



PENAL CODE SECTION 308(a) OPERATIONS

Guidelines

The following are guidelines for conducting enforcement operations under Penal Code Section 308(a) [PC 308 (a)]. They guidelines represent a minimum standard for law enforcement agencies funded by the California Department of Health Services, Tobacco Control Section to conduct PC 308(a) enforcement activities. They were developed by a Task Force convened by the California Tobacco Control Program in October 2001 and represent the efforts of the Fresno County Sheriff's Department, City of Newark Police Department, Butte County Health Department, Pittsburgh Police Department, San Jose Police Department, the Technical Assistance Legal Center and the Food and Drug Branch, California Department of Health Services.

Guidelines for PC 308(a) Operations

The following minimum standards shall apply to all decoys working with members of designated agencies engaged in undercover activities pertaining to PC 308(a) enforcement.

1. All decoys shall be less than 18 years old at the time of any undercover decoy operation. The decoy shall display an appearance consistent with their age (less than 18 years old) and environment.
2. A photograph or video recording will be taken immediately prior to or at the time of the operation for the purpose of recalling the decoys appearance at this time. The photograph and/or video recording will be retained by the agency supervising the decoy operation.
3. All decoys shall be truthful when disclosing his or her age. A decoy shall carry his or her own identification showing their correct date of birth or not carry any identification. A decoy who carries identification shall present it upon request to any seller of tobacco products.
4. A decoy shall be supervised by an adult regularly employed peace officer or other adult authorized statutory authority at all times during the operation.
5. Upon completion of the decoy operation, the designated agency shall make a reasonable attempt to notify the owner or owner's agent of the operations results.
6. The designated agency may use recording equipment, including video, audio, photographic and other audio/visual recording equipment, to record and document an operation.