



CIVIL MARIJUANA VIOLATIONS

Directive: 16-105

Date of Revision: December 2014 Amends/Cancel: 14-129

I. PURPOSE

To outline the procedures for issuing civil citations for qualifying marijuana violations.

I. POLICY

MCP officers will issue a civil citation for a qualifying marijuana offense beginning October 1, 2014.

II. DEFINITIONS

CARROLL DOCTRINE: refers to a principle that permits a police officer to search an entire motor vehicle and any containers inside it if there is probable cause to believe the vehicle contains contraband or the fruits, instrumentalities or evidence of criminal activity.

CONTRABAND: illegal or prohibited items.

DETENTION FACILITY: Facility used by MCP Officers for booking/prisoner processing; (i.e. Annapolis City Police Booking Facility, Baltimore City Central Booking Intake Facility.)

III. REFERENCES

MD. Code Ann., Crim. Law §5–601.

MD. Code Ann., Crim. Law §5–601.1.

Carroll v. US, 267 U.S. 132 (1924).

MCP Directive 14-126 “Uniform Criminal Citation Procedures.”

IV. PROCEDURES

A. Detachment Commander’s Responsibility

1. Detachment commanders will contact their local state’s attorney’s office to ensure the procedures outlined in this policy are consistent with the requirements of the respective state’s attorney.
2. Each commander will issue a Standard Operating Procedure (SOP) to ensure Officers assigned to his unit are in compliance with the local state’s attorney’s directives.

3. Prior to the SOP being issued, each commander will confirm with the local state's attorney and the Operations Commander that his detachment's SOP is consistent with MCP policy and the law.

B. Criminal vs. Civil Violations

1. Officers who encounter marijuana while on patrol will use their training, knowledge, and experience to estimate the weight.
 - a. If the officer reasonably believes the marijuana to be less than 10 grams (excluding packaging), he will seize the marijuana and issue the person a civil citation.
 - b. If the officer reasonably believes the marijuana to be 10 grams or more (excluding packaging), he will seize the marijuana and arrest the person for the criminal offense.
 - c. Should the officer return to the detachment/detention facility, weigh the marijuana, and determine the marijuana is 10 grams or more (excluding packaging) and the person has already been issued a civil citation, no further enforcement action will be taken.
 - d. Should the officer return to the detachment/detention facility, weigh the marijuana, and determine the marijuana was less than 10 grams (excluding packaging) and the person is in custody, the person will be issued a civil citation and will be promptly released.
2. While possession of drug paraphernalia is still a criminal offense, officers WILL NOT arrest or charge a person for possession of drug paraphernalia related to marijuana less than 10 grams, unless the person is charged with another criminal violation.
3. If a person possesses less than 10 grams of marijuana, it does not preclude him from being charged with the criminal offense of possession with intent to distribute a controlled dangerous substance (CDS), should the facts and circumstances present probable cause for such a charge.
4. Should an officer encounter a marijuana violation outside the jurisdiction to which he is normally assigned, he will contact the local detachment/detention facility and consult with the duty officer regarding the local SOP that is in effect.

C. Forms and Reports

1. Uniform Civil Citation (DC-028)

When charging a person for a civil offense, Officers will use a civil citation and will use either:

- a. the pre-printed/pre-numbered civil citation from the citation book provided by the District Court; or

- b. the Court-approved .pdf version of the civil citation which can be found on the “ArrestApp” installed at officer reporting computers at each Detachment.

2. Uniform Juvenile Civil Citation (DC-031)

If the person is under the age of 18, he WILL NOT be charged on an adult civil citation, but will be charged on a Uniform Juvenile Civil Citation and processed in accordance with MCP Directive 14-111 “Juvenile Arrests and Contacts” (Sec. IV Procedures, A, 9).

3. MCP Reports

- a. Officers will complete a CAD/RMS report detailing the circumstances of the incident; the offense will still be documented as “CDS: Possession - Marijuana.”
- b. If the person is only issued a civil citation and has not been physically detained, a MCP Form 112A, “Arrest Log”, will not be completed.

