

2.03-1

DAYTON POLICE DEPARTMENT  
GENERAL ORDER  
PUBLIC USE NUISANCES



RICHARD S. BIEHL – DIRECTOR AND CHIEF OF POLICE

Rev. 4/14

**POLICY STATEMENT**

Public nuisances endanger the life, health, property, safety, and welfare of the public in the communities of the City of Dayton. The Dayton Police Department and the City of Dayton, Department of Business Services, Division of Housing Inspections, work together to abate nuisances in the areas of prostitution, gambling, liquor violations and felony drug violations.

**I. SECTIONS ENFORCED UNDER USE NUISANCE PROGRAM**

**A. Revised Code of General Ordinances**

1. RCGO 152.01(2)(a) Prostitution
2. RCGO 152.01(2)(a) Gambling
3. RCGO 152.01(2)(a) Liquor Violations
4. RCGO 152.01(2)(c) **Felony** Drug Violations

**II. RESPONSE TO CALLS/INVESTIGATIONS INVOLVING VIOLATIONS OF THE PUBLIC USE NUISANCE ORDINANCE**

A. Officers involved in calls or investigations involving violations of I.A.(1)(2)(3)(4) listed above are to contact a supervisor who is authorized to issue Public Use Nuisance Orders respond to the scene (all Patrol Operations and Investigations and Administrative Services supervisors are required to be certified).

1. The responding, authorized supervisor will make the final determination on whether or not the violations are sufficient to serve the Public Use Nuisance Orders.
2. Public Use Nuisance still occurs when evidence exists of a violation of RCGO 152.01(2)(a)(b)(c) even though no suspects have been arrested.

a. EXAMPLE:

Officers are dispatched to a residence on the report of a domestic violence call. Upon lawfully entering the residence, the officer observes what appears to be crack cocaine (or any **felony** drug evidence), laying on a table in the residence. All occupants deny possession of the substance and the officer is unable to charge anyone. The officer is to follow the following procedures:

- b. Officers will mark, tag and place the substance in the property room and submit a lab request for a test of the substance. The test results will be sent to the Narcotics Bureau Support Unit to be used in further Use Nuisance procedures. **DO NOT MARK THE EVIDENCE FOR DESTRUCTION.**
- c. In cases where there is no arrest that would require a D.I.B.R.S. arrest report, complete a detailed D.I.B.R.S. memorandum marking it "Use Nuisance" in line 10 of the D.I.B.R.S. report. Use Nuisance incidents need to be thoroughly documented in the D.I.B.R.S. report. Include where drugs were found and who was nearby. Also include the reason you were there (i.e. dispatched, complaint received, etc.).
- d. In cases where there is an arrest and a D.I.B.R.S. arrest report has been completed, an E-mail to the Public Use Nuisance Specialist is all that is necessary as the required information will already be contained in the arrest report.



- B. Officers could encounter several other areas where the Public Use Nuisance Law is being violated. These areas include the occupancy or trespassing on the premises of a structure determined to be a nuisance. The following is a list of those violations:
- RCGO 152.12 - It is illegal for any person to occupy or allow another to occupy a structure that has been declared a public nuisance.
  - RCGO 152.121 - It is illegal for any person, including the owner, to enter upon the premises of a public nuisance without the written consent of the Superintendent of Code Enforcement & Rehabilitation.
- C. Officers who encounter owners, tenants, or any other persons occupying or trespassing upon a structure or premises that has been declared a public nuisance, will confirm the location and persons who have been abated from the premises or location, from the Listing of Use Nuisance Abatement Orders in Effect List which is found on the "P" drive under the Use Nuisance List folder, and after confirmation, will have the discretion of either incarceration or a request for summons for violation of either RCGO 152.12 or RCGO 152.121. Under no circumstances will an individual be arrested if the premise cannot be confirmed from the Listing of Use Nuisance Abatement Orders in Effect List.
- D. When compliance checks are done on any Nuisance Abated property, an E-mail should be sent to the Public Use Nuisance Specialist. This email should include: the address checked, the date of the check, who was present and any other information about the new tenant, if applicable.

### III. Use Nuisance FIC's ("UFI's") in Public Use Nuisance Investigations

A Use Nuisance FIC ("UFI") shall be created in MIS whenever a notice of Public Use Nuisance is issued to any individual.

- A. The "UFI" is established to be an intelligence record in MIS of persons involved in drug, liquor, prostitution or gambling activity in a Use Nuisance environment. A "UFI" is a special category of the FIC "family" in MIS and will be displayed in any FIC or Master Name Index search.
- B. Supervisors issuing Public Use Nuisance notices may direct subordinate officers involved in the investigation to create the "UFI's" in MIS. It will be the responsibility of the issuing supervisor, however, to ensure that the "UFI's" are entered.
- C. "UFI's" *should only be created when initial Public Use Nuisance notices are issued*. "UFI's" are not to be created to document new tenants or other individuals encountered during compliance checks. In these instances, if an FIC is warranted, a conventional "FIC" is appropriate.
- D. "UFI's" are also not necessary for anyone charged with RCGO 152.12 or RCGO 152.121. In these instances, a charged person's information should already be in MIS by virtue of a "UFI" (entered at the time the individual was served with a Public Use Nuisance notice).
- E. For quick and efficient entry of "UFI's" in MIS, officers may use the data recorded on the yellow or pink copies of the Public Use Nuisance notice as a guide. A narrative is not necessary in a "UFI" unless there are unusual circumstances. A DIBRS crime report or information memo is still required in an initial Public Use Nuisance investigation.

### IV. DOCUMENTATION REQUIRED FOR PUBLIC USE NUISANCE HEARINGS

- A. D.I.B.R.S. Arrest reports (When Applicable)
- B. D.I.B.R.S. Incident Reports (When Applicable)
- C. D.I.B.R.S. Memorandums (When there are no arrests)
- D. Public Use Nuisance Forms (Pink & Yellow Copies) Forms revised 2-2012 only.
- E. **All reports are to be routed to the Narcotics Bureau Support Unit**



**V. SUPERVISORS RESPONSIBILITIES**

- A. **Ensure** that the violations which are reported and Public Use Nuisance Orders that are issued are for **criminal violations and not administrative violations.** (i.e. some liquor violations are administrative not criminal.)
- B. Use Nuisance Forms **must be reviewed** by the issuing Sergeant and signed by that Sergeant.
- C. The person(s) receiving the Use Nuisance Notice should sign the form. If there is no signature, it must be noted on the form why there is no signature (refused or handcuffed). If the person is going to be released, they should sign the form once the handcuffs are removed.
- D. The Use Nuisance Form is for the entire building, not one particular apartment so do not limit the form by indicating an apartment (the apartment number should be placed on the individual's address but not the address being served the Use Nuisance. Use both addresses for duplexes or doubles.
- E. Ensure that all the evidence that is collected is marked, tagged and placed in the property room and a lab request is submitted. Note on the lab request for the results to be sent to the Narcotics Bureau Support Unit.