



Policy 812

Subject	
MISDEMEANOR THEFT PROCEDURES	
Date Published	Page
DRAFT 18 November 2020	1 of 6

By Order of the Police Commissioner

POLICY

This policy provides guidance on the Baltimore Police Department's (BPD) enforcement of Misdemeanor Theft offenses. Responses to Misdemeanor Theft are especially prone to escalation, particularly when the member is relying on information from a witness. Adherence to the most effective and least intrusive response is especially important to further the priorities of non-discrimination, constitutional enforcement, and community partnerships.

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

Misdemeanor Theft — Including shoplifting, Misdemeanor Theft occurs when an individual takes, deprives, uses, conceals, or abandons another person's property that is valued at less than \$1,500.

DIRECTIVES

Responding to Misdemeanor Theft Calls for Service

1. If probable cause exists that the individual has committed the Misdemeanor Theft violation, members shall stop the individual and investigate the call for service by:
 - 1.1. Obtaining an acceptable ID from the person.
 - 1.2. Conducting a warrant check on the person.
 - 1.3. Obtaining a central complaint number from the Communications Section for theft.
 - 1.4. Supplying the business owner/victim with the following:
 - 1.4.1. Name, address, and date of birth of the person.
 - 1.4.2. The central complaint number.
 - 1.4.3. A Victim Assistance / Incident Information, Form 309, and explain the procedure for obtaining a criminal summons from the Office of the Court Commissioner. The owner/victim may obtain a criminal summons for misdemeanor shoplifting offenses from the Office of the Court Commissioner.
 - 1.5. Complete and submit an Incident Report, Form 8 containing a property listing on the first line of the narrative.
 - 1.6. Members may arrest the individual with approval from a permanent-rank supervisor AND when:
 - 1.6.1. Upon advising the person that failure to provide suitable ID or address will result in their arrest, the member is still unable to obtain acceptable ID or address, or
 - 1.6.2. The person committed a more serious offense while shoplifting. (e.g., destruction of property, assault, etc.), or
 - 1.6.3. The person is found to be wanted for another offense as a result of the warrant check.

NOTE: In these instances, members shall charge the individual with the more serious offense (e.g. assault) rather than the Misdemeanor Theft offense.

2. If the victim does not wish to pursue charges or summons on the person, members may:
 - 2.1. Close the call for service with an Oral Code (See Policy 104, *Incident Reporting*).

- 2.2. Determine if the person is eligible for participation in the LEAD program via Arrest Referral (See Policy 806, *Law Enforcement Assisted Diversion*).
3. If the individual is no longer on the scene and is not found after a brief area canvass, members shall provide the Misdemeanor Theft victim with a Victim Assistance Form, Form 309.

On-View Misdemeanor Theft

4. A member may stop an individual if the member possesses reasonable articulable suspicion that the individual is committing or has committed Misdemeanor Theft in the member's presence.
5. At the initiation of the stop, members shall activate their body-worn camera (BWC) and follow the procedures in #2 of **Responding to Misdemeanor Theft Calls for Service** above to properly investigate the on-view offense.
6. If the member has probable cause based on personal observation or review of surveillance video footage, and they intend to issue a Criminal Citation for the Misdemeanor Theft provided less-intrusive measures are ineffective, there is no corresponding authority to conduct any type of search incident to arrest / non-consensual search. Examples of Misdemeanor Theft citations are available for reference in Appendix A (Misdemeanor Theft Between \$100 - \$1,500) and Appendix B (Misdemeanor Theft at less than \$100).
7. The member completing the stop shall complete a Form 8, Incident Report and describe in detail the specific, articulable circumstances that led to the investigative stop in a Form 7, Supplemental Report and the probable cause that led to issuing a citation, when applicable (See Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs & Searches*).

Special Considerations

8. Members shall investigate **felony** theft calls for service according to existing arrest policy (See Policy 1106, *Warrantless Arrest Procedures*).
9. Members shall investigate Misdemeanor Theft calls for service with youth suspects in accordance with the enforcement guidance found in Policy 1202, *Youth Interactions*.

