

THURMONT POLICE DEPARTMENT

GENERAL ORDER

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Authority: Chief of Police

Gregory L. Eyer

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Subject: **Criminal Citation Procedure**

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Related Documents:

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This Directive is for internal use only, and other than as contraindicated here this Directive does not create or enlarge this Department's, governmental entity's, any of this Department's officers, and/or any other entities' civil, criminal, and/or other accountability in any way. This Directive is not to be construed as the creation of a standard of safety or care in any sense, with respect to any complaint, demand for settlement, or any other form of grievance, litigation, and/or other action. Deviations from this Directive, if substantiated, can only form the basis for intra-Departmental administrative action(s) (including discipline and/or termination).

I. PURPOSE:

Senate Bill 422/Chapter 504

The 2012 Maryland General Assembly passed legislation (Senate Bill 422/Chapter 504) mandating the issuance of a criminal citation for certain criminal offenses if the defendant meets certain criteria. If these criteria are met, the law allows an officer who has grounds to make a warrantless arrest to (i) issue a citation in lieu of making an arrest or (ii) make the arrest, process (i.e., fingerprint and photograph the defendant), and issue a citation in lieu of continued custody to await an appearance before a court commissioner.

II. POLICY:

A. It is the policy of the Thurmont Police Department that a police officer who has grounds to make an arrest for an offense that does not carry a penalty of imprisonment and who determines a defendant meets the criteria specified in **I.D.** shall issue a Uniform Criminal Citation in lieu of arrest. The defendant shall be released upon their signature on the citation.

- B.** A police officer who has grounds to make an arrest for possession of marijuana or an offense for which the maximum penalty of imprisonment is 90 days or less shall make the arrest, search incident to arrest, and process (i.e. fingerprint and photograph) the defendant. If the officer determines the defendant meets the criteria specified in *I.D.* a defendant shall be charged by Uniform Criminal Citation and shall be released upon their signature on the citation in lieu of continued custody.
- C.**
1. Thurmont Police Department employees shall not unlawfully detain any person based upon race, color, ethnicity, national origin, gender, age, sexual orientation, disability or genetic information.
 2. Thurmont Police Department employees shall not participate in the use of any unlawful discriminatory characteristic as a cause for taking any law enforcement action against any individual or group of individuals.
- D.** In any decision to arrest, officer safety shall be paramount.

III. DEFINITIONS:

A. Qualifying Offenses

The following offenses qualify for charge by citation:

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

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

B. Exceptions

The following offenses may not be charged by criminal citation:

1. Failure to comply with a peace order under § 3-1508 of the Courts Article;
2. Failure to comply with a protective order under § 4-509 of the Family Law Article;

3. A violation of a condition of pretrial or posttrial release while charged with a sexual crime against a minor under § 5–213.1 of the Criminal Procedure Article;
4. Possession of an electronic control device after conviction of a drug felony or crime of violence under § 4–109(b) of the Criminal Law Article;
5. Violation of an out-of-state domestic violence order under § 4–508.1 of the Family Law Article; and
6. Abuse or neglect of an animal under § 10–604 of the Criminal Law Article.

IV. Criteria for Issuance of Citation

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

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

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

V. PROCEDURE

A. REQUIRED FORMS AND REPORTS

1. Forms:

a. Uniform Criminal Citation Form DC/CR 45

The officer shall use the Uniform Criminal Citation form to charge a defendant by citation. The officer shall use either:

- a) the pre-printed/pre-numbered book provided by the District Court; or
- b) in the case of an electronic format, the assigned electronic citation number provided by the District Court.

- c) Appropriate charging language as found in the District Court Commissioner Manual shall be used on the Criminal Citation.

b. Incident Report

In addition to the Uniform Criminal Citation, the law enforcement officer shall complete an Incident Report detailing the circumstances of the incident as required by agency policy. The Incident Report number shall be written at the top of the Criminal Citation. The names and addresses of the Victims and Witnesses shall only be listed on the police report and not the citation. In every case, copies of the Uniform Criminal Citation shall be given to the defendant upon their release. A copy of the Incident Report shall be forwarded to the States Attorney's Office with a copy of the citation.

