

# BALTIMORE POLICE DEPARTMENT

## Police Commissioner's Memorandum 23-06 Guidance for Charging of Certain Offenses and Enforcement of Lesser Offenses June 17, 2023

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### **Purpose**

Public safety requires strong partnerships within many local, state and federal partners, along with strong coordination with the Criminal Justice System. To that end, the BPD and State's Attorney for Baltimore City have collaborated to develop an enforcement strategy regarding low-level offenses with a goal of enhancing the public safety and improving the well-being and quality of the life for residents and visitors of Baltimore.

Previously, in March, 2021 the then-State's Attorney for Baltimore City announced an indefinite continuation of certain prosecutorial policies that were established during the COVID-19 pandemic. As a result, the BPD adopted modified enforcement procedures for the following offenses:

1. CDS (drug) possession
2. Attempted distribution of CDS (**Not eligible for citation**)
3. Paraphernalia possession
4. Prostitution (**Not eligible for citation**)
5. Trespassing
6. Minor traffic offenses
7. Open container
8. Rogue and vagabond (**Not eligible for citation**)
9. Urinating/defecating in public

More recently, in January 2023, the State's Attorney for Baltimore City announced the rescission of those prosecutorial policies established under the previous administration. In light of this announcement, this PCM serves to rescind the Modified Enforcement Procedures last updated and issued on October 1, 2021 by the Deputy Commissioner, Operations Bureau. This PCM also reminds officers to follow the guidance in Policy 1018, *Lesser Offenses & Alternatives to Arrest*.

### **Definitions**

**Lesser Offenses** – Certain minor infractions of statutes or ordinances enumerated in the Baltimore City Code or the Maryland Annotated Code. Lesser Offenses include citation-eligible misdemeanor offenses that carry fines and/or often maximum penalties of imprisonment up to 90 days. Generally, Lesser Offenses also include so-called "quality of life" offenses which members may enforce at their discretion. Examples of common Lesser Offenses include:

1. Loitering
2. Misdemeanor Trespassing
3. Public Urination/Defecation
4. Disorderly Conduct (including Disturbing the Peace)
5. Obstructing or Hindering an Officer, (**Not eligible for citation**)
6. Open Container, and
7. Littering.

## Directives

1. The offenses listed above, that were previously subject to modified enforcement procedures, are no longer required to be charged by requesting a charging document from a District Court Commissioner. Additionally, consultation with a lieutenant or above is no longer required. Members may use their discretion and can issue citations or make on-view arrests for said offenses if probable cause exists. (Note that certain offenses are not citation eligible, including Attempted Distribution of CDS, Prostitution, and Rogue and Vagabond.) Some offenses, however, may fall under the category of a lesser offense as described in Policy 1018 *Lesser Offenses & Alternatives to Arrest*. Members shall adhere to policy guidelines and directives when enforcing Lesser Offenses.
2. For offenses that are categorized as lesser offenses under Policy 1018 *Lesser Offenses & Alternatives to Arrest*, members are reminded that enforcement includes, but is not limited to:
  - a. Verbal warning and counseling (which may include referral to services, such as location of accessible restroom facilities, shelter, or support center),
  - b. Civil or Criminal Citation, or
  - c. Arrest (under appropriate circumstances)
3. Members are further reminded that in order to issue a citation or make an arrest, the member must not be engaged in discriminatory policing and must have probable cause to believe that a person has committed or is committing a criminal infraction or citable offense.
4. Members may only arrest for a Lesser Offense after receiving approval from a permanent-rank supervisor and when:
  - a. The member has identified specific, articulable facts (that they can later document in their reporting) indicating that the individual presents an immediate danger to the life, safety, or property of themselves or others, **and**
  - b. Other enforcement options will not resolve the problem(s) created by the violation or promote public safety.
5. Members may only issue one (1) citation per offense. Where multiple, citation-eligible offenses exist, members must receive permanent-ranked supervisory approval for the issuance of more than three (3) citations that arise from a single incident.

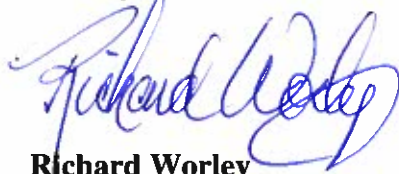
**NOTE:** Certain CDS violations will require the issuance of multiple citations due to the type of CDS being unknown without laboratory testing, i.e. Heroin and fentanyl. In those cases, members will still need to obtain permission from a supervisor to issue multiple citations. Members should issue a citation for each of the possible suspected drugs.

Example: An officer determines that an individual is in possession of a white powder that is suspected CDS. The officer is unable to determine if the white powder is heroin or fentanyl without laboratory testing. The officer should issue two criminal citations. One for possession of heroin and one for possession of fentanyl. The same is applicable if charged by a statement of charges.

6. When issuing criminal citations, members shall write the appropriate court date on the summons. The appropriate court date is determined based in the issuance date of the citation. Court dates will be published for reference.

NOTE: The initial court date noted on the citation is for the arraignment hearing. If a trial is scheduled at the arraignment it will be within 30 to 45 days. As such, officers with potential leave conflicts within the 30 to 45-day time frame shall immediately contact the State's Attorney Office. If the defendant refuses to sign the citation when issued the member will be required to be present at the initial arraignment date. Failure to appear for scheduled court dates will result in disciplinary referrals. Further guidance on Criminal Citation Procedures can be found in Policy 803 *Criminal Citation Procedures*.

Thank you,



**Richard Worley**  
Acting Police Commissioner