



## TALBOT COUNTY SHERIFF'S OFFICE

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September 15, 2015

### GENERAL ORDER NO. 15-006

**TO:** All Talbot County Sheriff's Office Personnel

**SUBJECT:** Mandatory Issuance of Criminal Citations for Specific Criminal Offenses

#### I. PURPOSE

The 2012 Maryland General Assembly enacted Senate Bill 422/Chapter 504 mandating the issuance of a Criminal Citation for specific criminal offenses when certain conditions are met. Under certain circumstances, when based on the accused and the crime for which they are being charged, the law permits a Deputy who has grounds to make a warrantless arrest to:

- (i) issue a Criminal Citation as a charging document instead of making a physical arrest through a Statement of Charges, or
- (ii) make the arrest, process (fingerprint/photograph), and then issue a Criminal Citation for release instead of continued custody and prompt presentment before a District Court Commissioner. This process is designed to eliminate the need and use of a Statement of Charges in certain situations and arrests.

#### II. POLICY

Criminal Citations will be issued for specific qualifying crimes, though the arrestees must meet certain criteria to be released on their signature. The arrestee *must meet all of the conditions* listed below or the Deputy must physically arrest, process, prepare a Statement of Charges for the crime charged, and present the accused before a District Court Commissioner; as in any other case not involving the issuance of a Criminal Citation.

A Deputy is required to place criminal charges against a person through the Criminal Citation process *only when all of the following terms and conditions are met:*

- (i) the officer is satisfied with the defendant's evidence of identity; and
- (ii) the officer reasonably believes that the defendant will comply with the citation; and
- (iii) the officer reasonably believes that the failure to charge on a Statement of Charges will not pose a threat to public safety; and
- (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.

#### III. CHARGES ELIGIBLE FOR THE ISSUANCE OF A CRIMINAL CITATION

The following offenses qualify for charge and release by citation when meeting the conditions listed above:

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.

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**IV. CHARGES NOT ELIGIBLE FOR THE ISSUANCE OF A CRIMINAL CITATION**

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 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.

A list of current eligible offenses for which a Criminal Citation will/may be issued is attached to this Order.

**V. DATA COLLECTION PROCEDURE**

Effective January 1, 2013, this legislation and process requires a law enforcement agency to document and report certain information on all Criminal Citations issued (refer to the Maryland Annotated Code, Criminal Procedure, § 4-101.1). Specifically, the law requires the following information to be reported for every Criminal Citation issued:

1. Assigned citation number
2. Date, location, and time of issuance for the citation
3. Offense charged
4. Gender of the offender
5. Date of birth of the offender
6. State and, if available, the county of residence of the offender
7. Race or ethnicity of the offender.

A completed and processed Criminal Citation form will contain all of the information required by this Order and legal directive. The District Court will receive completed citations, set the case for trial, and then procedurally submit the citation information to the Maryland Statistical Analysis Center (MSAC) for tabulation and analysis.

Of the citation information required to be submitted, certain data elements to be collected are not contained on the citation form. These remaining data elements will be determined and then manually entered by the office Criminal Commander through the “Delta Plus” race based reporting module for Criminal Citations. This data recordation and entry process will mirror the current raced based traffic stop data collection process.

Technology advancements will simplify this process. The ETIX function is currently being redesigned to accept a license scan, printing of Criminal Citations, and the issuance of a citation to the accused; as traffic citations are currently issued now. When implemented, that process will capture all required data elements for electronic submission at the point of violator contact. MSP will then become the processing entity to collect and submit this data to MSAC. Criminal Citations will be recorded in the ETIX module on a continual basis, and will be electronically available for periodic review or analysis.

Arrests that could have qualified for release, though were charged on a Statement of Charges will not be captured nor recorded in this data collection process for Criminal Citations.

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**VI. RESPONSIBILITIES**

- A. When circumstances warrant an arrest for a crime that does not carry a penalty of imprisonment, and it is determined that the defendant meets all of the criteria specified in this Order, a Criminal Citation will be issued in lieu of a formal charging document and the defendant shall be released upon their signature for the citation; with no processing occurring.
- B. When an arrest occurs for a *criminal offense that does not qualify for the issuance of a Criminal Citation*, the Deputy will process the defendant as they would in a typical arrest (fingerprint/photograph), and then complete a Statement of Charges (Form DC/CR 2) *for all charges involved in the arrest - even if one or more of the charges would qualify for the issuance of a Criminal Citation.*

In certain arrests, when a person is charged with more than one criminal offense evolving from the same incident, and all criminal charges qualify for a Criminal Citation, a separate Criminal Citation will be issued for each individual criminal charge from that event – with the person arrested being released after signature for each citation.

