



## Policy 803

Subject	
<b>CRIMINAL CITATION PROCEDURES</b>	
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***By Order of the Police Commissioner***

### **POLICY**

It is the policy of the Baltimore Police Department (BPD) to:

- Issue Criminal Citations when a citation represents the most effective and least intrusive response appropriate under the circumstances as reasonably understood by the member(s) at the time consistent with the goal of advancing public safety.
- Issue Criminal Citations without regard for the race, gender, ethnicity, disability, national origin, age, religion, sexual orientation, or gender identity of the person to whom the citation(s) shall be issued.

### **CORE PRINCIPLES**

**Constitutional Enforcement.** Members may only enforce Lesser Offenses, whether by issuing a warning, issuing a citation, or making a custodial arrest (See Policy 1106, *Warrantless Arrest Procedures and Probable Cause Standard*), where consistent with Fourth Amendment requirements — i.e., when they have probable cause to believe that a person has committed or is committing a criminal infraction or citable offense. In addition, such enforcement must also be consistent with other constitutional requirements, such as avoiding selective enforcement arising out of discriminatory bias (Fourteenth Amendment) or in retaliation for protected speech. (See Policy 317, *Fair and Impartial Policing*, and Policy 804, *First Amendment Protected Activity*).

**Non-Discriminatory Policing.** Members are prohibited from relying, to any extent or degree, on a person's race, ethnicity, national origin, religion, gender, sexual orientation, age, disability, gender identity or expression, or affiliation with any other similar identifiable group as a factor in conducting a field interview, investigative stop, vehicle stop, weapons pat-down, search, or arrest except when physically observable as part of an actual or credible description of a specific suspect or suspects in any criminal investigation that includes other appropriate non-demographic identifying factors (such as clothing or associated vehicle). See Policy 317, *Fair and Impartial Policing*.

**Most Effective and Least Intrusive Response.** A fair and effective response to a violation of the law balances public safety and order in the community against the serious impact of law enforcement action (e.g., loss of liberty; humiliation and stress; loss of income, employment, or housing) on the individual believed to have committed the violation. Where effective in resolving the violation in accordance with law and policy, problem-solving such as a verbal warning is generally preferable to a citation, and a citation is generally preferable to an arrest. As arrest is a last resort, members should refrain from making an arrest unless doing so reasonably advances the goal of public safety or addresses significant or chronic community disorder, and the situation cannot be resolved in a less intrusive manner that is authorized by law and policy.

**Community Partnerships.** The BPD continuously works with residents and neighborhood leaders to fully understand issues facing the City's diverse communities, and to co-develop strategies in order to address those issues. In addition to the advancement of public safety goals, the enforcement of Lesser Offenses must also align with the interests and priorities of the communities which the BPD serves.

## **DEFINITIONS**

**Acceptable Identification** – Hereinafter referred to as “Acceptable ID”; Acceptable ID shall be considered one of the following:

- An identification presented by the person which the member reasonably believes to be satisfactory evidence of their identity; or
- An identification of the person that is confirmed through other reliable means (e.g., FAST ID, or an MVA/NCIC/CJIS query).

Some examples of Acceptable ID would be: a driver's license, a state-issued identification card, a passport, ID from government or non-government entities (See Policy 1021, *Immigration Status* and Appendix A, Sample Identification from Government and Non-Government Entities) or a military ID card. A member's prior knowledge of the person's identity alone, without supporting documentation, is **not** considered to be Acceptable ID.

**Aggravating Circumstances** – Specific, articulable factors known to a member at the time of an offense for which a member may account when determining the most effective and least intrusive response appropriate to enforce the violation. Examples include, but are not limited to:

- Multiple, prior, individual warnings and attempts to counsel without resolution,
- Addressing a formal community priority (e.g., co-developed strategy between BPD and neighborhood groups to specifically address concerns around Lesser Offenses), or
- Behavior indicating the person will not comply with a verbal warning.

**Criminal Citation** – A written charging document issued to a person alleging they have committed a violation of certain misdemeanor statutes or local ordinances in accordance with Criminal Procedure Article §4-101.

