

## Marijuana Uniform Civil Citation

### 1133.1 PURPOSE AND SCOPE

The purpose of this policy is to establish uniform policy and procedure when encountering people using or possessing less than 10 grams of marijuana. Section 5-601 of the Criminal Law Article of the Maryland Code (Md. Code CR 5-601) repeals criminal penalties and imposes civil fines for anyone possessing less than 10 grams of marijuana.

### 1133.2 POLICY

The University of Maryland, Baltimore Police Department (UMBPD) recognizes the importance of enforcing laws and providing citizens with non-biased based policing. To maintain public trust, officers are not to use bias-based policing when deciding whether or not to issue a Uniform Civil Citation for possessing less than 10 grams of marijuana. The issuance of a citation for the use or possession of less than 10 grams of marijuana is at the discretion of the issuing officer or his/her supervisor in keeping with the best interest of the citizen, the officer and the Department.

#### 1133.2.1 DEFINITIONS

**Civil CDS** - The Computer Aided Dispatch (CAD) code concerning less than 10 grams of marijuana is Possession of Marijuana (Civil).

**Paraphernalia** - Although the possession of paraphernalia is still a criminal offense for which a member may arrest individuals, members shall not arrest for possession of paraphernalia in situations where the only other contraband recovered is less than 10 grams of marijuana.

**Arrest** - Criminal offenses supersede civil offenses. Therefore, where multiple offenses exist and both criminal and civil offenses are possible, disregard the civil offense and only charge the individual criminally.

**Burden of Proof** - The burden of proof for Uniform Civil Citations for the use or possession of less than 10 grams of marijuana is preponderance of the evidence. This standard imposes a lesser burden than that used in criminal matters, which is proof beyond a reasonable doubt.

**Probable Cause** - Probable cause is needed to cite for less than 10 grams of marijuana.

### 1133.3 BACKGROUND

Although the use or possession of less than 10 grams of marijuana is a civil offense under Md. Code CR 5-601, marijuana in any amount is still considered contraband under State law. The odor of marijuana constitutes probable cause (see *Wilson v. State*, 174 Md. App 434 [2004]) to investigate possible criminal activity. Md. Code CR 5-601 does not affect the current laws governing Driving Under the Influence of or Driving While Impaired by a controlled dangerous substance, or the laws governing seizure and forfeiture. Additionally, members should be aware that when an investigation leads to evidence that supports charges for possession with intent to distribute, distribution of marijuana, or manufacture of marijuana, criminal charges are warranted, regardless of the amount of marijuana recovered.

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**1133.4 PREPARATION OF THE CIVIL CITATION**

**1133.4.1 OFFICER RESPONSIBILITIES**

- (a) Conduct a warrant check.
- (b) Use discretion in the issuance of a Uniform Civil Citation. Record the probable cause on the reverse of the Officer's copy, titled "Officer's Notes."
- (c) Complete an Incident Report, titled "Possession of Marijuana (Civil)."
  - 1. Regardless of the member electing to issue a Uniform Civil Citation or not, complete an Incident Report for the seized contraband.
  - 2. When requesting a CC#, notify the dispatcher it is for Marijuana Possession (Civil).
- (d) If a suspect is charged by Uniform Civil Citation, any associated Incident Report must include detailed information describing the incident, probable cause, and disposition of the evidence by means of property submission per departmental guidelines.
- (e) If a suspect has committed any combination of criminal offenses and civil offenses, the criminal offense shall take precedence and:
  - 1. The suspect shall be arrested and criminally charged in accordance with existing departmental policy and rules and regulations.
  - 2. No Uniform Civil Citation shall be issued. An offense report is required and shall include the disposition of the recovered/seized property.
- (f) When issuing citations for less than 10 grams of suspected marijuana, the member must:
  - 1. For individuals, who are 21 years old and above, the officer must check the "MAY PAY A FINE" box and indicate the prepay amount designated. Payment may be made at any District Court of Maryland location, and check the "MAY ELECT TO STAND TRIAL" box. The hearing date will be set by the District Court. The violator will be notified by mail.
  - 2. Officers, who issue a Uniform Civil Citation for possession of less than 10 grams of marijuana, must, in the absence of an official measurement, rely upon their training, knowledge, and experience to determine the unpackaged weight of less than 10 grams to meet the requirements of a citation. This evaluation must be documented by the officer in the reports pertaining to the incident.
  - 3. Should the person refuse to sign the Uniform Civil Citation, the officer will write "Refused to Sign" on the signature line of the citation.
  - 4. Appear for court when summoned.
- (g) The officer must inform the adult (21 years of age and over) that if he/she chooses to elect a hearing on the citation, the Court may impose a higher fine plus court costs.
- (h) Ensure all reporting and submissions are completed by the end of your tour of duty.
  - 1. Write on the Uniform Civil Citation for less than 10 grams of marijuana and associated reports that the "weight is less than 10 grams."