4. Report Distribution

- a. A copy of the civil citation will be given to the person upon release.
- b. Copies of the civil citation and CAD/RMS report will be forwarded to the State’s Attorney’s Office.
- c. All original copies will be retained at the detachment.

D. Completing a Civil Citation

1. If an officer chooses to use the District Court-approved .pdf version of the civil citation, he will:
 - a. use the tracking number from a preprinted/pre-numbered civil citation and type that number into the space provided in the .pdf version of the citation; and
 - b. draw a diagonal line across the pre-printed/pre-numbered citation and staple it to the Court copy of the .pdf version.
2. Separate civil citations will be issued for each violation.
 - a. In instances when more than one citation is issued to a person, the citations will be related.
 - b. Should the person also be issued a criminal citation for a qualifying offense, the criminal citation will be related to the civil citation.

E. Determining Subsequent Offenders

1. Officers will determine if the person has previously been issued a civil citation for less than 10 grams of marijuana in order to establish if the person is eligible to pay a pre-paid fine or whether he must appear in Court.
2. In order to determine whether or not the person is a subsequent offender, the person will be queried through one of the District Court's databases.
 - a. Records of previous civil offenses for marijuana violations are not maintained on the Judiciary Case Search (the public website.)
 - b. Either the Mainframe Database (accessed through CJIS) or Secure Case Search (accessed through JPortal) can be used; however, Secure Case Search is the preferred database.
 - c. The query of the Mainframe Database or Secure Case Search may be made by communications personnel.
 - d. Should a previous violation be located, a copy of the record will be saved and placed in the case file.
3. Pre-Payable and Must-Appear Offenses
 - a. 1st violation: \$50 prepaid fine
 - b. 2nd violation: \$125 prepaid fine
 - c. 3rd or subsequent violation: must appear
 - d. Offender at least 18, but under 21: must appear
4. After determining whether the person has any previous violations, the officer will complete the citation noting whether or not the person can pre-pay the fine or is required to appear in Court.

F. Searches

1. Positive K-9 alerts will continue to be sufficient probable cause to search vehicles for the presence of CDS.
2. Probable cause searches for marijuana involving vehicles will be done so in accordance with Directive 14-122 "Search and Seizure Warrantless" and the Carroll Doctrine; such searches can extend to both the vehicle and its occupants.
3. When conducting probable cause searches for marijuana, officers should always articulate the reasons they believe the vehicle contains contraband or the fruits, instrumentalities or evidence of criminal activity.
4. The search incident to arrest exception to the warrant requirement does not apply to the issuance of a civil citation.

G. Identification and Release

1. A person is not required to furnish proof of identification when receiving a civil citation.
2. Should an officer have probable cause to believe the person is providing a fictitious name, the officer may charge the person with the criminal charge of obstructing and hindering and process the person as an on view arrest.
3. Upon signing a civil citation, including those for must-appear offenses, the person will be released.
4. A person is not required to sign a civil citation and WILL NOT be arrested for failing to sign.
5. Should the person refuse to sign the citation, the officer will write "Refused to Sign" in the signature line of the citation.

H. Seizing and Testing

1. All marijuana and related paraphernalia, regardless of its weight, will continue to be seized and stored as CDS per Directive 9-100 "Property and Evidence."
 - a. A MCP Form 63, Property Record, will be used to account for the CDS until it is destroyed.
 - b. A MSP Form 67, Request for Laboratory Analysis/Chain of Custody, will be used to maintain a chain of custody for the CDS.
2. Marijuana only involving a civil offense WILL NOT be sent to the Forensic Sciences Division of Maryland State Police (MSP-FSD) for testing.
3. Although MSP-FSD will not perform an analysis on marijuana for civil offenses, the CDS may need to be field tested or presented in court as required by the local state's attorney.
4. Marijuana related to a criminal or serious traffic offense, regardless of the amount, may be sent to MSP-FSD for testing; however, criminal section supervisors should be cognizant of sending only evidence which is necessary for the successful prosecution of the case.

I. Reporting

1. Civil citations for marijuana will be recorded in the CAD/RMS as a "civil citation."