POLICY

The Baltimore Police Department (BPD) 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.

NOTE: Members are not permitted to arrest individuals for use or possession of less than 10 grams of marijuana. However, the odor of marijuana still may establish probable cause to investigate possible criminal activity, and may still support searches, consistent with existing policies. This directive supersedes the direction of Policy 808, Civil and Criminal Citations, concerning marijuana less than 10 grams.

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 investigation leads to evidence that supports charges for possession with intent to distribute, distribution, or manufacture of marijuana, criminal charges are warranted, regardless of the amount of marijuana recovered.

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.

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.

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, proof beyond a reasonable doubt.

Probable cause is needed to cite for less than 10 grams of marijuana.
PURPOSE

To provide members of the Baltimore Police Department (BPD) with 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.

DEFINITIONS

Civil CDS – The subject of miscellaneous reports, concerning less than 10 grams of marijuana. The Computer Aided Dispatch (CAD) code is 87c.

Uniform Juvenile Civil Citation – A State Juvenile Civil Citation, from the District Court of Maryland. This is the only citation to be used to cite a juvenile for use or possession of less than 10 grams of marijuana.

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

NOTE: This is only required for juvenile citations.

1. 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.

2. The member must write:

2.1. A Miscellaneous Incident report for the seized Civil CDS, to include probable cause,

2.2. A Citizen/Police Contact Receipt for the Field Interview/Investigation, and

2.3. For all Investigative Stops that do not result in an arrest, adhere to the following reporting requirements:

2.3.1. Obtain a Central Complaint Number and record that number in the “CC#” box.

2.3.2. Complete a Miscellaneous Incident report in its entirety. Include the “Primary Reason for Stop” in the narrative section of the report.

2.3.3. Check the “Field Interview/Investigation” box.

3. 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.

4. A copy of the civil citation issued under this section shall be:

4.1. Given to the juvenile being charged,
4.2. Retained by the officer issuing the civil citation,

4.3. The civil citation and report must be sent to Central Records Section, Staff Review Supervisor (2\textsuperscript{nd} floor of the HQ building).

5. 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.

6. 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.

6.1. 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).

6.2. If the juvenile is not identified, 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.

6.3. The Uniform Juvenile Civil Citation is filed with the Intake Officer at the BJJC.

7. 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 needs to be detained for this purpose it must be done at the Front Entrance of BJJC.

8. After issuing the Uniform Juvenile Civil Citation, an Incident Report will be written for Civil CDS and the citation must be attached to the report and sent through proper channels. Submissions of CDS will be done per departmental guidelines.

**Adults 18 – 20 years of age are not eligible to pay the fine. They must appear in court.**

If an adult between the age of 18-20 (inclusive), is in possession of less than 10 grams of suspected marijuana, a Uniform Civil Citation may be issued; “must appear” shall be marked in addition to completing the following:

1. A Citizen/Police Contact Receipt,

2. A Miscellaneous Incident report, to include a property listing and probable cause.

2.1. When a citation is not issued, the incident is recorded as Recovered Property.

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

1. 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.
Since the law recognizes marijuana as contraband officers shall seize the contraband and submit the evidence/contraband to the Evidence Control Unit (ECU).

NOTE: Marijuana seized from a citizen and submitted to ECU is not Found Property. It is Recovered Property.

2. A Citizen/Police Contact Receipt must be issued and a Miscellaneous Incident Report written.

EXCEPTIONS

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

2.1. 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.

2.2. Investigation establishes a violation of laws, prohibiting or regulating the use, possession, dispensing, distribution or promotion of controlled dangerous substances.

REQUIRED ACTION

Member - General

1. Conduct a warrant check.

2. Use discretion in the issuance of a Uniform Civil Citation.

2.1. Record the probable cause on the reverse of the Officer’s copy, titled “Officer’s Notes”.

3. Complete a Citizen/Police Contact Receipt.

4. Complete a Miscellaneous Incident Report, titled “Civil CDS”.

4.1. Regardless of the member electing to issue a Uniform Civil Citation or not, complete a Miscellaneous Incident Report for the seized contraband.

4.2. When requesting a CC#, notify the dispatcher it is for Civil CDS.

5. If a suspect is charged by Uniform Civil Citation, any associated Crime/Incident Report must include detailed information describing the incident, probable cause, and disposition of the evidence by means of property submission per departmental guidelines.

6. If a suspect has committed any combination of criminal offenses and civil offenses, the criminal offense shall take precedence and:

6.1. The suspect shall be arrested and criminally charged in accordance with existing departmental policy and rules and regulations.

6.2. No Uniform Civil Citation shall be issued. A Miscellaneous Incident report is required to
record the disposition of the recovered property.

7. When issuing citations for less than 10 grams of suspected marijuana the member must:

7.1. For individuals, who are 21 years old and above, the officer must check the “MAY PAY A FINE” box and indicate the prepay amount of $50. 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 respondent will be notified by mail.

