

**MARYLAND POLICE AND CORRECTIONAL TRAINING COMMISSIONS  
LESSON PLAN**

**COURSE TITLE:** Community Policing (In-Service)

**LESSON TITLE:** Module 6 – Policing Lesser Offenses

**PREPARED BY:** E&T Staff

**DATE:** 4/16/2021

**REVIEWED BY:**

**DATE:**

**TIME FRAME**

Hours: 2 hours

Day/Time: Day 2, 0700-0900

**PARAMETERS**

Audience: In-service sworn personnel of all ranks

Number: 36 max/20 min

Space: Classroom

**PERFORMANCE OBJECTIVES**

1. Students will be able to apply community policing principles and practices to policing of lesser offenses, given a variety of case studies and scenarios, to the satisfaction of the facilitator.
2. Students will be able to identify and apply BPD's policies that govern policing of lesser offenses, through role playing scenarios and case study review, to the satisfaction of the facilitator.
3. Students will be able to identify BPD and legal requirements for issuance of civil and criminal citations, given a facilitated discussion, to the satisfaction of the facilitator.

**ASSESSMENT TECHNIQUE**

1. Facilitated discussion
2. Role-playing and case study analysis
3. Case study analysis and role-playing scenarios

### **STUDENT MATERIALS NEEDED**

1 writing board  
Chart paper  
Markers

### **INSTRUCTOR EQUIPMENT/SUPPLIED NEEDED**

Lecture:

- 1 Computer w/PowerPoint presentation for Lesser Offenses
- 1 Projector + screen (or smart board)

### **STUDENT HANDOUTS**

20 sets of booklets with single copies of Appendixes A – G in them.

### **METHODS/TECHNIQUES**

Lesson will be presented by lecture and discussion with live demonstration and group activity.

### **REFERENCES**

The following materials are used as a basis for this lesson plan.

The instructor should be familiar with the material in these reference documents to effectively teach this module.

*Police legitimacy and procedural justice concepts*

*United States constitutional principles*

*Maryland statutory and common law*

*Baltimore City Code*

*Baltimore Police Department policies:*

*1018 Quality of Life Offenses-Core Legal Principles*

*803 Criminal Citations*

*808 Civil Citations*

*809 Marijuana: Uniform Civil Citation*

*812 Misdemeanor Theft Procedures*


### **GENERAL COMMENTS**

In preparing to teach this material, the instructor should take into consideration the following comments or suggestions: Community Policing Development Team

*This lesson plan is intended for use with experienced instructors who have significant teaching experience and exceptional knowledge of Maryland Law.*

## LESSON PLAN: Community Policing (In-Service)

### TITLE: Policing Lesser Offenses

PRESENTATION GUIDE	TRAINER NOTES
<p><b>I. ANTICIPATORY SET</b></p> <p>Before we get started today we have another short survey for you.</p> <p>Let me introduce myself ...</p> <p>Yesterday, we learned about the history of Baltimore, BPD's Community Policing Plan, informal engagement, and daily problem-solving. Those two activities, informal engagement and daily problem solving, are key components of community policing, and they are key to building public trust.</p> <p>This morning, we want to think about how informal engagement and daily problem solving can be used to address lesser offenses, which are sometimes referred to as Quality of Life Offenses.</p> <p><b>ASK: Can anyone tell me why it's important that we discuss lesser offenses within the context of community policing?</b></p> <p>You should recall completing an eLearning module related to Lesser Offenses. The eLearning provided you</p>	<p><b>Time 10 min</b></p> <p><i>External partners will be on site to administer their short survey.</i></p> <p><i>The facilitators should briefly introduce themselves, including their police experience and any experience or expertise directly related to this training. (Unless this was already done for an earlier lesson.)</i></p> <p><b>Slide 1</b></p>  <p><b>Desired Responses:</b> Policing of lesser offenses is all about balance and demonstrates a responsiveness to the community. Community policing, including informal engagement and problem solving, is at the heart of policing lesser offenses in a way that is most effective yet least intrusive.</p>

with the relevant offenses, their statutes, and how the law permits you to enforce those statutes.

While that was crucial background, and a good refresher, the next few hours will require you to apply that background to real-world scenarios, and how BPD policy expects you to work with these complex issues.

Today, we'll discuss some of these offenses in more depth and examine case studies and scenarios to illustrate the legal elements required before taking enforcement action and to help assess your options in determining the most effective and least intrusive response.

### **Slide 2**

Let's start by watching a case study of how New York City dealt with 1.4 million warrants issued by their court system. That huge number of warrants was the result of NYPD's formal enforcement of "Quality of Life Offenses" dating back some 20 years.

While viewing, think about the impact a lesser offense can have on a violator's life and on the community.

**ASK: How did New York get into the situation of having 1.4 million open warrants?**

**ASK: So, what kind of impact can policing of "lesser offenses" have on a violator's life?**

### **Slide 2**

#### **CASE STUDY: NYC**



*Play the video embedded in the slide. The URL is also linked here:*

[NYC QOL video](#)

*(Run time: 9 minutes and 53 seconds)*

#### **Look for:**

- *A lot of it was bench warrants for Failure to Appear or failing to pay fines on citations for lesser offenses.*
- *One cause seemed to be pressure on officers to "produce numbers"—supervisors or commanders expecting "20 and 1."*

#### **Desired Responses:**

- *Serious negative impact on the*

**ASK: What kind of impact can a “lesser offense” have on a community?**

*individual’s life - loss of liberty, humiliation, stigma, stress, loss of income, loss of employment or housing.*

- *If the police action was unlawful or deemed unfair, can impact individual and community trust in the police.*

**Desired Response:**

- *Reduced trust and Net Widening, which refers to the cumulative effect of enforcement and subsequent legal problems when a great number of individuals are processed into the criminal justice system.*
- *When more people get “caught up” in the criminal system and the courts than need to be, it has an impact on the wider community, particularly communities of color, not just on individuals.*
- *This “net widening” can contribute to poverty, unemployment, and even negative health impacts at the community level.*

**ASK: What kind of impact can enforcement of a lesser offense have on you as a police officer?**

**Desired Responses:**

- *Often, in our efforts to control crime and disorder, police action can result in stops and on-view, warrantless arrests for lesser offenses, which can implicate a variety of constitutional and legitimacy issues.*
- *Arrests for lesser offenses often result in public criticism, especially when they are publicized on social media.*

### Slide 3

In this lesson we will focus on being able to identify the policing options, both informal and formal, for common lesser offenses; and being able to identify and apply departmental and legal requirements when you encounter these types of offenses.