**Eligibility Requirements** – In order to find someone eligible for a Criminal Citation, a member must:

- Have probable cause to believe that a person has committed or is committing a criminal infraction.
- Be satisfied that they have obtained the subject's identity whether through an Acceptable ID from/of the person or the member is able to obtain the subject's identity through additional investigation or computer checks.
- Reasonably believe that the person will comply with the Criminal Citation. Failure to sign a Criminal Citation does **not** indicate a failure to comply.
- Reasonably believe that issuing a Criminal Citation does not pose a threat to public safety (i.e., the underlying offense for which the citation will be issued does not indicate a potential for additional disturbance or destruction by the person after the member's departure).
- Verify that the person is not wanted on any outstanding criminal warrant (See Policy 1021, *Immigration Status*).
- Ensure that the person is not also arrested (1) for a felony arising out of the same incident, (2)

for a misdemeanor involving serious injury or immediate health risk arising out of the same incident, or (3) based on an outstanding warrant.

If a person does not meet all of these Eligibility Requirements, they may not receive a citation on the scene. If authorized by departmental policy and procedure, the member may arrest the person for a Criminal Citation-eligible offense (See Policy 1106, *Warrantless Arrest Procedures and Probable Cause Standard* and Policy 1018, *Lesser Offenses and Alternatives to Arrest*) with permission of a permanent rank supervisor. Any associated Incident Report and Statement of Probable Cause (SPC) must then include detailed information describing which of the Eligibility Requirements the person did not meet.

**Excluded Offenses** – The following represent offenses that may carry a penalty of imprisonment of 90 days or less, but cannot be charged with a Criminal Citation, but instead may be enforced via arrest warrant, criminal summons, or warrantless arrest:

- Failure to comply with a peace order under §3-1508 of the Courts and Judicial Proceedings Article (See Policy 1110, *Protective and Peace Orders*).
- Failure to comply with a protective order under §4-509 of the Family Law Article (See Policy 1110, *Protective and Peace Orders*).
- Violation of a condition of pretrial or post-trial release under §5-213.1 of the MD Criminal Procedure Article.
- Possession of an electronic control device (CEW) after conviction of a drug felony or crime of violence under §4-109(b) of the Criminal Law Article.
- Violation of an out-of-state domestic violence order under §4-508.1 of the Family Law Article.
- Abuse or neglect of an animal under §10-604 of the Criminal Law Article.
- Any charge that is domestic violence-related (See Policy 711, *Domestic Violence*).

## **GENERAL**

1. Members shall issue Criminal Citations only where they have probable cause to believe a person has committed or is committing any misdemeanor or local ordinance offense not involving serious injury or an immediate health risk where the penalty is 90 days or less. Members will not rely on information known (or reasonably believed) at the time to be materially false or incorrect in issuing a Criminal Citation.

**NOTE:** The following guidelines have been updated in the law.

- A police officer is NOT required to charge a defendant by citation for a misdemeanor that would otherwise be a "must try" (if the crime carries a penalty of imprisonment for 90 days or less) if the misdemeanor involves serious injury or immediate health risk; and
  - An officer MAY charge a defendant by citation for possession of CDS other than marijuana.
2. All members of the BPD **are prohibited** from considering the demographic category of the person in question to any extent or degree when taking, or refraining from taking, any law enforcement action, except when such information is part of an actual or credible description of a specific suspect in an ongoing investigation that also includes other appropriate non-demographic identifying factors.

3. The State of Maryland Uniform Criminal Citation is designed to provide a single format on which a member may charge an adult offender with violations of certain misdemeanors enumerated in criminal codes and statutes.
4. Criminal Citations shall only be used for violators aged 18 and older.
5. Criminal Citations represent a less intrusive enforcement response than arrest for violations of misdemeanor offenses, and are the generally preferred alternative to an arrest.
6. Members shall seek approval from a permanent rank supervisor prior to making an arrest for a violation of a Criminal Citation-eligible offense (refer to Policy 1018, *Lesser Offenses & Alternatives to Arrest* and Policy 1106, *Warrantless Arrest Procedures and Probable Cause Standard*).
7. Members may only issue one (1) citation per offense. Where multiple, citation-eligible offenses exist, members must receive supervisory approval for the issuance of more than three (3) citations that arise from a single incident.
8. Any associated Incident Reports must include the name of the supervisor who granted the approval.