VI. LAW ENFORCEMENT REPORTING - STATISTICAL DATA COLLECTION

On or before December 31, 2012, MPCTC and MSAC in consultation with the Administrative Office of the Courts (AOC) will develop a format and procedures for the collection of certain criminal citations data. Beginning January 1, 2013 law enforcement agencies are required to collect the following data on all criminal citations issued:

1. The date, location, and time of the issuance of the citation;
2. The offense charged;
3. The gender of the offender;
4. The date of birth of the offender;
5. The state and, if available, the county of residence of the offender; and
6. The race or ethnicity of the offender as:
 - a) Asian;
 - b) Black;
 - c) Hispanic;
 - d) White; or
 - e) Other.

GOCCP in partnership with the Maryland State Police is pursuing an automated solution to law enforcement data collection via Delta+, the application that runs ETIX. Beginning January 1, 2013, Delta+ will include a race-based reporting module for criminal citations. Law enforcement will enter all citation data electronically via Delta+. This data gets stored by MSP who will submit citation data for all law enforcement agencies in the state to MSAC by March 1 each subsequent year. GOCCP and MSP are discussing the feasibility of

updating Delta+ to include functionality similar to e-citations for criminal citations in late 2013. Updates to Delta+ will give officers the capability to scan MVA licenses, enter data, and print criminal citations in cars. Officers will print out electronic criminal citations and follow current hardcopy procedures with the Courts.

ATTACHMENTS :

APPENDIX A: Qualifying Offenses

Top 20

CJIS Code	Statute 1	Statute 2	Statute 3	Statute 4	Charge Description	Type of Charge	Penalty	Fine	Arrest Number (2011)
1 0573	CR	5	601		POSS: MARIJUANA	MISDEMEANOR	1 YEAR	1000	23,822
5 3550	CR	5	619	(c)(1)	CDS:POSS PARAPHERNALIA	MISDEMEANOR	0	500	11,022
2 0060	CR	10	201	(c)(4)	DISTURB THE PEACE	MISDEMEANOR	60 DAYS	500	8,866
1 0521	CR	7	104		THEFT LESS THAN \$100.00	MISDEMEANOR	90 DAYS	500	5,979
2 2210	CR	6	402		TRESPASS-POSTED PROPERTY	MISDEMEANOR	90 DAYS	500	5,158
3 4025	CR	6	301		MAL DEST PROP/VALU - \$500	MISDEMEANOR	60 DAYS	500	3,030
1 1476	CP	5	212		FAIL APPEAR-CITATION	MISDEMEANOR	90 DAYS	500	1,285
1 4200	2B	19	101		ALC. BEV./INTOX:ENDANGER	MISDEMEANOR	90 DAYS	100	563
1 0191	CR	3	803		HARASS; A COURSE OF CONDUCT	MISDEMEANOR	90 DAYS	500	328
1 0640	CR	10	110	(c)	LITTER/DUMP UNDER 100 LBS	MISDEMEANOR	30 DAYS	1500	160
1 0349	2B	19	101		ALC BEV./RETAIL AREA DRINK	MISDEMEANOR	90 DAYS	100	150
1 0353	2B	19	301		ALC BEV OPEN CONT RETL EST	MISDEMEANOR	0	100	117
7 4100	2B	19	202		ALC BEV/PROHIB PLACE DRINK	MISDEMEANOR	0	100	115
1 0005	FL	5	801		CONFINE UNATTENDED CHILD	MISDEMEANOR	30 DAYS	500	98
1 1143	CR	8	103	(b)	BAD CHECK/STOP PAY/LESS THAN \$100	MISDEMEANOR	90 DAYS	500	95
1 0350	2B	19	202		ALC BEV./RETAIL AREA DRINK	MISDEMEANOR	0	100	94
8 0000	2B	19	301		ALC BEV/OPEN CONT/RETL EST	MISDEMEANOR	0	100	92
1 0581	CR	8	206	(a)	CRDT CRD/ANTHR CHG L/T \$100	MISDEMEANOR	90 DAYS	500	74
1 0047	ED	7	301		SCHOOL:FAIL SEND CHILD	MISDEMEANOR	10 DAYS	50	67
1 0592	NR	1	206		FAIL COMPLY W/LAWFUL ORDER	MISDEMEANOR	3 MONTHS	500	63

DOCUMENT DATES :

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