMP as set forth by the Arkansas Prescription Drug Advisory Board and A.C.A. §20-7-601 et. seq.

DEFINITIONS:

- I. **CONTROLLED SUBSTANCE:** A drug, substance, or immediate precursor in Schedule II-V.
- II. **CERTIFIED LAW ENFORCEMENT PRESCRIPTION DRUG DIVERSION INVESTIGATOR:** A certified law enforcement officer assigned by his law enforcement agency to investigate prescription drug diversion and who has completed a certification course in prescription drug diversion approved by the Arkansas Prescription Drug Advisory Board and certified by the Arkansas CLEST.
- III. **QUALIFIED LAW ENFORCEMENT AGENCY:** A law enforcement agency that has a certified law enforcement prescription drug diversion investigator and a Chief, Sheriff, or law enforcement Chief Executive Officer who has successfully completed a certification course in prescription drug diversion approved by the commission.

PROCEDURES:

- I. **ACCESS TO THE PRESCRIPTION DRUG MONITORING PROGRAM DATABASE**
The information in the controlled substances database may only be accessed by:
 - A. A certified law enforcement officer pursuant to a criminal investigation, but only after:
 1. a search warrant, signed by a judge, that demonstrates probable cause to believe that a violation of federal or state criminal law has occurred,
 2. that specific information contained in the database would assist in the investigation of the crime, and
 3. the specified information should be released to the certified law enforcement officer.
 - B. A law enforcement officer that has attended specialized training on the PDMP and the laws governing access to the PDMP by certified law enforcement prescription drug diversion investigators and have been appointed by the Chief of Police to conduct these types of investigations.
 - C. This information can only be viewed or shared with those involved in the investigation.
 - D. Once specific information is obtained from the PDMP, it will be used to further the investigation and for obtaining warrants for the arrest of the person(s) violating the law in the investigation.

- E. The information obtained from the PDMP will not be placed into any case file due to the private nature of the information that is contained in the PDMP. This information can be referred to in the case file but will be placed into evidence in two forms:
 - 1. a printed copy; and
 - 2. a digital copy.
- F. This information can only be brought out in court provided the presiding judge requests the evidence. It will not be provided to the prosecuting attorney, defense attorney, or the suspect to whom the information is about.

II. CONFIDENTIALITY

- A. Prescription information submitted to the Department of Health database is confidential and not subject to the Freedom of Information Act of 1967.
- B. All information contained in the database and any records maintained by the Department of Health or any entity the information is submitted to, maintained, or stored is privileged and confidential, is not a public record, and is not subject to subpoena or discovery in a civil proceeding.
- C. The Department shall ensure that the privacy and confidentiality of patients are maintained and that patient information collected, recorded, transmitted, and stored is protected and not disclosed to persons except in the following certain situations:
 - 1. a person authorized to prescribe or dispense controlled substances for his patients;
 - 2. a patient's own information;
 - 3. a parent or legal guardian for a minor child;
 - 4. a designated representative of a professional licensing board pursuant to an investigation;
 - 5. the State Medical Examiner pursuant to an investigation;
 - 6. local, state, and federal law enforcement or prosecutorial officials engaged in certain official duties and responsibilities; and
 - 7. personnel of the Department of Health for purposes of administration and enforcement.

III. LOGGING REQUIREMENTS AND ANNUAL REPORT

- A. A certified law enforcement prescription drug diversion investigator shall provide to the Department of Health the following information in order to be granted access to the PDMP:
 - 1. The identification credentials assigned by the Department of Health; and
 - 2. The case number of the investigation.
- B. Any request for information from the PDMP, whether obtained or not, will be reported to the Narcotics Supervisor to be logged (JPD Form CID 115) for an annual report that is submitted to the Department of Health through the Chief of Police. The following information is required to be reported:
 - 1. the case number of the investigation;
 - 2. the specific person(s) or business(s) who's information was requested;
 - 3. a copy of the search warrant, signed or unsigned; and
 - 4. disposition of the case.

IV. UNLAWFUL ACTS AND PENALTIES FOR VIOLATIONS

- A. It is unlawful for a person to knowingly obtain, use or disclose, or attempt to obtain, use or disclose information by fraud or deceit from the PDMP or from a person authorized to receive information from the PDMP. The PDMP is governed under A.C.A. § 20-7-611 and constitutes a Class C Felony for violating one of the sections covering law enforcement access.

- B. In addition to the criminal penalties and Department disciplinary actions, A.C.A. § 20-7-611 also does not limit a person whose privacy has been compromised unlawfully under this law from bringing a civil action to address the breach of privacy, or to recover all damages to which the person may be entitled per violation, including attorney's fees and costs.
- C. In addition to the criminal and civil penalties provided in A.C.A. § 20-7-611, a law enforcement officer who uses or discloses confidential information received from the PDMP in a manner, or for a purpose, in violation of this law may be subject to disciplinary action by this Department following the guidelines set forth in JPD Policy 7-9, Disciplinary Procedures.



Brett C. Hibbs
Chief of Police