REQUIRED ACTION

Member Reporting Requirements for Arrests

10. For all arrests made, members shall complete arrest reports, including properly documenting the probable cause for each arrest, by the end of the member's shift during which the arrest occurred.
11. If a business owner experiences repeated incidents of Misdemeanor Theft, members may notify their district's Neighborhood Coordination Officers (NCOs) to engage in problem-oriented policing with the victim(s).

Supervisor Responsibilities

12. Supervisors shall review each arrest report of members under their supervision for completeness and adherence to law and policy. Supervisors shall memorialize their review in writing, indicating any need for corrective action, within 72 hours of when the arrest occurs, absent exceptional circumstances.
 - 12.1. If exceptional circumstances do exist, the supervisor shall document what the exceptional circumstances are.
 - 12.2. If the supervisor identifies deficiencies through the review, additional investigation or corrective action may require more than 72 hours to complete the review.
13. Supervisors shall review reports and forms for deficiencies including:
 - 13.1. "Boilerplate" or language that comes to a conclusion without providing supporting detail, inconsistent information, lack of articulation of the legal basis for the action, or other indications that the reports or forms may contain information that was not accurate at the time it was reported.
 - 13.2. Arrests following stops where the justification for the stop appears to be based on information or evidence discovered *after* the stop was initiated. Such stops, as well as subsequent law enforcement action, are unjustifiable.
 - 13.3. Arrests that are unsupported by probable cause or are otherwise in violation of the law or BPD policy.

APPENDICES

- A. Sample Citation: Misdemeanor Theft of at least \$100 but less than \$1500
- B. Sample Citation: Misdemeanor Theft of less than \$100

ASSOCIATED POLICIES

Policy 104, *Incident Reporting*
Policy 803, *Criminal Citation Procedures*
Policy 806, *Law Enforcement Assisted Diversion (LEAD)*
Policy 1018, *Lesser Offenses and Alternatives to Arrest*
Policy 1106, *Warrantless Arrest Procedures and Probable Cause Standard*
Policy 1202, *Interactions with Youth*

RESCISSION

Remove from files and destroy/recycle Policy 812, *Misdemeanor Shoplifting Arrest Procedures*, dated 1 July 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.

