



OFFICE OF THE COUNTY SHERIFF
 Montgomery County, Maryland
Darren M. Popkin, Sheriff



GENERAL OPERATIONAL PROCEDURES

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| <u>Subject:</u> | <u>Number:</u> | <u>Effective Date:</u> |
| Uniform Criminal Citations | 3.47 | 01/14/13 |

Policy: In compliance with Md. Code, Criminal Procedure Article, § 4-101, certain qualifying criminal offenses must be charged by uniform criminal citation, if the criteria mandated by Criminal Procedure Article, § 4-101 (c) (3) are satisfied.
(1.2.6)

Contents:

- I. Overview
- II. Qualifying Offenses
- III. Exceptions
- IV. Criteria for Issuance of Uniform Criminal Citation
- V. Juveniles
- VI. Searches
- VII. Required Forms and Reports
- VIII. Deputies Responsibilities
- IX. Criminal/Civil Division Captain Responsibilities
- X. CALEA Standards

I. Overview

Md. Code, Criminal Procedure Article, § 4-101 mandates the issuance of a uniform criminal citation for qualifying offenses if the criteria specified in Md. Code, Criminal Procedure Article, § 4-101 (c) (3) are satisfied. If an offense is specified in Section II, Qualifying Offenses, the deputy who has probable cause to make a warrantless arrest has the discretion to:

- A. Issue a uniform criminal citation in lieu of making an arrest, or
- B. Make the arrest, fingerprint, and photograph the defendant and then issue a uniform criminal citation in lieu of continued custody to await an appearance before a court commissioner.
 - (1) Deputies using this option must follow General Operational Procedures 3.03, Arrest Policy and Procedure. Deputies must:
 - (a) Place the defendant under arrest and search incidental to the arrest,
 - (b) Transport the defendant to the Central Processing Unit (CPU) for processing of fingerprints and photographs,

- (c) Issue the uniform criminal citation, and
 - (d) Release the defendant upon their signature and provide a copy of the uniform criminal citation along with the statement of probable cause to the defendant.
- (2) If the defendant is charged with multiple violations arising out of the same incident, and at least one of the violations does not qualify for a uniform criminal citation, the defendant must be taken to CPU and charged via statement of charges for all charges; including the charges that are uniform criminal citation eligible.
 - (3) This policy does not alter the authority of a deputy to make an arrest, conduct a search or seizure, or otherwise fulfill the deputy's law enforcement obligations.

II. Qualifying Offenses

- A. Criminal offenses that meet the following mandated criteria must be charged via uniform criminal citation; unless exempt under Section III and the criteria of Section IV are met.
 - (1) Any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment.
 - (2) Any misdemeanor or local ordinance violation for which the maximum penalty of imprisonment is ninety (90) days or less.
 - (3) Possession of marijuana under § 5-601 of the Criminal Law Article.
- B. A comprehensive list of qualifying offenses authorized for the issuance of a uniform criminal citation is kept in PowerDMS titled Uniform Criminal Citation Qualifying Offenses.

III. Exceptions

The following offenses cannot be charged by uniform criminal citation.

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

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

IV. Criteria for Issuance of Uniform Criminal Citation (1.2.7)

- A. Deputies may only charge a defendant by uniform criminal citation if:
 - (1) The deputy is satisfied with the defendant's evidence of identity,
 - (2) The deputy reasonably believes the defendant will comply with the citation,
 - (3) The deputy reasonably believes that the failure to charge on a statement of charges will not pose a threat to public safety,
 - (4) The defendant is not subject to arrest for another criminal charge arising out of the same incident, and
 - (5) The defendant complies with all lawful orders by the deputy.
- B. If any one of these conditions is not met, the defendant should be arrested, processed, charged on a statement of charges and presented to the commissioner.

V. Juveniles

- A. Alcohol and tobacco related offenses located in Md. Code, Criminal Law Article, § 10-113 through § 10-118 and Md. Code, Education Article § 26-103 are the only uniform criminal citations that juvenile defendants may be charged.
 - (1) Deputies must:
 - (a) Notify the juvenile's parents or guardian, and
 - (b) Send a copy of the uniform criminal citation to the parents or guardian.
- B. Juveniles cannot be arrested for the above alcohol and tobacco related offenses but may be arrested for other criminal charges.