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2. All citations are to be turned in to the officers' Supervisor by the end of the tour of duty.
  - (i) All recovered/seized CDS and paraphernalia shall be submitted in accordance with Policy 802 (Property). Documentation for the submission shall be attached to the Offense report and provided to the Property Custodian in accordance with policy.

**1133.4.2 SUPERVISOR RESPONSIBILITIES**

- (a) Monitor the enforcement decisions made by a subordinate, who is investigating a Uniform Civil Citation-eligible offense.
- (b) Review/sign every citation and associated reports to check for completeness and that the issuing member operated within the laws of the State of Maryland and the Rules and Regulations of this agency.
- (c) If a citation is not correct or complete, void the citation. If incident reports are not correct or complete to include a property listing and probable cause, return the incident report to the reporting officer for correction.
- (d) Should the Uniform Civil Citation be deemed insufficient, have the issuing officer complete a written report, citing the found deficiency and requesting it be voided. The report must be attached to the citation and forwarded to the Records Section.
- (e) Ensure all reports and submissions are completed by the end of your tour of duty, for review and approval, through the current records management system.
  1. Submit all citations to the Records Section for processing by the end of the shift.
  2. Attach a copy of the citation to the Incident report, if written.

**1133.5 ADMINISTRATIVE DISPOSAL**

**1133.5.1 ADMINISTRATIVE PROCESSING**

Citations are to be paid by the violator or adjudicated by a District Court Judge. Administrative processing is reserved for special cases when an error has been made on the citation.

**1133.5.2 ADMINISTRATIVE RESPONSE TO CITATION ERRORS**

The processing for voiding Civil Citations for Marijuana less than 10 grams shall be the same as outlined in Policy.

**1133.6 RECORDS SECTION PROCEDURES**

**1133.6.1 RESPONSIBILITIES OF THE RECORDS SECTION**

Review the Uniform Civil Citations received from members for correctness and completeness in accordance with the Records Section Standard Operating Procedure (SOP) for citations.

- (a) Receive and process Uniform Civil Citations and related reports.
- (b) If a citation is not correct or complete, void the citation. If incident reports are not correct or complete, to include property listing, return the incident report to the reporting officer for correction as described in Policy 803 (Records Section).

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- (c) Complete transmittal in accordance with the Citation SOP.
- (d) The Uniform Civil Citations and reports for juveniles must be delivered to DJS Intake.
- (e) Send only the completed/correct Uniform Civil Citation packets to the Eastside District Court at 1400 E. North Avenue, Baltimore, MD 21213, location specified by the District Court System in Baltimore City within forty-eight (48) hours of the citation being issued (See Appendix 6.17.1 for common reasons for voiding Uniform Civil Citations).
- (f) Forward to the respondents, whose citations have been voided, a letter notifying them to disregard the Uniform Civil Citation (See Appendix 6.17.1 for a sample letter).

### 1133.6.2 COURT DISPOSITION FORM

A Court Disposition Form and follow-up report will be completed by the officer for a civil citation for which the officer has to appear for trial. The Court Disposition Form will be sent to the Records Section and will be filed with the organization's copy of the citation.

## **1133.7 SPECIAL CIRCUMSTANCES AND PROCESSING BY AGE**

### 1133.7.1 JUVENILES

Juveniles 17 years of age and younger are not eligible to pay the fine; they must appear in court.

