

# DRUG PROSECUTION



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# Why Prosecute Drug Cases?

- Get beyond the “Because the Legislature says so”



**DRUG SALES  
OR USE ON  
THESE PREMISES  
WILL LEAD TO  
ARREST AND  
PROSECUTION!**

# The War on Drugs









You Need to Know What You Think About  
Drugs and Their Prosecution, Before You Can  
Be An Effective Drug Prosecutor

# Schedule v. Legend Drugs





# Schedule I

- Schedule I drugs, substances, or chemicals are defined as drugs with no currently accepted medical use and a high potential for abuse. Schedule I drugs are the most dangerous drugs of all the drug schedules with potentially severe psychological or physical dependence. Some examples of Schedule I drugs are:
- heroin, lysergic acid diethylamide (LSD), marijuana (cannabis), 3,4-methylenedioxymethamphetamine (ecstasy), methaqualone, and peyote



# Schedule II

- Schedule II drugs, substances, or chemicals are defined as drugs with a high potential for abuse, less abuse potential than Schedule I drugs, with use potentially leading to severe psychological or physical dependence. These drugs are also considered dangerous. Some examples of Schedule II drugs are:
- cocaine, methamphetamine, methadone, hydromorphone (Dilaudid), meperidine (Demerol), oxycodone (OxyContin), fentanyl, Dexedrine, Adderall, and Ritalin

# Schedule III

- Schedule III drugs, substances, or chemicals are defined as drugs with a moderate to low potential for physical and psychological dependence. Schedule III drugs abuse potential is less than Schedule I and Schedule II drugs but more than Schedule IV. Some examples of Schedule III drugs are:
- Combination products with less than 15 milligrams of hydrocodone per dosage unit (Vicodin), Products containing less than 90 milligrams of codeine per dosage unit (Tylenol with codeine), ketamine, anabolic steroids, testosterone

# Schedule IV

- Schedule IV drugs, substances, or chemicals are defined as drugs with a low potential for abuse and low risk of dependence. Some examples of Schedule IV drugs are:
- Xanax, Soma, Darvon, Darvocet, Valium, Ativan, Talwin, Ambien

# Schedule V

- Schedule V drugs, substances, or chemicals are defined as drugs with lower potential for abuse than Schedule IV and consist of preparations containing limited quantities of certain narcotics. Schedule V drugs are generally used for antidiarrheal, antitussive, and analgesic purposes. Some examples of Schedule V drugs are:
- cough preparations with less than 200 milligrams of codeine or per 100 milliliters (Robitussin AC), Lomotil, Motofen, Lyrica, Parepectolin



# Legend Drugs

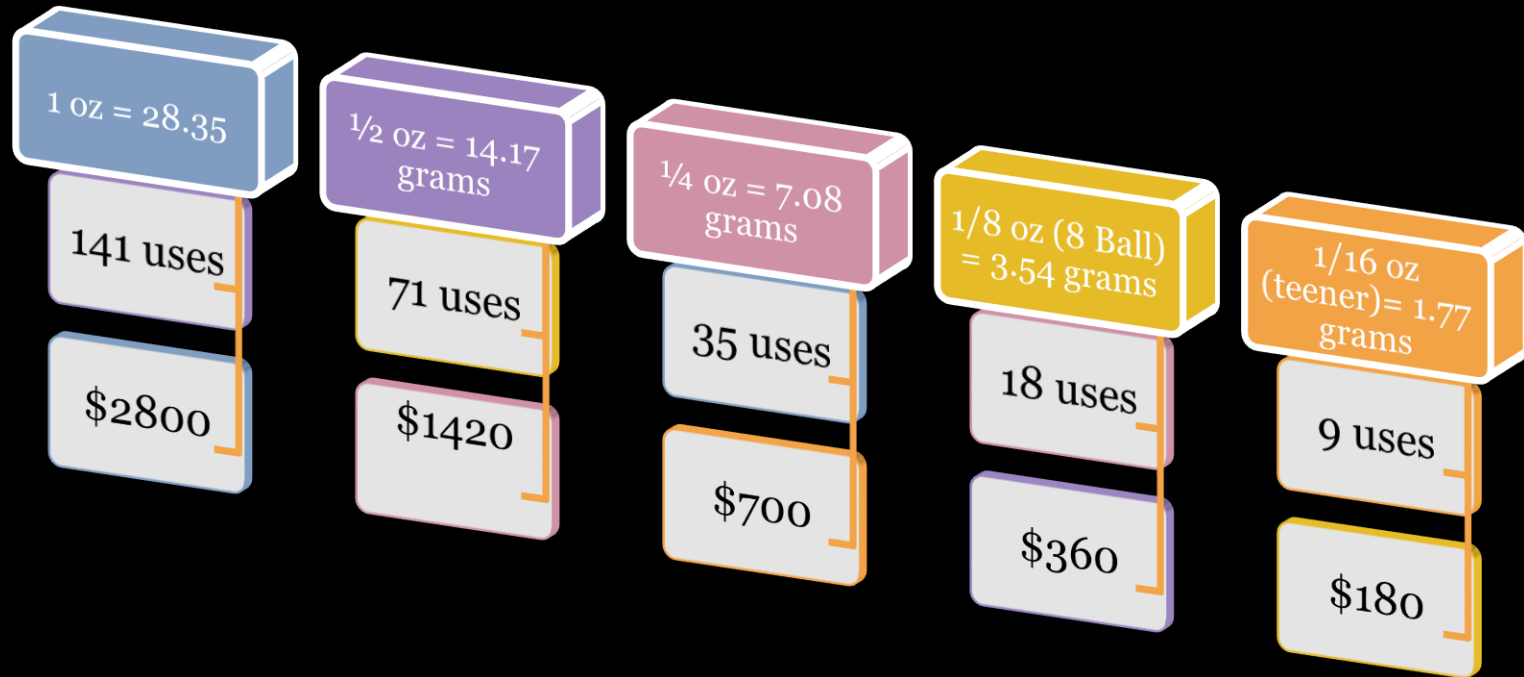
- Any drug that requires a prescription
- Generally a class A 58-17b-501(6) & 58-17b-504(2)
  - Procuring or attempting to procure any drug for himself or to have someone else procure or attempt to procure any drug:
    - By fraud, deceit, misrepresentation, or subterfuge
    - By forgery or alteration of a prescription or written order
    - By concealment of a material fact
    - By use of a false statement in any prescription, chart, order, or report