Our performance objectives are:

- Apply community policing principles and practices to policing of lesser offenses.
- Identify and apply BPD policies that govern policing of lesser offenses.
- Identify BPD and legal requirements for issuance of civil and criminal citations.

- *By the same token, when police don't take action in response to complaints about lesser offenses, that gets criticized too.*
- *Dealing with lesser offenses can be difficult and stressful.*

### Slide 3

#### Objectives

Apply community policing principles and practices to policing of lesser offenses.

Identify and apply BPD policies that govern policing of lesser offenses.

Identify BPD and legal requirements for issuance of civil and criminal citations.

## II. INSTRUCTIONAL INPUT

### Slide 4

**Important Note: Members have requested that we use our BWC for training. In order to do so, we must be careful to not unnecessarily criticize or condemn our members depicted in the videos. We have the advantage of hindsight and a room full of problem solvers that they did not have. Even so, we might not come up with any perfect solutions.**

Let's start with one of our own BPD BWC case studies. In this case study, you will observe an incident of a vehicle illegally parked in front of a grocery store. A tow truck attempted to remove the vehicle, but the operator ran from the store and entered the vehicle, so an officer was called to the location.

As you view the case study, consider how the events

**Time: 1 hour, 30 minutes with 10 minute break**

### Slide 4



*After 3 minutes, invite discussion and then pose these specific questions.*

unfolded and what could have been done differently (if anything).

Discuss this scenario in your groups for 3 minutes. Refer to the “Tow Truck Case” handout in your binder, for specific discussion questions.

**ASK:** What was positive about the officer’s actions?

**ASK:** As we discussed in SSA training, Policy 1018 guides members to seek the most effective and least intrusive response to lesser offenses, such as this one. What “most effective and least intrusive” responses might have been worth considering in this situation?

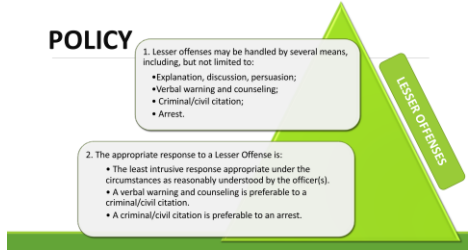
***Look for:***

- *Initial discussion with all parties appeared fair and impartial*
- *Kudos to the officer for checking the store’s camera system for evidence.*

***Look for:***

- *Problem solving solutions such as mediation and negotiation. Both parties have something that the other wants, which should assist.*
- *Is there a need for the officer to take immediate action? Time can assist in resolving the situation as both parties feel pressured to move on.*
- *Were there other less formal options?*
- *Maybe have a different officer try to persuade the lady to exit her vehicle?*
- *Maybe a supervisor or a white shirt might have had more influence on her?*
- *Maybe try to mediate a compromise in the situation?*

*If helpful, compare to landlord/tenant dispute where LE participation can be most helpful in keeping the peace rather than assisting one side or the other.*

	<p><i>If “Was this a crime?” comes up – the instructor should remind participants of the exercise they just participated in highlighting the costs of formal action and the comparative advantages of informal problem solving.</i></p> <p><i>While the facts here could constitute disorderly conduct, (See <a href="#">Sroga v. Weiglen</a>, 649 F.3d 604 (7th Cir. 2011)), and the officer’s order to exit the vehicle was a lawful one made by a law-enforcement officer to prevent a breach of the peace, focusing on the crime is unlikely to promote effective resolution. Weighing the effectiveness of formal action against the intrusiveness clearly shows that arrest is NOT preferred here and other formal solutions might not be effective. Informal solutions are the most likely to be effective.</i></p>
<p><b>Slide 5</b></p> <p>The key to developing the most effective and least intrusive response to a situation is to try to problem solve. Problem-solving is a great tool for dealing with lesser offenses. Your thinking may be along the lines of:</p> <ul style="list-style-type: none"> <li>• What is the problem?</li> <li>• Can it be solved effectively without my intervention?</li> <li>• If I should intervene, or have to intervene, what is the most effective and least intrusive response for the situation?</li> </ul> <p>Another problem-solving angle is to step back from the immediate situation and ask how future incidents could be prevented. This could involve engaging community members and identifying underlying conditions, for example.</p>	<p><b>Slide 5</b></p>  <p><b>POLICY</b></p> <p>1. Lesser offenses may be handled by several means, including, but not limited to:</p> <ul style="list-style-type: none"> <li>• Explanation, discussion, persuasion;</li> <li>• Verbal warning and counseling;</li> <li>• Criminal/civil citation;</li> <li>• Arrest.</li> </ul> <p>2. The appropriate response to a Lesser Offense is:</p> <ul style="list-style-type: none"> <li>• The least intrusive response appropriate under the circumstances as reasonably understood by the officer(s).</li> <li>• A verbal warning and counseling is preferable to a criminal/civil citation.</li> <li>• A criminal/civil citation is preferable to an arrest.</li> </ul> <p>LESSER OFFENSES</p>



### Slide 6

We have two general categories of “solutions” at our disposal when dealing with lesser offenses – formal and informal solutions. The formal options involve some use of civil or criminal enforcement, whereas the informal options don’t.

**ASK:** What are the advantages of informal solutions?

**ASK:** What are the disadvantages of informal solutions?

### Slide 6

INFORMAL	FORMAL
Explanation, Persuasion	Civil Citation
Verbal/Written Warning	Criminal Citation
Referral	Court Commissioner – Criminal Summons
Mediation	Court Commissioner – Arrest Warrant
Problem Solving	Arrest and Booking



#### ***Desired Responses:***

- *Mends relationships and builds trust.*
- *No “net-widening.”*
- *Avoids costs of ‘over policing’*
- *People solve their own problems.*
- *More efficient use of our resources.*

#### ***Desired Responses:***

- *Some problems call for more serious solutions. (But that’s not usually true of lesser offenses.)*
- *Informal options don’t always work.*
- *Informal solutions are difficult to track so you don’t know if an informal solution has been previously attempted and failed.*

### Slide 7

When we say most effective, least intrusive, what do we mean by most effective? In general, we mean most effective in preserving public safety and order in the community. This slide spells it out in a little more detail.