7.2. 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.

7.3. Should the person refuse to sign the Uniform Civil Citation, the officer will write “Refused to Sign” on the signature line of the citation.

7.4. Appear for court when summoned.

NOTE: Court appearances for Civil CDS of marijuana less than 10 grams citations will be held at the Eastside Court.

8. 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 up to a $100.00 fine plus court costs.

9. Ensure all reporting and submissions are completed by the end of your tour of duty.

9.1. Write on the Uniform Civil Citation for less than 10 grams of marijuana and associated reports that the “weight is less than 10 grams”.

9.2. All citations are to be turned in to the officers’ Command.

Evidence Control Unit (ECU) Submission

All seized CDS must be submitted to ECU:

1. When members enter ECU, respond to the receiving counter and advise ECU staff that you have marijuana of less than 10 grams.

2. The submitting officer will be directed to take the marijuana out of its packaging and place it on the scale at the desk.

3. The submitting officer and ECU staff will follow regular submission protocol.

4. The submitting officer will fill out the BPD Property Receipt, Form 56, and will include the weight of the marijuana in their description of the marijuana in the description box.
Supervisor – General

1. Monitor the enforcement decisions made by a subordinate, who is investigating a Uniform Civil Citation-eligible offense.

2. 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.

   2.1. The citation is to be signed by the supervisor at its top right portion.

3. 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.

   3.1. Should the Uniform Civil Citation be deemed insufficient, have the issuing officer write an Administrative Report, Form 95, citing the found deficiency and requesting it be voided. The Administrative Report must be attached to the citation and forwarded to the Central Records Section.

4. Ensure all reporting and submissions are completed by the end of your tour of duty.

   4.1. Attach a photocopy of the police report to the citation and Citizen/Police Contact Receipt. Submit same to the district report auditor.

   4.2. The Citizen/Police Contact Receipt must be submitted with the citation and copy of the report.

District Report Auditor

1. Review/sign every Uniform Civil 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.

2. Print the CAD sheet for State Civil Citation, code 87c, (Civil CDS).

3. Complete 4 transmittal sheets in sequential order by CC# for:

   3.1. Payable fines packet

   3.2. Must appear packet

   3.3. Juvenile packet

   3.4. Voided packet

4. If a citation is not correct or complete, void the citation. If incident reports are not correct or complete to include probable cause, return the incident report to the reporting officer for correction.
NOTE: These packets must be separate from the regular Records Management System (RMS) packet and sent directly to Staff Review on the next business day after issuance of citation.

Administrative Staff Member/Property Officer

Collect all Uniform Civil Citations that have been issued by your Command on a daily basis and deliver to Staff Review.

Common reasons for voiding Uniform Civil Citation

1. Use of a citation other than the Uniform Civil Citation,
2. Wrong fine recorded on the citation,
3. The Officer assigns a court date on the citation (Only the court assigns appearance dates.),
4. The Officer cites incorrect charge.
5. Only use MD Code Provision: Criminal Law (CL) 5 601 (c) (2) (II).

Staff Review

1. Review the Uniform Civil Citation packets received from district/sections for correctness and completeness.
   1.1. If a citation is not correct or complete, void the citation. If incident reports are not correct or complete to include property listing probable cause, return the incident report to the reporting Command for correction.
   1.2. Have the delivering member correct any found deficiencies with the Transmittal Forms. Send only the completed/correct Uniform Civil Citation packets to the Eastside District Court within 48 hours of the citation being issued. (See Common reasons for voiding Uniform Civil Citation.)
2. Forward to the respondents, whose citations have been voided, a letter notifying them to disregard the Uniform Civil Citation.

Records Management Systems

1. Receive and process Uniform Civil Citations and related reports.
2. The Uniform Civil Citations and reports for juveniles must be delivered to DJS Intake.

Evidence Control, Commander

Marijuana submitted for Uniform Civil Citation/Civil CDS cases will not be analyzed and may not be destroyed, unless specifically notified by the primary member in the case.
Legal Affairs Section

Receive copies of all the Uniform Civil Citations from the property officers within the agency.

Commanding Officer

1. Ensure your unit/district has an appointed member deliver recorded Uniform Civil Citations and transmittal forms to the appropriate places.

2. Uniform Civil Citations and associated reports for juveniles must be filed separately from adults.

APPENDICIES

A. Uniform Civil Citation Transmittal Form DC/CR 95 A (Rev. 4/2003)
B. Marijuana Civil Citation Form DC-028 (Rev. 8/2017)
C. Marijuana Civil Citation (if under the age of 21 or if 3rd offense) Form DC-028 (Rev. 8/2017)
D. Uniformed Juvenile Civil Citation
E. Example Dismissal Letter

ASSOCIATED POLICIES

Policy 302, Rules and Regulations
Policy 808, Criminal and Civil Citation Procedures

NOTE: This directive supersedes the direction of G.O. H-8, Civil and Criminal Citations, concerning marijuana less than 10 grams.