- (a) Officers, who encounter juveniles 17 years of age and under using or possessing less than 10 grams of marijuana MUST issue Uniform Juvenile Civil Citations by which the juvenile must appear at a hearing with the Department of Juvenile Services (DJS). A hearing date will be set and entered by DJS. Intake, upon receipt of the civil citation, shall leave the hearing date space blank.
- (b) The member must write:
  - 1. An Incident report for the seized Marijuana Possession (Civil), to include probable cause;
  - 2. For all Investigative Stops that do not result in an arrest, adhere to the following reporting requirements:
    - (a) Obtain a report number and complete an incident report.
    - (b) Include the "Primary Reason for Stop" in the narrative section of the report.
    - (c) The report shall be titled as an "Investigation Field Interview".
- (c) Juvenile processing must be completed, per Baltimore Juvenile Booking's Standard Operating Procedure. The officer must conduct a juvenile warrant check and complete the Uniform Juvenile Civil Citation.
- (d) A copy of the civil citation issued under this section shall be:
  - 1. Given to the juvenile being charged;
  - 2. Retained by the officer issuing the civil citation; and
  - 3. The civil citation and report must be submitted through the required review and approval process.

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- (e) A juvenile may refuse to sign the citation. It is important that the full name, phone number, and address of the juvenile's parent or legal guardian be entered on the citation, where specified. The juvenile will be given a copy of the Uniform Juvenile Civil Citation, as will the parent or guardian if present. If the parent or guardian is not present, a copy of the citation will be mailed to them by DJS.
- (f) Every attempt should be made to identify the juvenile at the scene. This includes contacting the parent or guardian. If a juvenile cannot be identified, the officer will contact Juvenile Booking (JB) in an attempt to help identify the juvenile.
  - 1. If the juvenile cannot be identified on the street, contact JB for assistance, and take the juvenile to the front entrance of the Baltimore Juvenile Justice Center (BJJC).
  - 2. If the juvenile is not identified, the Department of Juvenile Services (DJS) Intake may shelter the juvenile. Child Protective Services may take custody of the juvenile upon request. Juvenile Booking will transport the juvenile to the appropriate shelter.
  - 3. The Uniform Juvenile Civil Citation is filed with the Intake Officer at the BJJC.
- (g) While it is permissible to detain a juvenile for a Status Offense for a "brief time" for identification purposes or for the purpose of allowing the juvenile to return to his/her parent or guardian, this cannot occur at a secure facility. Juvenile Booking is a secure facility and cannot be used for this purpose. If a juvenile is to be detained for this purpose it must be done at this agency.
- (h) After issuing the Uniform Juvenile Civil Citation, an Incident Report will be written for Marijuana Possession (Civil) and the citation shall be attached to the report when it is submitted for review and approval. Submissions of CDS will be done in accordance with agency policy.

1133.7.2 ADULTS 18 TO 20

Adults 18 to 20 (inclusive) years of age are not eligible to pay the fine. They must appear in court.

- (a) If an adult between the ages of 18 to 20, is in possession of less than 10 grams of suspected marijuana, a Uniform Civil Citation may be issued; "Must Appear" shall be marked on the citation.
- (b) In addition the following will be completed:
  - 1. An Incident report, to include a property listing and probable cause, and
  - 2. When a citation is not issued, the incident is recorded as Recovered Property.

1133.7.3 ADULTS 21 AND OVER

Adults 21 years of age or older are eligible to pay the fine or appear in court.

- (a) Officers, encountering a person 21 years of age or older possessing less than 10 grams of marijuana, may use their discretion in issuing a Uniform Civil Citation, which imposes a fine.
- (b) Since the law recognizes marijuana as contraband officers shall seize the contraband and submit the evidence/contraband to the in accordance with agency policy.

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Marijuana seized from a citizen and submitted to BPD ECU is considered recovered or seized property.

- (c) An ARMS Offense report is required when property is recovered or seized.

**1133.8 EXCEPTIONS**

The following offenses are still illegal and officers may still arrest where:

- (a) Investigation establishes a violation of the laws, relating to operating a vehicle or vessel while under the influence of or while impaired by a controlled dangerous substance.
- (b) Investigation establishes a violation of laws, prohibiting or regulating the use, possession, dispensing, distribution or promotion of controlled dangerous substances.