

SUPPORT HB 261 - citation in lieu of arrest

MARYLAND ALLIANCE FOR JUSTICE REFORM
Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Luke Clippinger and House Judiciary Committee
FROM: Phil Caroom, MAJR Executive Committee
DATE: February 4, 2020

Md. Alliance for Justice Reform (MAJR-www.ma4jr.org) strongly supports adoption of HB 261 to expand use of citations for simple possession of drugs to avoid arrest when these are unnecessary. Police officers still would have discretion to arrest, if necessary, for cases that involve overdoses, other threats to public safety, or known risks to abscond. [Note: [This bill previously was approved by the House.](#)]

Law enforcement time-savings: The bill is not opposed by the Md. Chiefs and Sheriff's Association. Nationally, other law enforcement organizations affirmatively support expanded citation use: In their "Citation in Lieu of Arrest" report, the International Chiefs of Police note: "As arrest numbers and prison populations have increased, ...the criminal justice system [needs] ways to increase system efficiency, decrease costs, build trust between law enforcement and the public, protect the rights of the accused, and maximize public safety" (ICP, 2016, p. 6).

Among the many benefits of the approach, the ICF highlights the following:

- Citation offers potential time savings and increased law enforcement efficiency. Citations take significantly less time to process than do arrests (85.8 minutes vs. 24.2 minutes), saving just over an hour per incident.
- Increased use of citations could enhance communities / police relations by reducing the ill will that results from unnecessarily arrest and detention.
- Increased use of citations reduces taxpayers' jail costs and overcrowding.
- Citations avoid social costs associated with arrest, such as job loss and increased future offenses.

Taxpayer savings in detention costs: In 2014, Maryland's sentenced prison population averaged 21,011, and our local jail populations (24 jurisdictions combined) averaged 11,454. Of these, 65.8% were Marylanders awaiting trial and constitutionally presumed innocent (Commission, 2014, p. 12). Pretrial detention is expensive. Maryland pretrial detention costs, per-inmate per-day, range from \$83-\$153. By comparison, pretrial assessment and supervision programs cost under \$10 per person per day. So, if Maryland reduced its pretrial population by as much as 23%, taxpayers could save more than \$150,000 *per day*. These funds could be better spent for prevention, treatment, and reentry.

Beyond savings of taxpayer funds, why are citations preferable? The high cost of detaining low-risk individuals before trial is not the only issue. A hidden cost is the negative impact of pretrial detention on public safety. After as few as three days in detention, low-risk individuals are 39% more likely to commit another offense; after more than 30 days, the likelihood of another offense increases to 74%. Why? Within this period, most individuals will have lost their employment, their housing and become estranged from family and other support networks outside the jail (Arnold Foundation, 2013).

Among many ways to reduce the number of low-risk individuals unnecessarily detained before trial, one particularly promising approach used in a majority of states, including Maryland, allows officers to issue more citations in place of arrests when appropriate. Maryland law currently allows citations for misdemeanors that do not carry a penalty of imprisonment, any misdemeanor with a maximum penalty of 90 days or less, and possession of small amounts of marijuana (NCSL, 2013).

MAJR suggests that expanded use of citations is appropriate and beneficial from the dual perspectives of cost and public safety—particularly for simple drug possession not involving sales, overdoses, other threats to public safety, or known risks to abscond. We suggest that officers should be given discretion to issue citations for offenses that do not involve serious injury or immediate health risks, as well as local ordinances for which the maximum penalty of imprisonment is 18 months or less.

For all these reasons, MAJR strongly urges a favorable recommendation for HB 261.

Context: This bill further expands officers' citations options as begun by SB 422 (2012) that permitted use for misdemeanors with maximum penalties of 90 days or less, and marijuana possession. Justice Reinvestment research in Maryland, importantly, suggests that drug-treatment is more effective and less costly when it is community-based, rather than provided to individuals during incarceration.

Importance of Training

Citations could be used even more effectively. MAJR has investigated these citations trends, inquiring with administrators who supervise police training academies in Anne Arundel and elsewhere in Maryland: The Governor's Office for Crime Control and Prevention (GOCCP) tracked citation use since 2012 and found a surge in use by Maryland's three largest counties in the first years. Statewide in 2015 approximately 56% of all citations were issued for possession of marijuana or paraphernalia.

But, after notoriety of the law faded and marijuana decriminalization passed, police use of citations dropped in all but one county: In Anne Arundel County, the effective use of citation increased each year to the point that, in 2015, one of every three District Court criminal charges was filed by citation. See GOCCP 2016 report and Dist.Ct. statistics.

In Anne Arundel's Police Training Academy, it is reported, exercises and role-play to demonstrate appropriate use of citations are included repeatedly in different parts of the regular curriculum. However, the Maryland Police and Correctional Training Commission (PCTC) that coordinates other police academies around the state does not report that citations are similarly included in other jurisdictions' training. The importance of adequate training is clearly indicated in this study of "Criminal Citations Issued."

For these reasons, MAJR also asks support for a related bill — HB 479 — requiring that police academies include training as to citations in their curricula

Learn More!

International Chiefs of Police, *Citation in Lieu of Arrest* (2016): <http://www.iacp.org/Portals/0/documents/pdfs/IACP%20Citation%20Final%20Report%202016.pdf>

National Conference on State Legislatures, *Citation in Lieu of Arrest* (2013): <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx>

Pretrial Justice Institute, "Citation in Lieu of Custodial Arrest: Recommendations" (ND): <http://www.pretrial.org/solutions/citation/>

Arnold Foundation, *The Hidden Costs of Pretrial Detention* (2013): http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF_Report_hidden-costs_FNL.pdf

Commission to Reform Maryland's Pretrial System, *Final Report* (2014): <http://www.goccp.maryland.gov/pretrial/documents/2014-pretrial-commission-final-report.pdf>

Final Report of the President's Task Force on 21st Century Policing (2015): http://www.cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf

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PLEASE NOTE: Phil Caroom offers this testimony for Md. Alliance for Justice Reform and not for the Md. Judiciary.