Policy 1044, Incident Reporting
Policy 1208, DUI/DWI Arrest Procedures
Policy 1302, Juveniles: Non-Custodial Contacts and Custody Procedures
Policy 1401, Control of Property and Evidence
Policy 1402, Management of Evidentiary Controlled Dangerous Substances
PCM 11-01, New Departmental Policy Concerning Certain Juvenile Arrest

RESCISSION

Remove and destroy/recycle Policy 809, Marijuana: Uniform Civil Citation dated 27 March 2015.

COMMUNICATION OF POLICY

This policy is effective on the date listed herein. Commanders are responsible for informing their subordinates of this policy and ensuring compliance.
**APPENDIX A**

Uniform Civil Citation Transmittal Form DC/CR 95 A (Rev. 4/2003)

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**UNIFORM □ CRIMINAL □ CIVIL CITATION TRANSMITTAL**

<table>
<thead>
<tr>
<th>AGENCY NAME (full name)</th>
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<tbody>
<tr>
<td>Barrack/Precinct/District/Location (full name)</td>
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</tbody>
</table>

**INSTRUCTIONS FOR COMPLETION OF TRANSMITTAL AND FORWARDING CITATIONS:**

1. Complete the top portion of the Transmittal:
   - Barrack/Precinct/District/Location
   - Agency Name

2. Starting in the upper left column under Citation Number and continuing down the first column, list the citation number of each citation being transmitted. Do not mix Criminal and Civil Citations on the same transmittal, use separate transmittals.
   - List the full citation number for every citation, including the prefix
   - Do not take shortcuts, even if the citation numbers are in a consecutive sequence

3. When all citations have been listed:
   - Compare the numbers listed on the Transmittal with the citations being submitted to ensure that all of the citations are accurately listed
   - Arrange the citations in the same order as they are listed on the Transmittal

4. Complete the bottom of the Transmittal:
   - Total number of citations sent
   - Submitted by (your signature)
   - Date Sent

5. Keep one copy of the Transmittal for your agency. Mail or deliver the original and one copy of the Transmittal with the Court Copies of the citations to the District Court.

<table>
<thead>
<tr>
<th>CITATION NUMBER</th>
<th>CITATION NUMBER</th>
<th>CITATION NUMBER</th>
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</table>

**Total Number of Citations Sent:**

**Submitted By:**

Signature: 

ID#: 

**FOR USE BY DISTRICT COURT ONLY**

<table>
<thead>
<tr>
<th>Total received but not listed</th>
<th>Total listed but not received</th>
<th>Total number of citations received</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature</td>
<td>Date</td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX B

Marijuana Civil Citation Form DC-028 (Rev. 8/2017)

Marijuana Citation for Adults 21 years of age or older

UNIFORM CIVIL CITATION

District Court of Maryland for
1400 E. North Avenue
Baltimore City, MD 21213

Defendant’s (Last) Name
John Doe
601 E. Fayette Street 2nd Floor

Based on personal knowledge of the undersigned officer, the attached affidavit, the Defendant is charged with:
Possession of a controlled dangerous substance of schedule I to wit: marijuana in an amount of less than 10 grams

INSTRUCTIONS

Date
5/12/2016

At 4:00 PM

District Court
Baltimore City, MD 21202

Per Policy 809
Defendant’s refusal to sign the citation does not negate the issuance of same. Just provide “Refuse to Sign” on the signature line. Please make every attempt to obtain a signature.

Per Policy 809
The date the defendant has to pay the fine amount by & the cutoff date the defendant has to request a trial should be 30 days from the date of issuance of the citation.

Issuing Officer Sign Your Name
59XX
Issuing Officer Print Your Name

Date
Date

MUNICIPALITY/COURT COPY

DC-028 (Rev. 10/2014) Print Date 10/10/2014
APPENDIX C

Marijuana Civil Citation (if under the age of 21 or if 3rd offense) Form DC-028 (Rev. 8/2017)

Marijuana Citation for Adults 18-20 years of age or 3rd Offense of an Adult 21 years of age or older

UNIFORM CIVIL CITATION

<table>
<thead>
<tr>
<th>WITNESS</th>
<th>DOB 2-24-1972 (Rev. 8/2017)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defendant's (Legal) Name</td>
<td>Matthew</td>
</tr>
<tr>
<td>Current Street Address</td>
<td>601 E. Fayette Street 2nd Floor</td>
</tr>
<tr>
<td>Telephone No.: Day/Time</td>
<td>E-mail:</td>
</tr>
<tr>
<td>County</td>
<td>State/Zip</td>
</tr>
<tr>
<td>Baltimore City, MD 21202</td>
<td>2443-000-1234</td>
</tr>
</tbody>
</table>

Possession of a controlled dangerous substance of schedule I to wit: marijuana in an amount of less than 10 grams

INSTRUCTIONS

YOU MUST APPEAR IN COURT. A notice of trial date will be mailed to you.