### Slide 7

The three bullets in the middle pertain most directly to lesser offenses:

- Making public spaces safe and orderly.
- Making people feel safe.
- Providing quality services.

So “most effective, least intrusive” means accomplishing these goals in the least intrusive way possible.

### Slide 8

Here’s another way of looking at it – trying to strike the right balance between public safety and community wellbeing, on the one hand, and the negative consequences that can follow from law enforcement action.

If we were talking about serious crime, it’s easy to see that the balance leans toward ensuring public safety and community wellbeing. But when we’re talking about lesser offenses, the threat to public safety isn’t as great, so the possible negative effects of law enforcement action weigh heavier.

**ASK:** What are some of the public safety and community well-being considerations that might come into play in deciding what is the most effective response?

### MOST EFFECTIVE & LEAST INTRUSIVE RESPONSE

Use the most effective and least intrusive response appropriate for the situation

An effective response focuses on our goals of:

- Reducing serious crime
- Holding offenders responsible
- Making public spaces safe and orderly
- Making people feel safe
- Providing quality services
- Using force and authority fairly & effectively
- Using resources fairly & efficiently

### Slide 8



### Desired Responses:

- Does the offense or the suspect pose a threat to other people?
- Is suspect likely to harm people or property if not arrested, etc.?
- How much time will this take for the officer and back-up to handle that could be better spent for more serious crime; etc.?

**ASK:** Can you proactively police without being unnecessarily intrusive, or is it impossible? Why or why not?

### Slide 9

There are times when the absolute least intrusive response isn't the best option, because it won't be effective in protecting public safety or community order. That's just reality. But our objective is to use the least intrusive of the effective responses.

**Discuss:** Policy 1018 guides members to seek the most effective and least intrusive response to lesser offenses, and we're given a number of options to properly resolve the incident. 1018 also describes "aggravating circumstances," where members may use a more restrictive enforcement option.

- *Is more serious crime happening?*
- *The need for a clean and safe environment.*
- *The threat of future harm to that environment. (Note to facilitator: emphasize last two points.)*

### Desired Response:

- *Proactive policing is policing that involves taking the initiative to address crime and disorder. That does not necessarily require taking enforcement action.*
- *Proactive policing techniques include problem-solving, engagement, voluntary contacts, verbal persuasion, mediation, making referrals for long-term rather than short-term solutions.*
- *Using the Critical Decision Making Model.*
- *What you are doing is using your discretion appropriately.*
- *Makes your choice easier to explain and show it was reasonable.*

### Slide 9



**ASK:** What kind of “aggravating circumstances” might lead you to issue a citation as opposed to warning someone? Can anyone share some examples?

***Desired Responses:***

- *Multiple, prior, individual warnings and attempts to counsel without resolution.*
- *Addressing a formal community priority.*
- *Behavior indicating that a person will not comply with a verbal warning.*

**Slide 10:**

What are advantages of informal resolution?

- Less focus on using the law and law enforcement.
- Not triggering involvement in the civil or criminal justice systems.
- More focus on achieving public safety and community wellbeing.
- Avoiding unnecessary penalties.
- Saving money and time, when effective.

Think back to the video case study on New York City – 1.4 million warrants. Think about all the time and energy wasted processing all those citations and bench warrants, and then going through the process of nullifying them. Not to mention the stress and grief on all the people who got cited or arrested for very minor offenses. Yes, some of that enforcement was undoubtedly necessary and justified, but clearly a lot of it wasn’t.

And remember that those warrants don’t go away. If there was justification in charging someone for an open container 10 years ago, does that justification stand a decade later? You can’t predict what will happen when you charge a case or how long it will stick around for. But you can control what you do in the moment to try to solve a problem.

**Slide 11**

Look for the handout titled “Case Study – Lady on the Lawn” in your binder I’d like for you to work as a table

**Slide 10: Informal Resolution**



**Informal Resolution**

WHAT DOES IT MEAN TO “INFORMALLY” RESOLVE AN ISSUE?

**Slide 11**

group to read the scenario together, and discuss the answers to the following questions:

1. What should you do?
2. What can you do?

I'll give you about 3-4 minutes to determine the answers to the questions. Be prepared to discuss them.

OK, time is up, let's review your answers.

**ASK:** Based on the situation, what should you do? What can you do?

- Called to a neighborhood for disorderly
- Neighbors say a woman, who appears to be under the influence, is in a front yard smoking a cigarette and laughing and singing.
- It is 1:00 a.m.
- The resident is not at home and the neighbors do not know this woman from the neighborhood.

#### CASE STUDY SCENARIO

##### *Lady on the Lawn*


*As students are working to analyze the scenario, walk around the room and observe discussions. Ask probing questions, if necessary, and clarify information.*

#### **Scenario:**

*You are called to a neighborhood for a disorderly subject. When you arrive, you learn from neighbors who are standing across the street that a woman, who appears to be under the influence of alcohol or drugs is sitting in the middle of a resident's front yard smoking a cigarette and laughing and singing. It is 1:00 a.m. The resident is not at home and the neighbors do not know this woman from the neighborhood.*

#### **Desired Response:**

- *Evaluate need for medical assistance or whether there's a co-occurring behavioral issue.*
- *Ask how you can help her. Depending upon her response, provide/refer/ transport for services.*
- *If there's not an immediate medical/behavioral-crisis issue, try to resolve the issue. (Inquire what she is doing there? Why she is there? Does she know the owner/renters, etc.? Does she have friends in the area? Is*

