



Criminal Citations

.01 Policy

It is the policy of the Bladensburg Police Department that members who have grounds to make an arrest for an offense that does not carry a penalty of imprisonment and who determines a defendant meets the criteria specified here, shall issue a Uniform Criminal Citation in lieu of a full custody arrest.

.02 Terms

Criminal Citation: Authorized by Maryland Law as a District Court Charging Document for certain misdemeanor offenses.

Probable cause: The existence of facts and circumstances which would lead a person of reasonable intelligence and prudence to believe that a crime has been committed.

.03 Governing Legislation and Reference

Governing Legislation:

Maryland Criminal Procedures Article, Section 2-202.

Maryland District Court Rule 4-102 and 4-202(b).

Maryland Senate Bill 422, Chapter 504 (2012 General Assembly).

Terry v. Ohio, 392 U.S. 1 (1968).

Forms:

Uniform Criminal Citation (Form DC/CR 45).

Probable Cause Continuation Sheet (Form DC/CR 4).

Statement of Charges Form (Form DC/CR 2).

Case Report / Arrest Record.

Reference:

Appendix A—Qualifying Offenses.

.04 Procedure

Members shall not unlawfully detain any person based upon race, color, ethnicity, national origin, gender, age, sexual orientation, disability or genetic information.

Members shall not participate in the use of any unlawful discriminatory characteristic as a cause for taking any law enforcement action against any

individual or group of individuals.

A. The 2012 Maryland General Assembly passed legislation mandating the issuance of a criminal citation for certain criminal offenses if the defendant meets certain criteria. If these criteria are met, the law allows an officer who has grounds to make a warrantless arrest to (i) issue a citation in lieu of making an arrest or (ii) make the arrest, process (i.e., fingerprint and photograph the defendant), and issue a citation in lieu of continued custody to await an appearance before a court commissioner.

B. Qualifying Offences

In Maryland, qualifying offenses for which a citation is issued includes:

- Any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment;
- Any misdemeanor or local ordinance violation for which the maximum penalty of imprisonment is 90 days or less; and,
- Possession of marijuana under Criminal Law Article § 5-601,

See Appendix A for a comprehensive list of qualifying offenses that require charge by criminal citation.

Exceptions

Offences which may **not** be charged by criminal citation:

- Failure to comply with a peace order under Courts Article § 3-1508;
- Failure to comply with a protective order under family Law Article § 4-509;
- A violation of a condition of pretrial or post-trial release while charged with a sexual crime against a minor under Criminal Procedure Article § 5-213.1;
- Possession of an electronic control device after conviction of a drug felony or crime of violence under Criminal Law Article § 4-109(b);

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- Violation of an out-of-state domestic violence order under Family Law Article § 4-508.1; and,
- Abuse or neglect of an animal under Criminal Law Article § 10-604.

C. Criteria for Issuance of Citation

Although Maryland law mandates the issuance of a citation for qualifying offenses, a defendant must meet certain criteria to be released without approval by a court commissioner. If the defendant cannot meet the criteria listed below, the officer must charge the individual on a statement of charges and ensure the defendant's appearance before a court commissioner.

SB 422 requires a law enforcement officer to charge a defendant by citation only if:

- the officer is satisfied with the defendant's evidence of identity;
- the officer reasonably believes that the defendant will comply with the citation;
- the officer reasonably believes that the failure to charge on a statement of charges will not pose a threat to public safety;
- the defendant is not subject to arrest for another criminal charge arising out of the same incident; and,
- the defendant complies with all lawful orders of the officer.

If the officer determines the defendant meets the criteria specified herein, a defendant shall be charged by Uniform Criminal Citation and shall be released upon their signature on the citation in lieu of continued custody.

The issuance of a citation is subject to all relevant laws of arrest, probable cause, and any other controlling factors which would have an impact on a custodial arrest.

Supervisory Responsibility

If the officer determines that the defendant **does not** meet the criteria specified herein, the officer may continue custody for appearance before a court commissioner only upon approval of a supervisor (Corporal or above).

D. Search Incident to Arrest

Search incident to arrest is generally not permissible if a defendant is to be released from the scene upon insuring a criminal citation. No authority enables a search incident

to charges solely by citation unaccompanied by arrest. However, this in no way abridges an officer's authority to conduct a Terry pat-down of a suspect's outer clothing for officer safety where there exists an independent reasonable, articulable suspicion that the suspect is presently armed.

E. Arrest, Processing, and Release

A police officer who has grounds to make an arrest for these enumerated offenses shall make the arrest, search incident to arrest, and process (i.e. fingerprint and photograph) the defendant, then issue a citation in lieu of continued custody. The law requires that all officers must charge those offenses on citations unless the officer can articulate one of the five criteria listed herein.

