

Bowie Police Department - General Orders



TITLE: ISSUANCE OF CRIMINAL CITATIONS (DC/CR 45)	NUMBER: 450
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I. OVERVIEW

A. 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.

B. 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 § 5-601 of the Criminal Law Article.

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

C. 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 post-trial release while charges 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.

D. 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 an 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 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.

II. POLICY

A. It is the policy of the Bowie Police Department that an 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/Civil Citation (Form: DC/CR 45) in lieu of an arrest. The defendant shall be released upon their signature on the citation.

B. An Officer who has grounds to make an arrest for the below listed offenses 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.

- **Theft under \$100, CR 7-104 (g)(3)**
- **Trespass on private property, CR 6-402(a)**
- **Trespass on posted property, CR 6-403(b)**
- **Disorderly conduct/Disturbing the peace, CR 10-201(c)(2)**
- **Failure to obey a lawful order, CR 10-201(c)(3)**

- **Malicious destruction of property under \$500, CR 6-301(c)**
- **Harassment, CR 3-803 (a)**

The signing of the citation MUST occur AFTER the processing is completed.

Processing shall take place at the Bowie Police Station whenever possible. If the Bowie Live Scan System is not available then processing will be completed at DOC and the Officer **MUST** wait for the processing to be completed before issuing the citation and releasing the defendant from DOC. The Officer is Not responsible for transporting the defendant back to the Bowie area.

C. When multiple offenses arise out of the same incident the following rules shall apply:

- 1.** In cases where the defendant commits two citable offenses at the same time, where at least one charge is punishable by incarceration, he or she should be arrested and charged by a Statement of Charges and presented to the Commissioner. **SOC should include 4-101(c)(2)(iv) as a reason for not issuing a citation.**
- 2.** In cases where the defendant commits a citable offense and one non-citable offense arising out of the same incident both offenses should be charged on a Statement of Charges and the defendant presented to the Commissioner. **4-101(c)(2)(iv) should be listed as the reason for not issuing a citation.**
- 3.** If a defendant commits two offenses and neither one carries the possibility of incarceration they should be charged with separate citations for each offense.

C. Bowie Police Officers shall not unlawfully detain any person based upon race, color, ethnicity, national origin, gender, age, sexual orientation, disability or genetic information.

D. Bowie Police Officers 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.

III. REQUIRED FORMS AND REPORTS

A. Forms:

1. 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;
- b) in the case of an electronic format, the assigned electronic citation number provided by the District Court

2. Probable Cause Continuation Sheet Form DC/CR 4A

The Officer shall use the statement of probable cause continuation sheet to complete the probable cause narrative outlining the facts and circumstances substantiating the charge.

3. Statement of Charges Form DC/CR 2

A Statement of Charges is used if the defendant does not comply with *I.D.* If the defendant is charged on a Statement of Charges for an offense that qualifies for charge by citation, a note should be placed at the end of the statement of probable cause as to why the defendant went before the commissioner instead of being released on citation (*See I.D.*).

4. Incident Report

In addition to the Uniform Criminal Citation and the probable cause continuation sheet(s), the Officer shall complete a Criminal Investigation Report/Incident Report detailing the circumstances of the incident as required by agency policy. A copy of the report shall be forwarded to the States Attorney's Office with a copy of the citation.

- B.** When an Officer determines that a Uniform Criminal Citation shall be the form to charge a defendant the Officer shall use the pre-printed/pre-numbered book provided by the District Court or the assigned electronic citation number provided by the District Court. The Officer shall use the statement of probable cause continuation sheet to complete the probable cause narrative outlining the facts and circumstances substantiating the charge. The Uniform Criminal Citation number shall be recorded in the case number block on the continuation sheet. If for any reason the defendant is charged on a Statement of Charges, instead of a criminal citation, a note should be placed at the end of the statement of probable cause as to why the person went before the commissioner in lieu of being released on the citation (*See I.D.*).

The names and addresses of the Victims and Witnesses shall be listed on the police report and only entered on the reverse side of the Court Copy of the citation once the first copy is removed. In every case, copies of the Uniform Criminal Citation and continuation sheet(s) shall be given to the defendant upon their release.

C. Report Distribution

Copies of the Uniform Criminal Citation and Probable Cause Continuation Sheet(s) shall be given to the defendant upon release. A copy of the Uniform Criminal Citation, Probable Cause Continuation Sheet, and Criminal Investigation/Incident Report shall be forwarded to our agency's records division who will forward the same to the State's Attorney Office for review.

IV. LAW ENFORCEMENT REPORTING – STATISTICAL DATA COLLECTION

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.

Pending the implementation of the below listed GOCCP program, the above data shall be captured on the citation and entered into a data base by Records Personnel. The data shall be submitted to MSAC by March of each subsequent year.

GOCCP (Governor's Officer in Crime Control and Prevention) in partnership with the Maryland State Police (MSP) is pursuing an automated solution to law enforcement data collection via Delta+, the application that runs ETIX. Delta+ will include a race-based reporting module for criminal citations. Officers will enter all citation data electronically via Delta+. This data gets stored by MSP who will submit citation data for the Bowie Police Department 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.

Supervisors shall ensure the Criminal / Civil Citations have been entered into Delta Plus.

The Records Unit shall verify the entry of Criminal / Civil Citations into Delta Plus and notify the Supervisor of any missing data to ensure compliance.