

MARYLAND POLICE AND CORRECTIONAL TRAINING COMMISSIONS

Maryland Annotated Code - Criminal Procedure Title 4 – Pretrial Procedures Subtitle 1 – Charging Procedures and Documents

§ 4-101.1 Development of format for recording data.

- (c) Guidelines and model policy. – On or before December 31, 2012 the Police Training Commission, in consultation with the Maryland Statistical Analysis Center shall develop:
- (1) guidelines that each law enforcement agency may use as a management tool to evaluate data collected under subsection (e) of this section for use in counseling and improved training; and
 - (2) a model policy against the issuance of a citation on the basis of race that a law enforcement agency can use in developing its policy in accordance with subsection (h) of this section.

§ 4-101.1 (h) Policy against discrimination in issuance of citation.

- (1) A law enforcement agency shall adopt a policy against the issuance of a citation on the basis of race that is to be used as a management tool to promote nondiscriminatory law enforcement and in the training and counseling of its officers.
- (2) The policy shall prohibit the practice of using an individual's race or ethnicity as the sole justification to issue a citation.
 - (ii) The policy shall make clear that it may not be construed to alter the authority of a law enforcement officer to make an arrest, conduct a search or seizure, or otherwise fulfill the officer's law enforcement obligations.
- (3) The policy shall provide for the law enforcement agency to periodically review the data collected under subsection (e) of this section and to review the annual report of the Maryland Statistical Analysis Center for purposes of paragraph (1) of this subsection.

Model Policy Statement:

It is the policy of _____ that a Criminal Citation will be issued based on probable cause that the cited violation has occurred and in accordance with existing law. The race/ethnicity or gender of an alleged violator shall play no role in an officer's decision on whether to issue or not issue a Criminal Citation. Members will be reminded of their legal responsibilities regarding the issuance of a Criminal Citation through periodic training.

It is also the policy of _____ that all Criminal Citations issued for violations enumerated in Maryland Law, Criminal Procedure Article, § 4-101 by agency personnel will be recorded in the agency's record management system and forwarded to the Maryland State Police each calendar year as required by law. Likewise, this agency shall review the data collected and submitted to the Maryland State Police as well as the annual report issued by the Maryland Statistical Analysis Center using the information as a training tool to foster non-discriminatory policing.

Nothing in this policy shall be construed to alter the authority of an officer to make an arrest, conduct a search or seizure, or otherwise fulfill an officer's law enforcement obligations.

Model Guidelines:

1. Law enforcement officers have the responsibility and authority to enforce criminal statutes.

For certain offenses, a custodial arrest is required and that arrestee will appear before a court commissioner. In other instances, as defined by Maryland law, a criminal citation may be issued to an offender for one of the law eligible offenses and that offender does not have to appear before a court commissioner.

In either event, consideration of individual's race, ethnicity, age or gender as the sole justification for an arrest or issuance of a criminal citation, outside a physical description of/lookout for a specific suspect, is prohibited.

2. In order to assist officers in remaining current with offenses that should be enforced by issuance of a criminal citation as well as agency procedures to be taken to ensure that offenders are correctly identified, officers should receive periodic training regarding the issuance of criminal citations. This training should include agency procedures that are to be used to appropriately document the probable cause that led to the issuance of that citation and the steps taken to verify an offender's identity.

Likewise, this periodic training should reinforce the agency's policy that prohibits the use of race or ethnicity as the sole justification for issuance of a criminal citation.

3. The recording and evaluating of statistical data is a management tool to be used, where appropriate as a basis for counseling and training, and, if deemed necessary, further administrative inquiry.

Police management should periodically review and evaluate data regarding the issuance of criminal citations by members of the agency for patterns of prohibited activity or for non-adherence to established agency procedures regarding the issuance of criminal citations.