Offenses

- Possession of Marijuana over 10 grams, CR 5-601 (c)(2)(I), 1 year / \$1,000;
- Possession of Marijuana under 10 grams, CR 5-601 (c)(2)(ii), 90 days / \$500 fine;
- Theft under \$100, CR 7-104(g)(3), 90 days / \$500 fine;
- Trespass (private), CR 5-402(a), 90 days / \$500 fine;
- Trespass (first time-posted), CR 6-403(b), 90 days / \$500 fine;
- Disorderly/disturbing peace, CR, 10-201(c)(2), 60 days / \$500 fine;
- Failure to Obey, CR 10-201(c)(3), 60 days / \$500 fine;
- Malicious Destruction (under \$500), CR 6-301©, 60 days / \$500 fine; and,
- Harassment, CR 3-803(a), 90 days / \$500 fine.

F. Citation Eligible Offenses Not Committed in Presence of the Officer.

In a case in which a defendant allegedly commits an offense that is eligible for issuance of a citation in lieu of arrest, but the offense was not committed in the officer's presence; thus, the officer has no personal knowledge that such offense was committed; the officer shall:

- Advise the complainant to go to the Commissioner's office and file an application for a charging document; or,

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- Make application to a District Court Commissioner for a charging document.

Under these circumstances, the officer lacks the authority to either conduct a warrantless arrest of the defendant or issue of citation to a defendant who commits such an offense that was not committed in the officer's presence.

G. Completion of Forms

Criminal Citation (Form DC/CR 45)

When a police officer determines that a Uniform Criminal Citation shall be the form to charge a defendant, the officer shall use the preprinted / prenumbered book provided by the District Court (Form DC/CR 45).

The officer shall use the Statement of Probable Cause Continuation sheet (Form DC/CR 4) to complete the probable cause narrative outlining the facts and circumstances substantiating the charge. The Uniform Criminal Citation number shall be recorded in the case number block on the continuation sheet.

If for any reason the defendant is charged on a Statement of Charges (Form DC/CR 2) instead of a criminal citation, a note shall be placed at the end of the statement of probable cause as to why the person went before the commissioner in lieu of being released on the citation.

Officers issuing a criminal citation shall:

- Complete all appropriate sections and ensure the Citation number is recorded in the Case Report and Arrest Record;
- Check the block "When notified by the Court" to indicate that the defendant will be notified of a court date;
- On the line marked "Penalty," write the penalty which the court may impose (fine and jail time associated with the charge);
- Enter only one charge per citation. Officers shall cross-reference citations when issuing more than one citation;
- Citations will contain the charging language set forth in the District Court of Maryland Charging Language Manual;
- "Prince George's County" will be included in the "Location" block;
- Fill-in all blocks, including "Agency", "ID Number" and sign the document; and,

- Give the defendant the appropriate copy of the citation.

Probable Cause Continuation Sheet (Form DC/CR4)

Under no circumstances should the officer try to write the entire probable cause statement on the first page of the Uniform Criminal Citation. The officer shall use the statement of probable cause continuation sheet to complete the probable cause narrative outlining the facts and circumstances substantiating the charge. The Uniform Criminal Citation number shall be recorded in the case number block on the continuation sheet.

Statement of Charges (Form DC/CR 2)

If the defendant is charged on a Statement of Charges for an offense that qualifies for charge by citation, a note shall be placed at the end of the statement of probable cause as to why the defendant went before the commissioner instead of being released on citation.

Case Report

In addition to the Uniform Criminal Citation and the probable cause continuation sheet(s), the Officer shall complete a Case Report detailing the circumstances of the incident. A copy of the report shall be forwarded to the States Attorney's office with a copy of the citation.

Form Distribution

- Copies of the Uniform Criminal citation and Probable Cause Continuation Sheet(s) shall be given to the defendant upon release.
- Copies of the Uniform Criminal Citation, Probable Cause Continuation Sheet, and Criminal Investigation/Incident Report shall be forwarded to the State's Attorney's Office.
- Officers shall submit charging documents and case reports for supervisory review by the end of their shift.

H. Victim and Witness Information

Witnesses are summoned on a "Witness Summons" that will accompany the citation when turned-in.

The names and addresses of the victims and Witnesses shall only be listed on the Case Report and not the citation.

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I. Voiding Citations

- Citations will be voided only for a Clerical error.
- Complete a "Citation Void Request" and forward to the Chief of Police through the chain of command. Only the Chief of Police can void an unissued citation.

J. Statistical Data Collection

Beginning January 1, 2013, law enforcement agencies are required to collect the following data on all criminal citations issued:

- The date, location, and time of the issuance of the citation;
- The offense charged;
- The gender of the offender;
- The date of birth of the offender;
- The state and, if available, the county of residence of the offender; and,
- The race or ethnicity of the offender as:
 - Asian;
 - Black;
 - Hispanic;
 - White; or,
 - Other.

HISTORY: Adopted January 1, 2013

This General Order supersedes all other orders and memoranda in conflict therewith.

Authority:



Charles L. Owens
Chief of Police