- C. When charge appropriate and a person arrested is eligible for release by issuance of a Criminal Citation, the arrestee will be provided opportunity to sign the citation. If for some reason the arrestee refuses or declines to sign the citation, they will be processed for the crime charged by use of a Statement of Charges. A copy of the completed citation, absent the accused signature, will be made for the investigative case file. The narrative of the investigative report will detail the facts and circumstances of the refusal to sign, and the basis for charging on a Statement of Charges. The citation issued and not signed will be routed for “void” processing by the Sheriff. Voided citations will be procedurally routed to the courts for processing and accountability.
- D. Under no circumstance will a person be accosted, detained, or arrested solely as based upon race, color, ethnicity, national origin, gender, age, sexual orientation, disability or genetic information, or personal bias or prejudice. Further, no investigative process or charging action of any Deputy will consider, conduct, or use any unlawful or discriminatory practice or characteristic as a cause for taking or not taking any law enforcement action against any individual or group of individuals. In any decision to arrest, officer safety shall be paramount and the tenants of any arrest will have a legal foundation.

**VII. REPORTING PROCESS**

- A. The use of Criminal Citation books specifically issued and assigned to a Deputy will be used by that Deputy when using the citation process to place formal criminal charges. Criminal Citation books will not be shared, nor used to place charges for any other crime for which they are authorized to be used. When issuing a Criminal Citation, a Statement of Probable Cause continuation sheet will be used to complete and document the probable cause statement supporting the charge being issued. The Statement of Probable Cause, as a continuation document for the Criminal Citation, will contain the Criminal Citation case number in the “case number” block on the statement form.
- B. If for any reason the defendant is charged on a Statement of Charges instead of a Criminal Citation, documentation at the conclusion of the Statement of Probable Cause will note and detail the facts and circumstances that prompt this action; citing the caption and reason for which the arrestee did not qualify, nor satisfy the requirement. In these cases, the prompt presentment of the arrestee before a District Court Commissioner will be required.
- C. The names and addresses of the victims, witnesses, and persons related to the case for trial action will only be listed on the police report and not within the citation or other supporting documentation relating to the citation that the accused will receive. In every case, copies of the issued Criminal Citation, continuation sheets, or Statement of Probable Cause shall be given to the defendant upon their release.

*Office of the Sheriff of Talbot County*

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- D. Should for some reason a Criminal Citation contain an error that warrants the re-issue of another citation, the defective citation and all copies will route administratively through the sanctioned process for the review, voiding, and processing of such documents.

**VIII. FORMS**

**A. Uniform Criminal Citation Form DC/CR 45**

Deputies will issue Criminal Citations either:

- a) from the pre-printed/pre-numbered book issued and assigned to them; or
- b) in electronic ETIX format; using the assigned electronic citation number provided by the District Court.

**B. Probable Cause Continuation Sheet Form DC/CR 4**

A Statement of Probable Cause continuation sheet will be used 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.

**C. Statement of Charges Form DC/CR 2**

A Statement of Charges will be used if the arrestee is not eligible for the conditions of release as outlined in this Order. If the person arrested is charged on a Statement of Charges for an offense that qualifies for charge by Criminal Citation, sufficient documentation at the end of the Probable Cause statement will address why the accused was not charged by Criminal Citation. In arrests that involve the use of a Statement of Probable Cause when a Criminal Citation should have been issued, the accused will be taken before a District Court Commissioner for prompt presentment.

**D. Criminal Investigation Report/Incident Report**

Investigations and actions that lead to the issuance of a Criminal Citation will be formally documented by a Criminal Investigation Report or an Incident Report appropriate for the investigation and charge being placed.

**E. Forms Control Officer**

A supervisor will be assigned the additional duty of Forms Control Officer, and will be responsible for the issue, audit, inventory, recovery, and use of the most current forms required for use in this Order.

**IX. EFFECTIVE DATE**

This General Order is effective September 15, 2015, and supersedes/cancels General Order No. 13-002, and any previous order or memoranda in conflict therewith.

Joseph J. Gamble  
Sheriff of Talbot County

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