	<p><i>there someone who can help her get to a safe location?)</i></p> <ul style="list-style-type: none"> <li>• <i>Ascertain whether she belongs there or not. If she doesn't belong there, options include having her leave the property (with attention paid to doing so in a way that will be safe for her). If she does belong there, options include speaking with her about the noise issue and enlisting friends/family to assist.</i></li> </ul>
<p><b>Slide 12</b></p> <p>One of the ways that we can respond to lesser offenses is just to show up and provide police presence. There might be times when your mere presence is enough to resolve a situation.</p> <p><b>ASK:</b> When might your “presence” be sufficient to deter or stop a lesser offense?</p> <p>Consider this scenario....: Let's say you are patrolling in a commercial district, after the stores are closed. You see a person sitting in a car in the parking lot, playing loud music. You have received no calls for service.</p> <p><b>ASK:</b> What should you do? What can you do?</p>	<p><b>Slide 12</b></p> <div data-bbox="980 819 1386 1016">  <p>Presence</p> <p>When might an officer's presence be sufficient to deter/stop a lesser offense?</p> <p>When might more be required?</p> </div> <p><b>Desired Response:</b></p> <ul style="list-style-type: none"> <li>• <i>Seeing you may make violators less likely to commit the violation and risk being caught.</i></li> <li>• <i>Can prevent impulsive actions – either disorderly conduct or more serious violent crimes.</i></li> <li>• <i>Recognition there could be immediate consequences for their actions.</i></li> <li>• <i>Your presence might give confidence to other members of the community, and reinforces appropriate behavior.</i></li> </ul> <p><b>Desired Response:</b></p> <ul style="list-style-type: none"> <li>• <i>There is nothing inherently</i></li> </ul>

**ASK:** Can you ask him to turn down his music?

**ASK:** What are the potential consequences of asking him to turn down his music or asking him to leave?

*suspicious about a person  
sitting in a car playing music.*

- *Watch. No need to approach. In theory the person could park there until a business opens unless there is some other factor involved.*
- *If the situation calls for it (prior complaints, knowledge that the person doesn't belong there after considering whether they could be an employee/owner/guard, etc.), can observe while staying in your car or park there yourself.*
- *Your response may depend on your prior involvement with the owner of the parking lot and their wishes if they have expressed concerns of cars parking on their lot after hours.*

***Desired Response:***

- *Why would you ask him to turn down his music? Has anyone complained? Do you think anyone would complain about him playing loud music at this time in that location?*
- *What are the possible consequences of asking him to do something you can't enforce?*

***Desired Response:***

- *It's a public place – is it posted for trespassing, or are other restrictions posted?*
- *Is there a genuine public safety or community wellbeing issue?*
- *Unless there is a genuine public safety or community wellbeing concern over the loudness of the music, you probably don't*

**ASK:** Do you have to engage him at all? Why would you?

### Slide 13

Another type of informal response is referral. In Baltimore there are dozens and dozens of city agencies, state agencies, and non-profits that offer a variety of services to residents. Sometimes, the best response to a one-time lesser-offense situation or a recurring problem is a referral. You can address the same person committing Lesser Offenses three times a shift for the next year of your life or you can take the time to try to address an underlying issue.

Is the underlying issue due to abuse? Housing? Health care?

There are two different ways to make a referral:

- Giving the person information about a service and how to make contact.
- Getting the person's information and providing it to the agency or non-profit, so they can contact the person.

*have any legal reason to ask him to turn it down.*

- *If you're the only person bothered by the music, you should probably just leave. Don't let your ego get you in trouble.*

### **Desired Response:**

- *You don't have to.*
- *If there is a genuine public safety or community wellbeing issue, then an informal response might be best – observation, presence, voluntary contact.*
- *If you engage the person, use procedural justice and other interpersonal skills.*
- *Consider bias – is your suspicion being affected by the person's race, ethnicity, gender, etc.? Don't let bias drive your decision making.*

### Slide 13





Which option is better will depend on the situation. Also, in some situations it makes sense to use both options together.

When you make a referral, whenever possible, follow up. People who need help are sometimes hesitant to call an agency or non-profit, and sometimes their lives are so busy they forget or just procrastinate. Also, those agencies and non-profits are busy too. Your following up might make the difference in something actually getting done.

**ASK:** Where can you find/access resources for referrals?

**ASK:** Do any of you have any good examples of referrals you've made and good referral resources?

#### **Slide 14**

In some situations a lesser offense has occurred but a warning might be a sufficient response for preserving public safety and community wellbeing.

#### ***Look for:***

- *The District NCO team.*
- *BPD units, specialists, experienced officers.*
- *Knowledgeable community groups and community members.*
- *Pamphlets, directories, the internet.*

*Try to draw out some referral experiences – sometimes a few officers are familiar with a referral option, while most officers aren't.*

*Be prepared with an example of your own if the class is slow to respond.*

*Here's an example if none others come up:*

<https://baltimore.cbslocal.com/2019/12/04/baltimore-police-officer-forms-friendship-with-teen-after-responding-to-distress-call/>

#### **Slide 14**

A verbal warning is talking to someone and advising them to stop engaging in an unlawful behavior. The warning is a notice of what they did that was illegal and that they shouldn't repeat the behavior.

### Slide 15

In your binder is a scenario "Case Study – Public Urination." I'd like for you to work as a table group to read the scenario together, and discuss the answers to the following questions:

- How would you approach?
- How would you engage them?

Also, you see that they are drunk.

- What do you say or do?

I'll give you about 3-4 minutes to determine the answers to the questions. Be prepared to discuss them.

**ASK:** Based on the situation, what response did you recommend?



### Verbal Warning

An informal response to Lesser Offenses committed on-view or when responding to a call for service where there is a credible witness or other evidence that an offense has occurred.

May be combined with counseling or referral to services, depending on the nature of the behavior.

### Slide 15

#### Case Study— Public Urination


You see a person leaning against a wall in an alley. As you draw closer you see liquid in a steady stream coming from below the waist of the front of the person's body which is turned toward the wall. The liquid is pooling in a small puddle.

