

# **Carroom\_FAV\_SB333**

Uploaded by: Carroom, Phil

Position: FAV

# SUPPORT SB 333 - citation in lieu of arrest

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



TO: Chair Will Smith and Senate Judicial Proceedings Committee

FROM: Phil Caroom, MAJR Executive Committee

DATE: February 11, 2020

Md. Alliance for Justice Reform ([www.ma4jr.org](http://www.ma4jr.org)) strongly supports adoption of SB 333 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.

**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 SB 333.

**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 — SB 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](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](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.*

# **SB 333 JOTF Derrell**

Uploaded by: frazier, derrell

Position: FAV

# JOTF JOB OPPORTUNITIES TASK FORCE

*Advocating better skills, jobs, and incomes*

**TESTIMONY IN SUPPORT OF SENATE BILL 333:**

Charging Procedures and Documents – Citation

**TO:** Chairman William C. Smith, and Members of the Judicial Proceedings

**FROM:** Derrell Frazier, Policy Advocate

**DATE:** February 11, 2020

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates policies and programs to increase the skills, job opportunities, and incomes of low-skill, low-wage workers and job seekers in Maryland. We should support SB 333 as a means of reducing interaction with the criminal justice system for low-wage workers.

JOTF released its groundbreaking report “The criminalization of poverty: How to break the cycle through policy reform in Maryland” that examines state laws and policies that criminalize and penalize poor communities of color. This includes policies that facilitate regular interaction with the criminal justice system through racial profiling, child support debt, citations and motor vehicle laws; court-related fines and fees; and the collateral consequences of a criminal record. Constant interaction with the criminal justice system can have an impact a worker’s ability to secure and maintain employment. JOTF knows that a criminal record can serve as the cause and consequence of poverty. Additionally, given the history of the criminal justice system in the United States race, poverty, and criminalization are often inseparable.

Marylanders drive to another county for work. Both Maryland and Virginia have the highest cross-county commuter rate in the nation. This means that access to vehicular transportation is vital to the success of workers in Maryland, especially those from lower-income neighborhoods. Having a suspended registration from unpaid traffic fine and citations will cripple a worker’s ability to obtain or sustain employment. For those who owned a vehicle, 60% had suspended registrations for unpaid tickets. Most chose to drive anyway believing that, when it came to securing employment, the rewards outweighed the risks as many did not have the money to pay down the fines as they had no employment.

Current law states that a police officer must issue a citation for possession of marijuana or any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment or for which the maximum penalty of imprisonment is 90 days or less.

SB 333 seeks to remove the requirement that police officers charge certain misdemeanor offenses by citation. This would ensure that individuals are not saddled with fines and fees that, many times, are attached to a citation; nor that workers are forced to choose between contesting a citation in court or going to work. The bill also expands the offenses for which a police officer

# JOTF JOB OPPORTUNITIES TASK FORCE

## *Advocating better skills, jobs, and incomes*

may charge by citation. In addition, the bill alters the criteria which must be met before an officer can charge a defendant by citation

Employment barriers for low-wage workers are extremely high. They need access to affordable higher education, consistent employment, and reliable transportation in order to meet life's demands. JOTF fully supports efforts to remove barriers to employment for Marylanders struggling with volatile incomes.

For these reasons, we respectfully urge a **favorable** report on Senate Bill 333.

# **SB 333 JOTF Derrell**

Uploaded by: frazier, derrell

Position: FAV

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# **SenKelley\_FAV\_SB333**

Uploaded by: Senator Kelley, Senator Kelley

Position: FAV

**TESTIMONY OF SENATOR DELORES G. KELLEY**

**REGARDING SENATE BILL 333 - CRIMINAL PROCEDURE - CHARGING  
PROCEDURES AND DOCUMENTS - CITATION**

**BEFORE THE SENATE JUDICIAL PROCEEDINGS COMMITTEE**

**ON FEBRUARY 11, 2020**

**Mr. Chairman and Members:**

**Senate Bill 333 increases the number and types of offenses for which a police officer would be permitted to charge by citation, instead of by arrest. The point is to preserve the economic stability of low level offenders whose misdemeanor offenses involve no serious injury or immediate health risk, and where the maximum penalty of imprisonment is 90 days or less, with certain exceptions, enumerated on page 2 of the Bill, including failure to comply with a peace order, a protective order, with a condition of pre-trial or post-trial release.**

**The Bill's passage would save scarce tax dollars now spent on the incarceration of low-level offenders who pose little or no public safety risk, while also protecting the economic stability of family members, as well as the offender's employment. Senate Bill 333 buttresses the work already accomplished through the Justice Reinvestment Act.**

**The use of citations in lieu of arrest has been studied by the International Chiefs of Police, which reports that law enforcement agencies are using citations for nearly a third of all incidents, most often for disorderly conduct, trespassing, driving under suspension, and possession of marijuana. Two thirds of these agencies have a positive view of citations (others) are neutral. Officers usually have broad discretion to determine whether to cite or arrest in individual cases.**

**The International Chiefs of Police point out the following benefits of citations:**

- 1. Potential time savings and increased efficiency**
- 2. Enhanced community/police relations**
- 3. Fewer tax dollars for jail costs**
- 4. Fewer job losses and future offenses**

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**Passage of SB 333 would mean that minor offenses, which doesn't affect public health or public safety, would not cause offenders to lose employment, to disrupt family life, or to stop paying taxes like the rest of us.**

**If you believe that such results are a public benefit, then help send Senate Bill 333 to the Senate floor.**

**OPD OPP SB 333**

Uploaded by: Flores, Ricardo

Position: UNF



## POSITION ON PROPOSED LEGISLATION

BILL: SB 333 – Charging Procedure and Documents – Citation  
POSITION: OPPOSE UNLESS AMENDED  
DATE: February 11, 2020

The Office of the Public Defender has concerns regarding the new language in SB 333 that limits the category of defendants who will be charged by citation in lieu of arrest.

The original language specifies that a citation *shall* issue for persons facing a misdemeanor or local ordinance violation for which the maximum penalty is 90 days or less. In passing this law, the Assembly recognized and made it the policy of the state that this category of minor offenses do not require arrests in order to keep the peace. In practice, it has been our experience that issuing citations in lieu of arrests has greatly benefited the criminal justice system without significant adverse effects on public safety.

The new language limits this provision by adding “violation NOT INVOLVING SERIOUS INJURY OR AN IMMEDIATE HEALTH RISK.” While the limitation regarding “serious injury” is in fact sensible, it is unnecessary, because any situation involving serious injury can already be charged as either a first-degree or second degree assault, with the later lesser offense still levying an up to 10 year penalty – and is categorically subject to arrest, not citation. Also, the phrase “immediate health risk” is not otherwise defined and vague.

For these reasons, we oppose the bill unless the above language is removed from the two places where it appears in the bill, on page 2, lines 15-16 and page 3, lines 23-24. With respect to the remaining changes in the bill, we take no position.