## **DIRECTIVES**

### **Members**

9. When issuing a Criminal Citation, members shall ensure that:
  - 9.1. The person is at least 18 years of age.
  - 9.2. A warrant check/10-29 is conducted and the person has no outstanding criminal warrants.
  - 9.3. The person can be identified via some form of Acceptable ID or the member is able to verify the person's identity through additional investigation or computer checks. If the person's Acceptable ID includes a unique identification number (such as a Soundex number, SID number, etc.), it must be included on the citation(s) and in any Incident Report that will be completed.

**NOTE:** If the member is not satisfied with the person's identification as stated in this policy, they are not eligible to receive a citation and may be arrested and charged according to existing departmental policy.

- 9.4. The person signs the citation. If the person fails to sign, the member shall indicate on the citation that the person did not sign next to the "Defendant's Signature" line. Failure to sign the citation alone is not a basis for making a warrantless arrest and does not indicate a failure to comply.
- 9.5. The citation number(s) is(are) included on the first line of the narrative and in the associated fields/boxes of the Incident Report.

- 9.6. The central complaint (CC) number of the accompanying Incident Report is included within the citation's Statement of Probable Cause (SPC).
- 9.7. The person receives a copy of the citation.
10. Multiple citations may be issued, but only one offense may be charged per citation. Multiple citations shall be "looped" in the same fashion as when multiple traffic citations are issued to the same motorist. Each offense must be included in the Incident Report.

**NOTE:** For multiple "looped" citations, only one SPC is necessary, provided it includes sufficient details to establish the elements of all charged offenses. Any remaining citation(s) must then contain a SPC section referring to the other citation(s) (e.g., "See companion citation number...").

11. All Criminal Citations and associated Incident Reports must be submitted to the member's supervisor before the end of the member's tour of duty.
12. Additional information related to the investigation (but not required to establish the elements of the offense charged on the citation) may be documented in the narrative of the Incident Report only.

#### **Special Considerations: Search Incident to Arrest / Non-Consensual Searches**

13. Only custodial arrest carries with it the automatic authority to conduct a search of the arrestee's person, garments, and belongings, and the area in their immediate control. Also, members shall not escalate an interaction from a citation to an arrest for the purpose of conducting a search **without** probable cause of an additional, arrestable offense.
14. If a member intends to issue a Criminal Citation (in lieu of arrest) to a suspect "on the scene" and then allow the individual to depart the location after receiving the citation, there is **no corresponding authority** to conduct any type of search incident to arrest / non-consensual search.
15. If a member has reasonable articulable suspicion that an individual may be armed and presents a threat to the safety of the member and/or others in the vicinity, the member may conduct a weapons pat-down in accordance with Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs, and Searches*.

#### **REQUIRED ACTION**

##### **Member**

16. Members may consult Uniform Criminal Citation Guidelines for examples of the most-common misdemeanors for Criminal Citations and further guidance on completing the charging language, SAO copy, and Court copy for Criminal Citations.
17. Members shall complete one (1) Incident Report for the entire encounter, to include the offense(s), the associated citation fields, attached legible images of the citation(s), the RAS for the stop, the justification for and issuance of the Criminal Citation, and any other facts required for the incident report.

18. If a member arrests an individual for a Criminal Citation-eligible offense, members shall include in their Incident Report and SPC detailed information that describes which of the Eligibility Requirements the individual did not meet and, if applicable, how an arrest was the most effective and least intrusive response to the violation.

### Supervisor

19. Permanent-rank supervisors shall ensure that requests from subordinates to issue more than three (3) Criminal Citations and/or arrest an individual for a Citation-Eligible Offense are approved only when the further issuance of citations or arrest represents the most effective and least intrusive response in an interaction given Aggravating Factors and Eligibility Requirements reasonably known to the subordinate at the time.
20. Whenever a subordinate arrests an individual for a Citation-Eligible Offense, supervisors shall review the arrest based on the resulting Incident Report and SPC in order to verify that:
  - 20.1. The person did not meet the Eligibility Requirements for a Criminal Citation; and
  - 20.2. BOTH the Incident Report and the SPC contain specific, articulable details that explain or describe why a Criminal Citation was not the most effective and least intrusive response to the violation and/or why the individual was not eligible for a Criminal Citation.