Discuss the answers to the following questions:

1. How would you approach?
2. How would you engage them?
3. What do you say or do if you see that they are drunk?

### Look for:

- *Tactics on approach.*
- *Engagement: verbally.*
- *Warning: advise them not to do that again.*
- *Direct them to the nearest facility now or for future reference.*
- *Render aid if needed.*
- *If they appear under the influence, ensure they are not driving.*
- *Talk to them about getting some help with their drinking if they are forced to resort to public urination which is unsanitary*

	<p><i>and poses a health hazard for others.</i></p> <p><b>Further considerations:</b></p> <ul style="list-style-type: none"> <li>• <i>Consider community impact (sanitation, nature of the area, presence of other people, community concerns).</i></li> <li>• <i>Consider prior issues in the area, including information you have from previous calls for service, if any, what you know about the area, that particular location and how it is used after hours or not used.</i></li> <li>• <i>Consider whether a verbal warning will effectively resolve the situation or whether another approach will be more effective.</i></li> <li>• <i>Consider the individual's situation – give them a chance to explain, listen intently, and include their Voice in determining the best response.</i></li> <li>• <i>If enforcement is called for, consider the level of the offense (low) in determining your response.</i></li> </ul>
<p><b>Slide 16</b> Sometimes informal responses are ineffective and we have to resort to formal responses.</p> <p><b>ASK:</b> What does it mean to have a “formal” resolution to a problem?</p>	<p><b>Slide 16</b></p>  <p><b>Desired Response:</b></p> <ul style="list-style-type: none"> <li>• <i>More government involvement.</i></li> <li>• <i>Triggers the civil or criminal justice systems.</i></li> </ul>

- *Subjects the person to possible penalties – time, money, inconvenience, loss of liberty, a record, etc.*
- *May prevent repeat behavior, if effective.*

**Slide 17**

To determine the appropriate response and what your options are for lesser offense enforcement you must start by knowing what kind of offense it is. In particular, whether it is a civil or criminal offense.

**ASK: If informal solutions don’t work, which of these could come into play for lesser offenses?**

**Slide 18**

**Slide 17**



**Desired response:**  
*Civil citations would be the least intrusive of the formal options followed by a criminal citation or criminal summons. An arrest warrant or warrantless arrest would be significantly more intrusive.*

**Slide 18**

What is the <i>difference</i> between a CIVIL and a CRIMINAL citation?	
<u>CIVIL CITATION</u>	<u>CRIMINAL CITATION</u>
Uniform Civil Citation	Uniform Criminal Citation
Charges a civil offense and begins a civil case	Charges a misdemeanor and begins a criminal case
Can result in a fine	Can result in a fine and/or jail
Case must be proven by a preponderance of the evidence	Case must be proven beyond a reasonable doubt

***Desired Response:***

**ASK:** What is the difference between a Civil and Criminal Citation?

Keep in mind that a CIVIL citation has its own form, the Uniform Civil Citation. This charges a civil offense and begins a civil case which can result in a fine. In court, the case must be proven by a preponderance of the evidence.

A CRIMINAL citation is also its own form, the Uniform Criminal Citation. This charges a misdemeanor and begins a criminal case which can result in a fine and/or jail. In court, the case must be proven beyond a reasonable doubt.

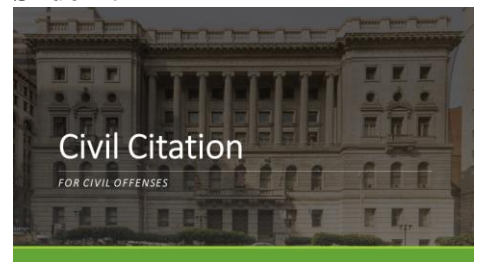
- *Civil Citations can be proven by a preponderance of the evidence, whereas criminal citations are proven beyond a reasonable doubt.*
- *Civil citations only result in fines and Criminal citations can result in fines and/or jail time.*
- *Civil citations begin a civil case and criminal citations result in a criminal case.*

## Slide 19

**ASK:** What are the two things you need in order to be able to issue a civil citation?

**ASK:** What if you are trying to issue a civil citation to someone but cannot verify their identity?

## Slide 19



### ***Desired Response:***

- *Probable Cause that the person has committed a civil offense.*
- *Satisfactory proof of the person's identity*

### ***Desired Response:***

**ASK: What if you are trying to issue a civil citation to someone but cannot verify their identity?**

Remember, if you cannot verify someone's identity to issue a civil citation, you still can NOT arrest. It is a civil offense, not a crime.

### Slide 20

Decriminalization of Marijuana by the Maryland Legislature has made simple possession under 10 grams a purely civil offense. Marijuana itself, however, is still "contraband" and illegal to possess without a prescription. That means that you can seize it if it comes into your possession legally, but you can't arrest a person and search them for a civil violation.

### Slide 21

**ASK: Can the same offense be both civil and criminal?**


Remember that if an offense is both civil and criminal, the "least intrusive" response is to charge the civil

- To identify someone, use your resources and investigative techniques. Do the best you can to get their information. This can include things like using an MVA database to pull up a photo ID, Dashboard to attempt photo recognition, using Arrest Viewer to try to look them up via the address they gave, etc.
- You cannot issue a citation without confirming someone's identity, so if you still can't identify the person after trying various methods you can record them on BWC (as you can always mail a civil citation if you identify them later).

### Slide 20

**Simple Possession of under 10g MJ**

- NOT A CRIME
- Civil citation only
- NO CRIME = NO BOOKING
- \*\*even if you can't ID the suspect\*\*



### Slide 21

Can the same offense be both Civil and Criminal?

YES!

- Littering
- Public Urination/Defecation
- Disorderly Conduct
- Open Container of Alcohol
- Loitering

### Desired Response:

Yes. The Baltimore City Code makes some misdemeanors also

offense if that would be effective under the circumstances.

### Slide 22

In your binder is a copy of a scenario, titled “Loitering Drug Dealers. Can I have a volunteer read the scenario?

**ASK:** So, what should you do? What can you do?

*eligible for a civil citation, as indicated on the slide.*

### Slide 22

#### Scenario

A resident who lives nearby the location called the police to complain that three people are “loitering on the steps of a nearby house, and they are probably drug dealers.”

When you arrive, you notice that three people are standing on a public sidewalk not blocking pedestrians from walking along the sidewalk and are not standing on private property. They then move to a set of steps and continue talking.

What should you do?  
What can you do?



*Call on a volunteer to read the scenario: You are dispatched to a call for service. A resident who lives nearby the location called the police to complain that three people are “loitering on the steps of a nearby house, and they are probably drug dealers”. When you arrive, you notice that three people are standing on a public sidewalk not blocking pedestrians from walking along the sidewalk and are not standing on private property. They then move to a set of steps and continue talking.*

#### **Desired Responses:**

- *Consider why the caller believes that the individuals are “probably drug dealers.”*
- *Remember what we’ve discussed previously regarding calls that might reflect a person’s implicit bias.*
- *Of course, the people COULD be drug dealers, but baseless speculation shouldn’t be the reason we take action.*

- Respond, observe for RAS or PC for a crime or criminal activity. If none, do nothing.  
Follow-up with caller if safe to do so.