APPENDIX A

Sample Citation: Misdemeanor Theft of at least \$100 but less than \$1500

<p style="text-align: center;">PLEASE REVIEW POLICY 812</p> <p style="text-align: center;">MISDEMEANOR SHOPLIFTING ARREST PROCEDURES</p> <p style="text-align: center;">UNIFORM CRIMINAL CITATION State of Maryland vs.</p> <p>Defendant's (Last) Name: Doe First: John Middle: Matthew</p> <p>Current Address in Full: 601 E. Fayette Street 2nd Floor</p> <p>City: Baltimore State: MD Zip Code: 21202</p> <p>DOB: 2/25/1972 Height: 5'3" Weight: 200 Sex: M Race: B Hair: Brn Eyes: Brn</p> <p>Related Citations: D-012-345-678-901 Telephone No. Day: 443-000-1234 Night: 443-999-1234</p> <p>It is formally charged that the above named person on April 12 or 4/12 2016 at 3:00 P. at 500 E. Baltimore Street Baltimore (Location) Baltimore (City/County, Maryland) did steal (property or service stolen) of (owner) having a value of at least \$100 but less than \$1500, in violation of CR 7-104 of the Annotated Code of Maryland.</p> <p style="text-align: center;">DO NOT FORGET TO PROVIDE IDENTIFICATION NUMBER</p> <p>In violation of: <input checked="" type="checkbox"/> Md. Ann. Code <input type="checkbox"/> COMAR / Agency Code <input type="checkbox"/> Common Law of Md. <input type="checkbox"/> Ordinance <input type="checkbox"/> Public Local Law</p> <p>Document/Article: CR Section: 7-104 CJIS Code: 1 1137</p> <p>Penalty: 6 months and/or \$500</p> <p>TO ANSWER THE ABOVE CHARGE LODGED AGAINST YOU: YOU ARE HEREBY SUMMONED AND COMMANDED TO APPEAR FOR TRIAL IN THE DISTRICT COURT OF MARYLAND FOR Baltimore (CITY/COUNTY) LOCATED AT 1400 E. North Avenue Baltimore MARYLAND</p> <p><input type="checkbox"/> ON _____ Date _____ AT _____ M.</p> <p><input checked="" type="checkbox"/> WHEN NOTIFIED BY THE COURT.</p> <p>YOUR FAILURE TO OBEY THIS CITATION MAY RESULT IN THE ISSUANCE OF A WARRANT FOR YOUR ARREST.</p> <p>To request a foreign language interpreter or a reasonable accommodation under the Americans with Disabilities Act, please contact the court immediately.</p> <p>I sign my name as a receipt of a copy of this citation and not as an admission of guilt. I hereby submit to the jurisdiction of the Court and agree to appear when notified.</p> <p style="text-align: center;">MUST OBTAIN THE DEFENDANT'S SIGNATURE ON ALL CITATIONS</p> <p>X Defendant's Signature _____</p> <p>I solemnly affirm under the penalties of perjury that the contents of the foregoing citation are true to the best of my knowledge, information, and belief.</p> <p>Officer's Signature: _____ Date: AD Agency: 59XX Sub-Agency: _____ ID No.: Sequence</p> <p>DC/CR 45 (Rev. 5/2002)</p> <p>Central – 01 Northeast – 04 Western – 07 Southeast – 02 Northern – 05 Southwest – 08 Eastern – 03 Northwest – 06 Southern – 09</p>	<p style="text-align: center;">Theft at least \$100.00 but <\$1500.00</p> <p style="text-align: center;">Article: CR; Section: 7-104; CJIS: 1 1137</p> <p style="text-align: center;">Penalty: 6 months and/or \$500.00</p> <p>Note to Law Enforcement: Remove this first copy of citation before entering witness information. You may enter address of defendant as shown on driver's license if that address is different from current address.</p> <p>TO THE DISTRICT COURT: PLEASE SUMMONS THE FOLLOWING WITNESSES:</p> <p>NAME: Sgt. John Jackson</p> <p>ADDRESS: 5710 Eastern Avenue</p> <p>CITY: Baltimore STATE: MD ZIP: 21202</p> <p>DAY PHONE: _____ ROOM #: _____ NIGHT PHONE: _____ APT #: _____ If Law Enforcement <input type="checkbox"/> Agency <input type="checkbox"/> Sub-Agency <input type="checkbox"/> I. D.</p> <p>NAME: _____</p> <p>ADDRESS: _____</p> <p>CITY: _____ STATE: _____ ZIP: _____</p> <p>DAY PHONE: _____ ROOM #: _____ NIGHT PHONE: _____ APT #: _____ If Law Enforcement <input type="checkbox"/> Agency <input type="checkbox"/> Sub-Agency <input type="checkbox"/> I. D.</p> <p>NAME: _____</p> <p>ADDRESS: _____</p> <p>CITY: _____ STATE: _____ ZIP: _____</p> <p>DAY PHONE: _____ ROOM #: _____ NIGHT PHONE: _____ APT #: _____ If Law Enforcement <input type="checkbox"/> Agency <input type="checkbox"/> Sub-Agency <input type="checkbox"/> I. D.</p> <p>NAME: _____</p> <p>ADDRESS: _____</p> <p>CITY: _____ STATE: _____ ZIP: _____</p> <p>DAY PHONE: _____ ROOM #: _____ NIGHT PHONE: _____ APT #: _____ If Law Enforcement <input type="checkbox"/> Agency <input type="checkbox"/> Sub-Agency <input type="checkbox"/> I. D.</p>
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Revision due to changes to the Article by the Maryland General Assembly that went into effect October 1, 2017

APPENDIX B

Sample Citation: Misdemeanor Theft of less than \$100

PLEASE REVIEW POLICY 812

MISDEMEANOR SHOPLIFTING ARREST PROCEDURES

UNIFORM CRIMINAL CITATION
State of Maryland vs.