VI. Searches

A deputy issuing an on-scene uniform criminal citation in lieu of arrest, has no authority to conduct a search of the defendant incident to issuance of the citation. However, this in no way restricts a deputy'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. A deputy may conduct a full search of any defendant that is taken into custody for processing, whether pursuant to a statement of charges or issuance of a uniform criminal citation to be followed by a release. **(1.2.4)**

VII. Required Forms and Reports

- A. Uniform Criminal Citation, Form DC/CR 45 is provided by the District Court. The Property Custodian is responsible for obtaining and maintaining the MCSO supply of the DC/CR 45 forms. All completed Uniform Criminal Citations must be turned into the Criminal/Civil Division Captain. A how-to-guide on completing the uniform criminal citation can be found on PowerDMS under Training.
- (1) If an error is made while completing the uniform criminal citation before it is issued to the defendant, it cannot be destroyed. Deputies must write VOID across the citation and return it to the Criminal/Civil Division Captain.
 - (2) Once a uniform criminal citation has been issued to the defendant, the citation cannot be changed or altered in any way. If an error has been detected before the MCSO9 has been approved, include the corrected information in the MCSO9. If the error is detected after the MCSO9 has been approved, the deputy must write a supplemental MCSO9. This supplemental will document the corrected information and will be forwarded along with the court copy of the citation to the Criminal/Civil Division Captain. The necessary changes will be made in court.
 - (3) Once a uniform criminal citation has been issued to the defendant, the citation cannot not be voided or disposed of by a deputy. A citation can only be disposed of by:
 - (a) Trial,
 - (b) Nolle Prosequi or dismissal by a State's Attorney or County Attorney, or
 - (c) Other official action ordered by a judge.
 - (4) To void an issued uniform criminal citation, the deputy must submit a memorandum to the Criminal/Civil Division Captain describing the circumstances of the request. If the Captain endorses the request, the Captain must contact the court for action.
- B. Probable Cause Continuation Sheet, Form DC/CR 4 should be used whenever the probable cause statement cannot fit on the first page of the uniform criminal citation. The uniform criminal citation number from the first page must be recorded in the case number block on the continuation sheet, Form DC/CR 4. The defendant must be provided a copy of the uniform criminal citation and the continuation sheet upon their release.
- C. Statement of Charges, Form DC/CR 2 is completed whenever the criteria listed in Section IV of this directive are not met. The charging deputy must note in the statement of charges why the defendant was seen by a commissioner instead of being released on a uniform criminal citation.

- D. An incident Report (MCSO9) must be completed anytime a uniform criminal citation is issued. The names and addresses of the victims and witnesses must only be listed in the incident report and not in the uniform criminal citation. The MCSO9 must also contain the tracking number from the uniform criminal citation.

VIII. Deputies Responsibilities

Deputies must not participate in any law enforcement action based solely upon race, color, ethnicity, national origin, gender, age, sexual orientation, disability or genetic information in accordance with Administrative Directive 1.06, Discrimination/Harassment. **(1.2.9.a)**

- A. Every uniform criminal citation must have an incident report (MCSO9) attached. Once the MCSO9 has been completed and approved by a supervisor, the white and yellow copies of the uniform criminal citation, the original MCSO9, and if applicable, the State Attorney's Witness Information Form (MCSO24) and the State Attorney's Evidence Information Form (MCSO25) must be:
- (1) Given to the Criminal/Civil Division Captain, or
 - (2) Placed in the locked uniform criminal citation box located next to the traffic citation box.
- B. The issuing deputy must make a copy of both the uniform criminal citation and the MCSO9 and create a closed file in the Criminal Section. This file must be reviewed by a Criminal Section supervisor before being filed. If applicable, any photographs or fingerprints of the defendant must also be placed in this file.
- (1) If the uniform criminal citation was issued while the deputy was in an on-duty status, these steps must be completed before the end of the deputy's tour of duty.
 - (2) If the uniform criminal citation was issued while the deputy was in an off-duty status, the deputy must immediately report to the Sheriff's Office to complete the procedure.

IX. Criminal/Civil Division Captain Responsibilities

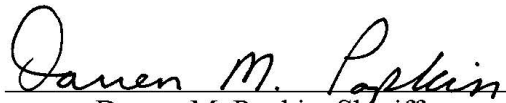
- A. Daily, the Criminal/Civil Division Captain, or their designee, must check the locked uniform criminal citation box and disseminate the appropriate copies. **(82.2.4)**
- (1) White copy is forwarded to the court and must be accompanied with a copy of the MCSO9.
 - (2) Yellow copy is forward to the State's Attorney's Office and must be accompanied by a copy of the MCSO9, and the MCSO24 and if applicable the MCSO25.

- (3) Forward the original MCSO9 and copy of the uniform criminal citation to the Chief Deputy; and
 - (4) Forward a copy of the uniform criminal citation to the Planning and Policy Management Section for entry into the Delta+ law enforcement data collection system.
- B. Annually, a written review of the uniform criminal citation statistical data will be submitted to the Chief Deputy. This written review will be provided to the Assistant Sheriff of Administration for the data to be included into the Bias Based Profiling Report.
- (1) This review will contain the following information from the previous year:
 - (a) The date, location, and time the citation was issued,
 - (b) The offense charged,
 - (c) The gender of the offender,
 - (d) The date of birth of the offender,
 - (e) The state and if available, the county of residence of the offender; and
 - (f) The race or ethnicity of the offender.
 - (2) This review may be used as a management tool to determine the need for training or counseling. **(1.2.9.c)**

X. CALEA Standards

1.2.4, 1.2.6, 1.2.7, 1.2.9.a, 1.2.9.c, 82.2.4

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