I. PURPOSE

Effective October 1, 2014, Maryland legislation (SB 364) removes criminal penalties for individuals found to be in possession of less than ten (10) grams of marijuana. The purpose of this policy is to provide members of the Harford County Sheriff’s Office with guidelines regarding the issuance of civil citations for qualifying marijuana violations.

II. POLICY

It shall be the policy of the Harford County Sheriff’s Office to issue civil citations for qualifying marijuana offenses beginning October 1, 2014.

III. 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.
Harford County Sheriff’s Office
Policy #MAN6800: Civil Marijuana Violations

6800.1 Criminal vs. Civil Violations

(a) When a scale is unavailable in the field or its use is impractical given the circumstances, a deputy will use his or her training, knowledge, and experience to determine whether the recovered marijuana is greater than or less than 10 grams.

(b) If a deputy reasonably believes that the marijuana is less than 10 grams (excluding packaging), he or she shall seize the marijuana and may issue the person a civil citation.
   (1) If, after the issuance of a civil citation for possession of marijuana less than 10 grams, a deputy determines the weight to be greater than 10 grams, he or she should take no further enforcement action related to the possession.

(c) If a deputy reasonably believes that the weight of the marijuana equals 10 grams or more (excluding packaging), he or she shall seize the marijuana and may arrest the person for the criminal offense.
   (1) As soon as practical after an arrest, the deputy will weigh the suspected marijuana. \
   (2) Should a deputy determine after the arrest that the weight of the marijuana was under 10 grams (excluding packaging), he or she will release the person from custody (for that offense) and issue the person a civil citation.

(d) While possession of drug paraphernalia is still a criminal offense, deputies are discouraged from routinely charging individuals with possession of drug paraphernalia related to civil marijuana possession.

(e) Possession of less than 10 grams of marijuana does not preclude an individual from being charged with the criminal offense of possession with intent to distribute marijuana.
   (1) Factors such as how the marijuana is packaged, may give rise to probable cause to charge an individual with possession with intent to distribute marijuana.

(f) A deputy shall not charge an individual with both a criminal offense and issue a civil citation for the same offense.

Example: During a probable cause search of a vehicle, a deputy discovers nine grams of marijuana individually packaged. If the deputy charges the individual with the criminal charge of possession with intent to distribute, he or she should not also charge the civil offense of possession of less than 10 grams.

6800.2 Forms and Reports

(a) Uniform Civil Citation (DC-028)
   (1) When charging a person for a civil offense, deputies will use a civil citation and will use either:
      (i) The pre-printed/pre-numbered civil citation from the citation book provided by the District Court; or
      (ii) The Court-approved .pdf version of the civil citation; or
      (iii) Uniform Juvenile Civil Citation (DC-031)

(b) If the person is under the age of 18, he or she shall be charged on a juvenile citation.
(c) Reports
   (1) Deputies will complete an Incident Report detailing the circumstances of the incident and a property sheet for the recovered marijuana.

(d) Report Distribution
   (1) A copy of the civil citation will be given to the person upon release.
   (2) Copies of the civil citation will be forwarded to Records.

(e) Completing a Civil Citation
   (1) If a deputy chooses to use the District Court-approved .pdf version of the civil citation, he or she shall:
      (i) Use the tracking number from a preprinted/pre-numbered civil citation, type that number into the space provided in the .pdf version of the citation, draw a diagonal line across the pre-printed/pre-numbered citation and staple it to the Court copy of the .pdf version.
      (ii) Separate civil citations will be issued for each violation.
      (iii) The Incident number will be written on all civil citations.
      (iv) In instances when more than one citation is issued to a person, the citations will be related.
   (2) Should the person also be issued a criminal citation for a qualifying offense, the criminal citation will be related to the civil citation.

Example: A criminal citation is issued for disorderly conduct and a civil citation is issued for possession of less than 10 grams of marijuana.

(f) Determining Subsequent Offenders
   (1) Deputies 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 or she must appear in Court.
   (2) In order to determine whether or not the person is a subsequent offender, the person’s name will be queried through the District Court’s databases.
   (3) A deputy with access to District Court’s JPortal can query the individual him or herself using his or her MDT.
   (4) A deputy without JPortal access should contact Records and request that a supervisor make the inquiry.
   (5) Should a previous violation be located, a copy of the record will be forwarded to records with the civil citation.

(g) Pre-payable and must-appear offenses are as follows:
   (1) 1st violation: $50 prepaid fine
   (2) 2nd violation: $125 prepaid fine
   (3) 3rd or subsequent violation: must appear
   (4) Offender at least 18 but under 21: must appear

(h) After determining whether the person has any previous violations, the deputy will complete the citation noting whether or not the person can pre-pay the fine or is required to appear in Court.

(i) Searches
   (1) Positive K-9 alerts will continue to be sufficient probable cause to search vehicles for the presence of CDS.
   (2) Maryland Courts have articulated that owners/drivers of vehicles are perceived to have heightened control over the contents of their vehicles. In addition, while a positive K-9 alert may give rise to the arrest and search of a driver and/or owner of a
vehicle, an arrest and search of a non-owning, non-driving passenger based on a K-9 alert would require particularized probable cause as to the passenger.

(j) Probable cause searches for marijuana involving vehicles
(1) Generally, searches of a vehicle for marijuana under the Carroll Doctrine have not changed under the 2014 statute decriminalization marijuana less than 10 grams.
(2) The search incident to arrest exception to the warrant requirement does not apply to the issuance of a civil citation.

(k) Release
(1) Upon signing a civil citation, including those for must-appear offenses, the person will be released.
(2) A person is not required to sign a civil citation and WILL NOT be arrested for failing to sign.
(3) Should the person refuse to sign the citation, the deputy will write "Refused to Sign" in the signature line of the citation.
(4) A person is not required to furnish proof of identification when receiving a civil citation.
(5) Should a deputy have probable cause to believe that the person is providing a fictitious name, the deputy may, assuming the elements of the crime are met, charge the person with the criminal charge of obstructing and hindering and process the person as an on-view arrest.
(6) Obstructing and hindering requires: performance of a lawful duty, knowledge by the accused that the officer is performing a lawful duty, intent by the accused to hinder the officer in the performance of his or her duty, and an act or omission by the accused that actually hinders the officer in the performance of his or her lawful duty.

(l) Seizing and Testing
(1) All marijuana, regardless of its weight, will continue to be seized and stored as a controlled dangerous substance.
(2) Marijuana involving only a civil offense WILL NOT be sent to the lab for analysis.
(3) Marijuana related to a criminal or serious traffic offense, regardless of the amount, may be sent to the lab for analysis.

CALEA

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