**Slide 23**

There are a variety of criminal charging documents and accompanying paperwork: Criminal Citation; Traffic Citation; Statement of Charges/Statement of Probable Cause after warrantless arrest and transport to Central Booking; Application for Statement of Charges, which, if granted, is served on the defendant as an Arrest Warrant or Criminal Summons; Criminal Information; Indictment.

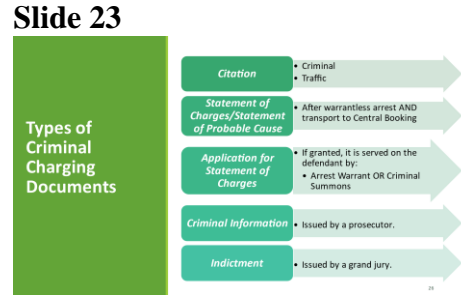
**ASK:** What are your charging options as a police officer?

**Slide 24**

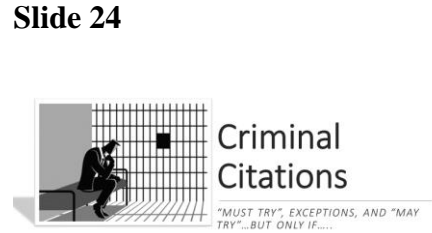
Let’s talk about Criminal Citations and the law governing when you “MUST TRY,” “MAY TRY” and “CANNOT TRY” to issue one.

“Must try” means that you can NOT book someone unless you can’t write a criminal citation.” It does NOT mean that “in every situation you must try to write a citation.” This is the Maryland legislature’s way of trying to minimize people going to jail for crimes carrying less than 90 days and it’s been around for decades.

“May try” means that you can either book someone or write a criminal citation, depending on which will most



- Desired Response:**
- Write and issue a Criminal Citation.
  - Arrest/transport to Central Booking and file a Statement of Charges & Statement of Probable Cause.
  - Write and submit an Application for charges to the District Court Commissioner.





effectively resolve the situation without being overly intrusive.

“Cannot try” means that there are some crimes that carry 90 days where you aren’t allowed to write a criminal citation.

**ASK: Can you arrest and book someone for a simple marijuana possession offense?**

### Slide 25

“Must try” means that you can NOT book someone unless you can’t write a criminal citation.

If a formal response is called for, you cannot book someone unless you have first tried to issue a criminal citation if:

- you are charging a misdemeanor which has a penalty of 90 days in jail or less OR you are charging the crime of simple possession of marijuana 10 grams or greater (Remember: under 10 grams is a Civil offense only)
- AND
- no exception applies (some crimes carry 90 days or less but do NOT allow a criminal citation to be issued).

### Slide 26

### Desired Response:

*No. For under 10 grams, you have to issue a civil citation. For 10 mg or more, you can NOT arrest for simple possession of marijuana unless you first TRY to write a criminal citation. If you cannot issue a citation, you may seek charges through the commissioner. Booking would be a last resort for marijuana possession.*

### Slide 25

Before you book a suspect, you “MUST TRY” to issue a criminal citation if...

You are charging a misdemeanor which has a penalty of 90 days in jail or less  
OR  
You are charging the crime of simple possession of marijuana 10 grams or greater (note: under 10 grams is a Civil offense only)

AND

No exception applies (some crimes carry 90 days or less but do NOT allow a criminal citation to be issued)

### Slide 26

You “CANNOT” ISSUE a criminal citation for these misdemeanors although they carry 90 days or less:



- Violation of a Peace Order, Protective Order, or Extreme Risk Protective Order [90 days]
- Violation of a condition of release after being charged with a sex offense against a minor, a crime of violence, or any crime against certain types of victims [90 days]
- Possession of a stun gun after being convicted of a drug felony or crime of violence [60 days]
- Animal abuse or neglect [90 days]

**ASK:** Why do you think the legislature made it so that an officer can't issue a criminal citation for these crimes?

### Slide 27

Normally you have to try to write a criminal citation for crimes that carry 90 days or less and can't for crimes that carry more than 90 days. Some crimes don't follow that rule. We call these "MAY TRY" crimes because you have the option to charge them by criminal citation:

- Malicious Destruction of Property (Under \$1000 only) [carries 60 days]

And some crimes have a penalty of *more* than 90 days but you "can try" to charge by citation anyway:

- Theft \$100-Under \$1500 [6 months]
- Selling alcohol to an underage person or intoxicated person [2 years]

### Slide 28

To be able to charge by criminal citation you must be able to:

- positively identify the suspect (ID/MVA/Dashboard)
- have a reasonable belief that the defendant will comply with the citation
- suspect is not a danger to public safety (instead of arrest/commissioner)
- not arrested for another crime arising out of the same incident
- defendant has complied with all lawful orders

### Slide 29

Now it's time to play ...Can you issue a criminal citation for... the Lesser Offenses Version.

So, when dealing with lesser offenses, for which of the fact patterns would you issue a criminal citation?

*Because these crimes involve someone already violating a court order OR posing a danger to an individual or the community beyond most "Lesser Offenses."*

### Slide 27

You "MAY TRY" TO ISSUE a citation for certain misdemeanors (it's optional)



### Slide 28

Requirements for issuing a Criminal Citation— you must be able to:



Positively identify the suspect (ID/MVA/Dashboard)

Have a reasonable belief that the defendant will comply with the citation

Suspect is not a danger to public safety (instead of arrest/commissioner)

Not arrested for another crime arising out of the same incident

Defendant has complied with all lawful orders

### Slide 29

Consider both law and policy arriving at your answers.  
Here are things to consider:

1. Is it a misdemeanor?
2. Are you allowed to charge by criminal citation?  
(90 days or less/possession of marijuana/one of the other eligible crimes)?
3. Do you HAVE to try to write a criminal citation?
4. MAY you try to write a criminal citation?
5. Do you have satisfactory proof of ID?
6. Do you believe defendant will comply with the citation?
7. Is there a reason to believe the defendant is a threat to public safety?
8. Is the defendant being taken to Central Booking for a related offense?
9. Has the defendant complied with your lawful orders?