NOTE: Multiple Criminal Citations issued to the same suspect during the same incident may be documented together in one Incident Report.

21. Permanent-rank supervisors shall ensure that within the Criminal Citation:
  - 21.1. A copy of the accompanying Incident Report is included with the "State's Attorney" copy of the citation;
  - 21.2. The SPC contains the central complaint number of the accompanying Incident Report;
  - 21.3. The SPC establishes the elements of the offense that have been charged on the citation; and
  - 21.4. The accompanying Incident Report contains the citation number(s) for all citation(s) issued to the person and associated citation fields; and legible images of the citation(s).
22. Permanent-rank supervisors shall ensure that every Criminal Citation is certified by approving the accompanying Incident Report.
23. Permanent-rank supervisors shall ensure that for Criminal Citations:
  - 23.1. Every Criminal Citation MUST have an accompanying Incident Report.
  - 23.2. Criminal Citations shall be delivered daily to Records Management Section (RMS).

**Commanding Officer**

24. Command members shall designate at least one administrative staff member and/or property officer to oversee the administrative functions of Criminal Citations.

**Administrative Staff Member**

As designated by the commanding officer:

25. The administrative staff member shall collect all Criminal Citations that have been issued on a daily basis.
26. The administrative staff member shall record every Criminal Citation on the appropriate transmittal form.
27. The administrative staff member shall make one copy of every Criminal Citation and ensure that:
  - 27.1. Every Criminal Citation has an accompanying Incident Report.
  - 27.2. Criminal Citations are delivered daily to the Records Management Section (RMS).

**Performance Standards Section – Audits & Inspections Unit**

28. The Audits & Inspections Unit shall conduct quarterly, random audits of arrests made for Criminal Citation-eligible offenses to ensure compliance with this policy.

**Police Liaison, Baltimore Central Booking and Intake Facility (CBIF)**

29. The Police Liaison, CBIF, shall ensure that arresting members are notified of “convert-to-citation” decisions made at CBIF.

**Staff Review, RMS**

30. Staff Review, RMS shall ensure that all race/ethnicity data is:
  - 30.1. Entered into the BPD’s records management system or is otherwise properly archived, and
  - 30.2. Reported to the Maryland Statistical Analysis Center in accordance with §4-101.1 of the Criminal Procedure Article.
31. Staff Review shall also produce quarterly and annual data reports on all citations issued for the following offenses:
  - 31.1. Obstructing, Hindering, or Resisting an Officer,
  - 31.2. Disorderly Conduct,
  - 31.3. Failure to Obey an Officer,

- 31.4. Gambling,
  - 31.5. Making a False Statement to an Officer, and
  - 31.6. Misdemeanor Trespassing Offenses.
32. The quarterly and annual data reports shall be delivered to the Compliance Bureau.

**Quartermaster Unit**

33. The Quartermaster Unit shall maintain an inventory of Citation Booklets to issue to patrol members as needed.

**Consent Decree Implementation Unit (CDIU), Compliance Bureau**

34. The CDIU shall publish on BPD's website quarterly and annual data reports detailing Criminal Citations issued for the above-listed offenses.

**APPENDIX**

- A. Sample Identification from Government and Non-Government Entities

**ASSOCIATED POLICIES**

Policy 317, *Fair and Impartial Policing*  
Policy 711, *Domestic Violence*  
Policy 804, *First Amendment Protected Activity*  
Policy 808, *Civil Citations Procedures*  
Policy 1018, *Lesser Offenses and Alternatives to Arrest*  
Policy 1021, *Immigration Status*  
Policy 1110, *Protective and Peace Orders*  
Policy 1106, *Warrantless Arrest Procedures and Probable Cause Standard*  
Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs, and Searches*

**RESCISSION**

Remove and destroy/recycle Policy 808, *Criminal and Civil Citation Procedures* dated 1 August 2016.

**COMMUNICATION OF POLICY**

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.