Defendant's (Last) Name: **Doe** First: **John** Middle: **Matthew**

Current Address in Full: **601 E. Fayette Street 2nd Floor**

City: **Baltimore** State: **MD** Zip Code: **21202**

DOB: **2/25/1972** Height: **5'3"** Weight: **200** Sex: **M** Race: **B** Hair: **Brn** Eyes: **Brn**

Related Citations: **D-012-345-678-901** Telephone No. Day: **443-000-1234** Night: **443-999-1234**

It is formally charged that the above named person on **April 12 or 4/12** **2016**
at **3:00 P M** at **500 E. Baltimore Street** (Location) **Baltimore** (City/County, Maryland) did **Steal...property or service of...(owner) having a value of less than \$100.00**

DO NOT FORGET TO PROVIDE IDENTIFICATION NUMBER

In violation of: Md. Ann. Code COMAR / Agency Code Common Law of Md. Ordinance Public Local Law

Document/Article: **CR** Section: **7-104** CJIS Code: **1 0521**

Penalty: **90 days and/or \$500.00**

TO ANSWER THE ABOVE CHARGE LODGED AGAINST YOU:
YOU ARE HEREBY SUMMONED AND COMMANDED TO APPEAR FOR TRIAL IN THE DISTRICT COURT OF MARYLAND FOR **Baltimore (CITY/COUNTY) LOCATED AT **Baltimore**, MARYLAND **1400 E. North Avenue****

ON _____ Date _____ AT _____ M.

WHEN NOTIFIED BY THE COURT.

YOUR FAILURE TO OBEY THIS CITATION MAY RESULT IN THE ISSUANCE OF A WARRANT FOR YOUR ARREST.

To request a foreign language interpreter or a reasonable accommodation under the Americans with Disabilities Act, please contact the court immediately.

I sign my name as a receipt of a copy of this citation and not as an admission of guilt. I hereby submit to the jurisdiction of the Court and agree to appear when notified.

MUST OBTAIN THE DEFENDANT'S SIGNATURE ON ALL CITATIONS

Defendant's Signature

I solemnly affirm under the penalties of perjury that the contents of the foregoing citation are true to the best of my knowledge, information, and belief.

Officer's Signature: **AD 59XX** Officer's Sequence: **Sequence**

DC/CR 45 (Rev. 5/2002) Date: _____ Agency: _____ Sub-Agency: _____ ID No: _____

Central - 01 Northeast - 04 Western - 07
Southeast - 02 Northern - 05 Southwest - 08
Eastern - 03 Northwest - 06 Southern - 09

Theft < \$100.00

Article: CR; Section: 7-104; CJIS: 1 0521

Penalty: 90 days and/or \$500.00

Note to Law Enforcement: Remove this first copy of citation before entering witness information. You may enter address of defendant as shown on driver's license if that address is different from current address.

TO THE DISTRICT COURT:
PLEASE SUMMONS THE FOLLOWING WITNESSES:

NAME: **Sgt. John Jackson**

ADDRESS: **5710 Eastern Avenue**

CITY: **Baltimore** STATE: **MD** ZIP: **21202**

DAY PHONE: _____ ROOM # _____
NIGHT PHONE: _____ APT # _____
If Law Enforcement: Agency Sub-Agency I.D.

NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

DAY PHONE: _____ ROOM # _____
NIGHT PHONE: _____ APT # _____
If Law Enforcement: Agency Sub-Agency I.D.

NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

DAY PHONE: _____ ROOM # _____
NIGHT PHONE: _____ APT # _____
If Law Enforcement: Agency Sub-Agency I.D.

NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

DAY PHONE: _____ ROOM # _____
NIGHT PHONE: _____ APT # _____
If Law Enforcement: Agency Sub-Agency I.D.

NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

DAY PHONE: _____ ROOM # _____
NIGHT PHONE: _____ APT # _____
If Law Enforcement: Agency Sub-Agency I.D.