OK, let's begin.

1. Disorderly Conduct? YES – 60d, must try
2. Theft under \$1,500? YES – 6m, misdemeanor, may try
3. Open Container? YES –30d, must try and eligible for City civil citation
4. Trespass? YES – 90d, must try
5. Marijuana under 10 grams? NO –Civil Offense

Obstructing/Hindering? NO – Common Law  
(max/cruel and unusual)

	YES OR NO ?
Disorderly Conduct	<input type="text"/>
Theft under \$1,500	<input type="text"/>
Open Container	<input type="text"/>
Trespass	<input type="text"/>
Marijuana under 10 grams	<input type="text"/>
Obstructing/Hindering	<input type="text"/>

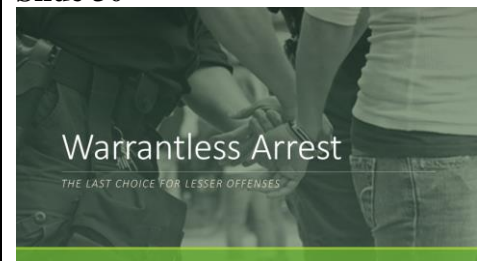
**"Can you issue a Criminal Citation for ...?"(The Lesser Offenses Version)**

*Answers on slide are under the blue boxes; click to reveal each answer after asking the question*

### Slide 30

**Remember that warrantless arrests are the last resort when it comes to lesser offenses and that informal resolution is preferred to a formal one.**

### Slide 30



### Slide 31

It's important to remember that, under BPD policy 1106, arrest for these lesser offenses requires Supervisor approval:

- Obstructing/hindering/resisting
- Disorderly conduct
- Fail to obey
- Gambling
- Loitering
- False statement
- Trespassing

As well as under Policy 1018:

Lesser offenses such as:

- Loitering,
- Misdemeanor Trespassing
- Public Urination/Defecation,
- Disorderly Conduct (including Disturbing the Peace),
- Obstructing or Hindering an Officer,
- Open Container, and
- Littering

**ASK: Why does policy require supervisor approval prior to making arrests for these crimes? What do they all have in common?**

Let us put it to the test...When would it be appropriate to make a warrantless arrest for a lesser offense? Consider both law and policy in arriving at your answers.

Please locate the 2-page "What should you do?" Fact Patterns Handout in your binders.

### Slide 31

Arrest for these offenses Requires Supervisor Approval

POLICY 1106-- WARRANTLESS ARREST	POLICY 1018-- LESSER OFFENSES
Obstructing, hindering or resisting a BPD member;	Lesser Offenses including:
Disorderly conduct;	Loitering,
Failure to obey a BPD member;	Misdemeanor Trespassing,
Gambling;	Public Urination/Defecation,
Loitering;	Disorderly Conduct (including Disturbing the Peace),
Making a false statement to a BPD member	Obstructing or Hindering an Officer,
Misdemeanor trespassing violations	Open Container, and
	Littering

*Large impact on community and individual but not crime. History of abuse, make up a large percentage of Released Without Charge (RWOC) determinations, etc.*

*Facilitator should direct students to the 2-page Warrantless Arrest Fact Patterns Hand out in the binder with short fact patterns: "What should you do?"*

Remember, as Policy 1018 says, “arrest is a last resort.”

You can only arrest for a Lesser Offense when:

- 9.1. The member has identified specific, articulable facts (that they can later document in their reporting) indicating that the individual presents an immediate danger to the life, safety, or property of themselves or others, and
- 9.2. Other enforcement options will not resolve the problem(s) created by the violation or promote public safety, and
- 9.3. A supervisor has approved the arrest based upon the above criteria. When it is not practicable to obtain permission, the member must notify a permanent-rank supervisor as soon as practicable after making the arrest.”

If you must make an arrest, your report should reflect why arrest was required rather than an informal solution (such as problem solving, verbal warning, or counseling) or a less intrusive formal solution (such as civil or criminal citation).

*(Note: Policy considerations included for Supervisor approval policy.)*

OK, let’s take a look at Fact Pattern #1.

**FACT PATTERN #1:** You respond to a call at a local convenience store. Complainant (store clerk/owner) states he saw the suspect spitting on his windows and kicking the door after he was told to leave because suspect was soliciting customers for spare change. Complainant also tells you this suspect has been in the store before soliciting money but complainant did not say anything to him the first time. Complainant says he doesn’t want suspect back in his store and wants him to pay for the door. You are given a clear, particularized description of the suspect, see a few dripping spits on the window and see what appear to be possible kick marks on the door of the store. Exiting the store, you immediately see a person who matches the clear, particularized description given of the suspect, and you make an investigative stop. Suspect denies spitting on the windows and

kicking the door and says that the guy is lying. Suspect cannot give you satisfactory information about his identity and you are unable to confirm it. Store owner makes a positive ID that is the suspect.

Note: “A tall guy with a coat” is not a clear, particularized description and might not justify a stop (must less an arrest). However, a particularized description in combination with the location of the suspect, the time since the crime occurred, etc., can support probable cause.

**ASK:** What should you do? What can you do?

Keep in mind that BPD Policy states that for a criminal violation, where you cannot establish the true identity of a violator, and thus a citation cannot be issued, an arrest may be preferred where allowed by law.

OK, let’s look at Fact Pattern #2.

**FACT PATTERN #2:** You get a call for larceny (Theft Under \$100) at a store. You see the store clerk on arrival. Complainant is the clerk. Complainant advises that yesterday, the suspect was standing outside the store talking with a group of people, came in the store, took a few items without paying for them, and walked out of the store. Today, he is back standing outside the

***Desired Response:***

- *Investigation: What can be done to find out whether the suspect actually committed the crime? What can be done to identify the suspect?*
- *Problem solving: Will an informal solution be effective here? If so, what? Is there an underlying issue that can be addressed more effectively than sending the suspect for a walk or for a walk through at booking?*
- *Would a formal solution be effective? If so, which? Is a citation for malicious destruction likely to do anything? Booking? Is this better handled with a commissioner referral vs an arrest or citation?*

store again. The Complainant gives a good description and points him out to you while you are both outside the store. You conduct an investigative stop and suspect denies being in the store at all. As the suspect is handing you his ID and is being cooperative the Complainant comes out of the store again and yells at the suspect that he is a “Thief”. Suspect yells back and starts moving toward the store making verbal threats to the Complainant, threatening the store owner’s physical safety and property.