# Distribution

- 58-37-8(1)



# Possession with Intent to Distribute



# Possession

- 58-37-8(2)











































































# Prescription

- 58-37-8(3)



# Frequently Abused Prescription and Over-the-Counter Drugs Identification Chart

PAIN RELIEVERS			Oxycodone			STIMULANTS		
<b>Butorphanol Tartrate</b> IV			<b>Oxycodone</b> II			<b>Amphetamine Mixture</b> II		
<b>Stadol NS</b> <sup>®</sup>	10 mg/ml (Not shown actual size)		<b>OxyContin</b> <sup>®</sup>	10 mg		<b>Percocet</b>	10 mg/ 650 mg	
<b>Codeine/Acetaminophen</b> III			15 mg			<b>Tylox</b> <sup>®</sup>	5 mg/ 500 mg	
<b>Tylenol w/Codeine</b> <sup>®</sup>	30 mg/ 300 mg		20 mg			<b>Oxycodone HCl/Aspirin/ Oxycodone Terephthalate</b> II		
60 mg/ 300 mg			30 mg			<b>Percodan</b> <sup>®</sup>	4.5 mg/ 325 mg/ 0.38 mg	
<b>Fentanyl</b> II			40 mg			2.25 mg/ 325 mg/ 0.19 mg		
<b>Fentora</b> <sup>®</sup>	400 mcg		10 mg (Canada)			<b>Pentazocine/Aspirin</b> IV		
600 mcg			20 mg (Canada)			<b>Talwin Compound</b> <sup>®</sup>	12.5 mg/ 325 mg	
800 mcg			40 mg (Canada)			15 mg		
<b>Duragesic</b> <sup>®</sup>	50 mcg/hr		80 mg (Canada)			25 mg		
(Not shown actual size)			<b>Roxicodone</b> <sup>®</sup>	15 mg		<b>Pentazocine/Naloxone</b> IV		
(Also available in 12.5 mcg/hr, 25 mcg/hr, 75 mcg/hr & 100 mcg/hr)			30 mg			<b>Talwin NX</b> <sup>®</sup>	50 mg/ 0.5 mg	
<b>Actiq</b> <sup>®</sup>	400 mcg		<b>Generic</b>	15 mg		<b>Generic</b>	50 mg/ 0.5 mg	
(Not shown actual size)			30 mg			<b>Propoxyphene/Acetaminophen</b> IV		
(Also available in 200 mcg, 600 mcg, 800 mcg, 1200 mcg & 1600 mcg)			15 mg			<b>Darvocet - N</b> <sup>®</sup>	50 mg/ 325 mg	
<b>Hydrocodone/Acetaminophen</b> III			<b>Oxycodone/Acetaminophen</b> II			100 mg/ 650 mg		
<b>Lorcet</b> <sup>®</sup>	5 mg/ 500 mg		<b>Percocet</b> <sup>®</sup>	2.5 mg/ 325 mg		<b>Tramadol</b> RX		
7.5 mg/ 650 mg			5 mg/ 325 mg			<b>Ultram</b> <sup>®</sup>	50 mg	
			10 mg			<b>Phentermine</b> IV		
			<b>Oxycodone</b> II	7.5 mg/ 500 mg		<b>Adipex-P</b> <sup>®</sup>	27.5 mg	
			<b>Methadone</b> II			<b>Triazolam</b>		
			100 mg			<b>Halcion</b> <sup>®</sup>		
			5 mg					
			5 mg					
			10 mg					
			10 mg					
			40 mg					
			<b>Hydromorphone</b> II					
			2 mg					
			4 mg					
			8 mg					
			<b>Generic</b>	2 mg				
			2 mg					
			2 mg					
			2 mg					
			4 mg					
			4 mg					
			4 mg					
			8 mg					
			<b>Morphine</b> II					
			15 mg					
			30 mg					
			60 mg					
			100 mg					
			<b>Oxycodone/Acetaminophen</b> II					
			<b>MS Contin</b> <sup>®</sup>	15 mg				
			30 mg					
			60 mg					
			100 mg					
			<b>Oxycodone/Acetaminophen</b> II					
			<b>Opana</b> <sup>®</sup>	5 mg				
			10 mg					
			<b>Opana ER</b>	10 mg				
			10 mg					

# Enhancements

- 
- Drug Free Zones
  - Marijuana
  - Distribution



# Experts

- Lab
- Possession with Intent





# Be Consistent

- Remember that everything you decide to charge shows up on someone's BCI



# Do The Right Thing For The Right Reasons

- Drug Programs
  - Diversion
  - Drug Courts
  - In jail programs
  - Prison programs

# Just Because You Can...Doesn't Mean You Should

- There is almost always the ability to enhance
- Shouldn't be used as a bargaining chip



# State v. Federal



# Forfeiture

- Civil
  - Lower burden
  - Civil action
  - Often someone from civil division does the case
- Criminal
  - Filed as part of the information
  - Criminal burden

Both require the agency to have a policy and procedure in place as well as a designated forfeiture agent



# Questions?

