

As of 2/1/2021, Measure 110 will limit officers' authority to investigate, search, and arrest for drug possession.

**INITIAL STOP FOR DRUG POSSESSION:**

- A stop for a *violation* offense requires probable cause that the suspect committed the offense.
- A stop for a *crime* requires reasonable suspicion that the suspect has committed that crime.
  - PCS in the following quantities or with additional factors are criminal:
    - Heroin—one gram or more
    - 3,4 methylenedioxymethamphetamine (MDMA)—at least: 1 gram, or 5 tablets, pills, capsules
    - Methamphetamine—2 grams or more
    - Methadone—40 or more user units
    - Oxycodone—40 or more pills, tablets, or capsules
    - Cocaine—two grams or more
    - LSD—40 or more user units
    - Psilocybin or psilocin—12 grams or more
    - PCS in Schedule I or II (including the above specific drugs) *and* three or more CDO factors

**EXTENSION OF A STOP: ANY UNRELATED INQUIRY REQUIRES LEGAL JUSTIFICATION:**

- **Officer can ask questions and investigate a drug *violation* during an unrelated stop when:**
  - Specific, articulable facts make it *probable* that the suspect possesses drugs; and
  - Investigation is limited to the violation for which there is PC
    - Questions must be reasonably related to investigating the possession violation
    - Officer can ask for consent to search, but only for the drugs for which there is PC
- **Expansion of a stop to investigate drug *crimes* requires reasonable suspicion of that crime.**
  - PCS in specified quantities or with CDO factors (see above).
  - DUII: Questions about the presence of alcohol or drugs are reasonably related to DUII.

**ABILITY TO ARREST AND TO SEARCH BASED ON VIOLATION PCS:**

- **M110 does not change authority to search for *crime* evidence. But some warrant exceptions depend on a lawful arrest (which is not permitted for a violation).**
  - Most inventories of a person apply only upon an arrest
  - *Search incident to arrest* requires PC to arrest for a *crime*.
- **Plain view: authorizes a seizure of contraband from a lawful vantage point**
  - An observation made in the course of a plain-view seizure *may* support a more expanded search
- **Automobile exception applies to violation drug possession.**
  - Allows search of a vehicle that was **mobile** when it was stopped only when there is **PC** that *contraband* or evidence of a crime is inside.
    - Contraband means anything the law prohibits possessing.
  - This search is **limited** to an entry to seize the contraband to which the PC relates
    - PC for commission of a drug crime does not, by itself, provide PC that drugs are in the *car*:
    - Possession of *some* drugs does not, on its own, supply PC that *more* drugs are present.
    - Intoxication, in and of itself, does not supply PC that the suspect *currently* has drugs.
  - To search for *more* drugs, there must be other facts that establish PC that *more* drugs are present.
    - If so, you may search any area or containers that might reasonably contain those drugs.
- **PC & Exigency**
  - If an officer has PC that a subject possesses contraband and reasonably believes an exigent circumstance exists (e.g. destruction of evidence) the officer may seize the contraband.