**ASK:** What should you do? What can you do?

**REMEMBER:**


Policy 1018 paragraph 9:

Members may only arrest an individual for a Lesser Offense when:

- The member has identified specific, articulable facts (that they can later document in their reporting) indicating that the individual presents an immediate danger to the life, safety, or property of themselves or others, and

***Desired Response:***

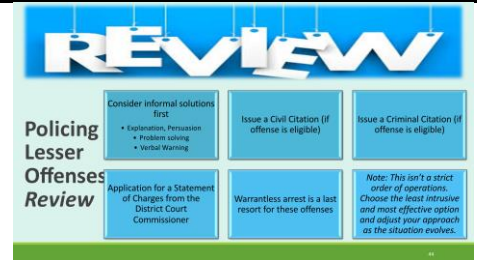
- *Investigation: What can be done to find out whether the suspect actually committed the crime? What threats were made and are they likely to be carried out?*
- *Problem solving: Will an informal solution be effective here? If so, what?*
- *Would a formal solution be effective? If so, which? Booking? Is this better handled with a commissioner referral vs an arrest or citation?*
- *Consider the safety of those involved as well as the likelihood that if it’s a neighborhood store they will continue dealing with one another.*

<ul style="list-style-type: none"> <li>• Other enforcement options will not resolve the problem(s) created by the violation or promote public safety, and</li> <li>• A supervisor has approved the arrest based upon the above criteria. When it is not practicable to obtain permission, the member must notify a permanent-rank supervisor as soon as practicable after making the arrest.</li> </ul>	
<p><b>III. EVALUATION/CLOSURE</b></p> <p><b>Slide 32</b></p> <p><b>ASK:</b> When is arrest not allowed under BPD Policy 1106?</p> <p><b>Slide 33</b> Let's review...what are your enforcement options for lesser offenses?</p>	<p><b>Time: 15 min</b></p> <p><b>Slide 32</b></p>  <p><b>Desired Responses:</b></p> <ul style="list-style-type: none"> <li>• <i>Any time probable cause does not exist.</i></li> <li>• <i>A misdemeanor that does not carry a term of imprisonment.</i></li> <li>• <i>The civil offense of possession of Marijuana under 10 grams.</i></li> <li>• <i>Where a less intrusive method would serve the goal of public safety and effectively resolve the situation.</i></li> <li>• <i>Where not allowed by Maryland law (see Policy 1106).</i></li> </ul> <p><b>Slide 33</b></p>



- Informal solutions are preferred:- Explanation, Persuasion, Problem solving, Verbal Warning, Mediation;
- If you **MUST** resort to a formal solution, a Civil Citation is preferred (if offense is eligible);
- If a crime must be charged, Criminal Citation (if offense is eligible) or Application for a Statement of Charges from the District Court Commissioner are less intrusive than arrest.
- Warrantless arrest is a last resort for these offenses

*Note: This isn't a strict order of operations. Choose the least intrusive and most effective option and adjust your approach as the situation evolves.*



**Desired Responses:** *Answers on Slide*

### ***Scenario – Case Study – Lady on the Lawn***

*You are called to a neighborhood for a disorderly subject. When you arrive, you learn from neighbors who are standing across the street that a woman, who appears to be under the influence of alcohol or drugs is sitting in the middle of a resident's front yard smoking a cigarette and laughing and singing. It is 1:00 a.m. The resident is not at home and the neighbors do not know this woman from the neighborhood.*

*Discuss the answers to the following questions:*

- 1. What should you do?*
- 2. What can you do?*

### ***SCENARIO – Case Study – Public Urination***

*You see a person leaning against a wall in an alley. As you draw closer you see liquid in a steady stream coming from below the waist of the front of the person's body which is turned toward the wall. The liquid is pooling in a small puddle.*

*Discuss the answers to the following questions:*

- 1. How would you approach?*
- 2. How would you engage them?*

*Added fact: You see that they are drunk.*

- 3. How does this change what you say or do?*

***SCENARIO – Case Study -- “Loitering Drug Dealers”***

You are dispatched to a call for service. A resident who lives nearby the location called the police to complain that three people are “loitering outside her house, and they are probably drug dealers”. When you arrive, you notice that a man and his friends are standing on a public sidewalk not blocking pedestrians from walking along the sidewalk and are not standing on private property.

- 1. What should you do?**
- 2. What can you do?**

**FACT PATTERN #1:** You respond to a call at a local convenience store. Complainant (store clerk/owner) states he saw the suspect spitting on his windows and kicking the door after he was told to leave because suspect was soliciting customers for spare change. Complainant also tells you this suspect has been in the store before soliciting money, but the complainant did not say anything to him the first time. Complainant says he doesn't want suspect back in his store and wants him to pay for the door. You are given a description of the suspect, see a few dripping spits on the window and see what appear to be possible kick marks on the door of the store. Exiting the store, you immediately see a person who matches suspect's description, and you make an investigative stop. Suspect denies spitting on the windows and kicking the door and says that the guy is lying. Suspect cannot give you satisfactory information about his identity and you are unable to confirm it. Store owner makes a positive ID that is the suspect.

- 1. What should you do?**
- 2. What can you do?**

**FACT PATTERN #2:** You get a call for larceny (Theft Under \$100) at a store. You see the store clerk on arrival. Complainant is the clerk. Complainant advises that yesterday, the suspect is standing outside the store talking with a group of people, comes in the store, takes a few items without paying for them and walks out of the store. Today, he is back standing outside the store again. The Complainant gives a good description and points him out to you while you are both outside the store. You conduct an investigative stop and suspect denies being in the store at all. As the suspect is handing you his ID and is being cooperative the Complainant comes out of the store again and yells at the suspect that he is a “Thief”. Suspect yells back and starts moving toward the store making verbal threats to the Complainant.

- 1. What should you do?**
- 2. What can you do?**