YOU MAY PAY A FINE of $ (entire amount required) by (date)

A) District Court Payment of the fine will not close the case if abatement action is pending.

At (date) Payment Location

and AVOID TRIAL. This will be deemed an admission of guilt and a trial date will not be set.

YOU MAY ELECT TO STAND TRIAL by sending your request in writing to the:

A) District Court

Agency/Municipality

Date at Address

DO NOT SEND PAYMENT OF FINE. The District Court will mail you a notice of your trial date, time, and location. AT Trial, the Court may impose a fine up to the maximum allowed by statute plus court costs.

IN ADDITION, (date) is seeking abatement of this violation.

You may be ordered to abate this violation or be assessed the costs for the abatement, as well as a fine of up to $1,000, plus court costs. Payment of the present fine will not satisfy the abatement action and an order of abatement may still be entered against you.

I solemnly affirn under the penalties of perjury and based upon personal knowledge or the attached affidavit, that the contents of this citation are true and that I am competent to testify on these matters.

The Defendant is not now in the military service, as defined in the Servicemembers Civil Relief Act

Issuing Officer Sign Your Name Date

Issuing Officer Print Your Name

MUNICIPALITY/COURT COPY

Per Policy 809

Defendant’s refusal to sign the citation does not negate the issuance of same. Just provide “Refused to Sign” on the signature line. Please make every professional & courteous attempt to obtain a signature.
APPENDIX D
Uniform Juvenile Civil Citation for Alcohol, Marijuana and Tobacco Offenses, pg. 1

UNIFORM JUVENILE CIVIL CITATION FOR ALCOHOL, MARIJUANA AND TOBACCO OFFENSES

County/City

VS.

Child's (First) Name

Middle

Last

Current Address (Include street no. or post office box no.)

City

State

Zip Code

Height

Weight

Sex

Race

Birth Date

Driver's License No. and State

Related Citations

Telephone No.

Day:

Night:

It is formally charged that the above named child on...

Month/Day

Year

at ......... M at ......... Location ......... City/County, Maryland

Did ...........................................

In violation of Article  Section  Sub-Section  Paragraph  Annotated Code of Maryland

Q You are hereby notified to appear on........................................ Month/Day  Year

at ......... M at Dept. of Juvenile Services located at ........................................

Tel. No.

Q You will be notified by the Dept. of Juvenile Services when and where to appear for a hearing.

Full Name of Child's Legal Parent/Guardian

Signature of Parent/Guardian

Full Address of Child’s Legal Parent/Guardian Only

NOTE: YOUR FAILURE TO APPEAR MAY RESULT IN FORMAL COURT ACTION.

I sign my name as a receipt of a copy of the Citation and not as to admission. I hereby agree to appear.
**APPENDIX D**

Uniform Juvenile Civil Citation for Alcohol, Marijuana and Tobacco Offenses, pg. 2

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**Marijuana Revisions to Juvenile Citation Form – Front of All Copies**

**X Child’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**

<table>
<thead>
<tr>
<th>Date</th>
<th>Agency</th>
<th>Sub-Agency</th>
<th>I.D. No.</th>
</tr>
</thead>
</table>

---

**Intake Decision**

- Q Referred to smoking cessation clinic. ASSIST NO.________________
- Q Referred to alcohol education or rehabilitation program.
- Q Referred to substance abuse education or rehabilitation program.
- Q Assigned to supervised work program for ____________ hours.
- Q Parent/Guardian agrees to withdraw consent for a period of ________ days after the child is eligible and has applied for a driver’s license.
- Q Forwarded to the State’s Attorney.

---

**Intake Officer’s Signature**

<table>
<thead>
<tr>
<th>Hearing Date</th>
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</thead>
</table>

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APPENDIX E

Example Dismissal Letter

Baltimore Police Department

January 31, 2015

John Doe
123 Smith Street
Baltimore, MD 20000

RE: State of Maryland v. John Doe
Citation Number:
CC Number:
Date of Issuance:

Dear Mr. Doe:

The purpose of this letter is to inform you that the Baltimore Police Department is dismissing without prejudice and rescinding the above-reference citation. As a result, no payment or court appearance is required. You may wish to keep a copy of this letter for your records.

Please direct any questions regarding this letter to Baltimore City's One Call Center at 311, or 443-263-2220 outside the Baltimore area.

Very truly yours,

Baltimore Police Department

c/o 242 W. 29th Street • Baltimore, Maryland 21211