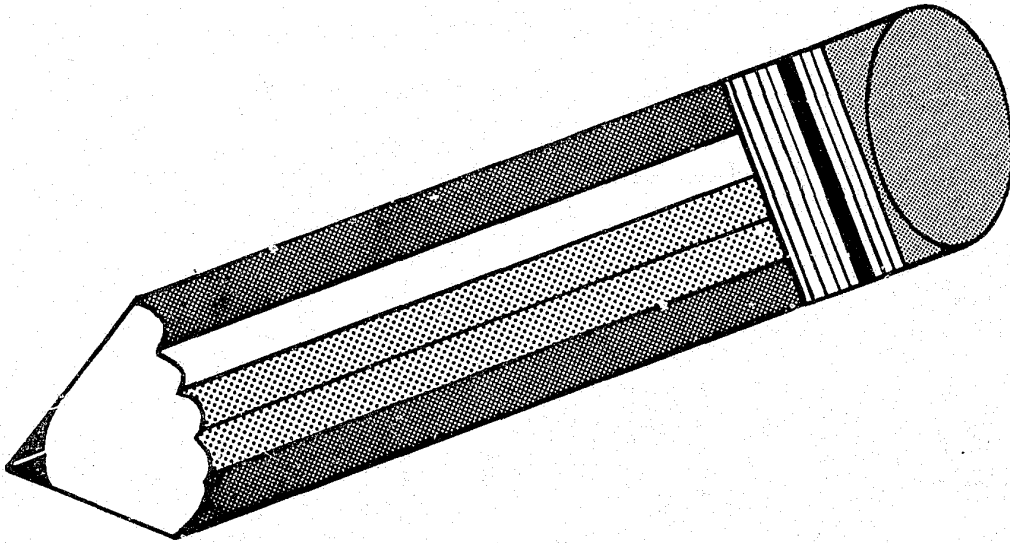


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# TRAFFIC LAW ENFORCEMENT PROCEDURES

## PART 4 Taking Law Enforcement Action



52071

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## TRAFFIC LAW ENFORCEMENT PROCEDURES, PART IV

## TAKING LAW ENFORCEMENT ACTION

## ABSTRACT

This self-instructional unit is designed to provide students with an understanding of policies and procedures relating to the conduct of law enforcement actions and with practice in completing the forms necessary to each. The unit covers both written and nonwritten warnings, the Safety Equipment Repair Order (SERO), the Maryland Uniform Complaint and Citation, and traffic arrests. Guidelines and information pertinent to the completion of the forms as well as their disposition are elaborated, and special provisions regarding juveniles, nonresidents, mandatory and optional arrests, and the so-called Miranda warning are covered.

## BEHAVIORAL OBJECTIVES

Upon completion of this self-instructional unit the student will be able to:

- Describe the purpose and use of the Safety Equipment and Repair Order (SERO)
- Identify defects listed on the SERO which may be certified by the State Police or participating local police departments

- Identify defects listed on the SERO which must be certified by an Authorized Inspection Station
- Identify violator contact procedures that should be followed when issuing a SERO
- Identify the regulations that govern issuing citations to residents from states with whom Maryland has a nonresident violation compact
- Identify areas of possible confusion in completing the Complaint and Citation form
- Identify procedures related to the distribution of copies of the Complaint and Citation form
- Identify regulations governing the assignment of Complaint and Citation books and the use of the Complaint and Citation form for parking violations
- Identify the basic requirements in making a traffic arrest
- Identify the traffic law violations that require mandatory arrest
- Identify when and how the formal arrest statement (Miranda warning) should be used
- Identify when and how the Statement of Charges is to be completed.

## INTRODUCTION

This unit is designed for self-instruction, although some essential areas are left to other means for learning (student research, instructor, etc.) since the procedures and forms involved are specific to the law enforcement agency concerned and are not uniform throughout the state. These areas are included as topic headings, however, and in some of them, general guidelines applicable to any police officer are discussed. The method for student learning beyond what is included in this unit is left to the individual agency providing the student's training. References to other Units in this series are included for review or to indicate that a unit yet to come covers some of the topics included here.

## DETERMINING THE COURSE OF ACTION

Departmental policy and guidelines for determining those courses of law enforcement action appropriate for various traffic law violations have been covered in previous units. As background for this unit, the student should review the major factors below that the police officer must consider when making a law enforcement decision.

- Specific departmental enforcement policy regarding specific offenses
- Accuracy of the officer's observations of the elements of the offense (for example, speed, distances, positions, movements of vehicles, etc.)
- Severity of the violation (for example, the number of miles over the speed limit; complete stop vs rolling stop vs half-stop vs no stop; how far over a barrier line; weather and traffic conditions)
- Hazard involved in the violation (that is, continuing hazardous, momentary hazardous, nonhazardous)
- Clarity of the law and of the elements defining the offense.

## ISSUING TRAFFIC WARNINGS

### General Considerations

If traffic warnings are used in the officer's jurisdiction, he should be familiar with the typical traffic situations in which he may be justified in giving a warning rather than a citation, and when the warning is to be written (including the Safety Equipment Repair Order), oral, or visual.

### Procedures for Issuing Warnings

Written Warnings. The officer should become familiar with his jurisdiction's written warning form and the proper method for its completion. Generally, a checklist for use as a guide to filling out this form and for disposition of the various copies, if the warning is to be recorded, is provided by the officer's jurisdiction.

In addition, the officer must know the proper manner for addressing the motorist, for describing the infraction, and for giving advisory information to him, including precautions to observe in the future and the impact, if any, on his driving record (see "Violator Contact Procedures", Unit XXV).

Nonwritten Warnings. If nonwritten warnings (oral or visual) are used in the officer's jurisdiction, the officer should become familiar with the appropriate procedures for issuing such warnings.



## ISSUING SAFETY EQUIPMENT REPAIR ORDERS

### General Considerations

Safety Equipment Repair Orders (SERO) may be issued for defective equipment and mechanisms on all classes of motor vehicles, trailers, and semitrailers registered in Maryland. This uniform, statewide form is classified as a written warning even though there is a follow-up requirement for certification of the indicated repairs within ten days, and for automatic suspension by the State Motor Vehicle Administration of vehicle registration after 30 days if the repairs are not made and certified.

Safety Equipment Repair Orders are not to be issued to vehicles bearing antique registration, dealer registration, temporary registration, transporter registration, and wrecker registration. Antiques are exempted from the inspection law, and the other excepted registrations are not issued to a specific vehicle.

To enable troopers and police officers to determine if a vehicle has defective equipment for which a Safety Equipment Repair Order may be issued, the information contained herein is provided as a guideline. If a combination of vehicles is observed with defects on each vehicle, a separate Safety Equipment Repair Order will be issued for each vehicle; for example, for a tractor-semitrailer combination with defective lights on the trailer and defective tires on the tractor, a repair order will be issued for defective tires on the tractor and another for defective lights on the trailer.

A sample Safety Equipment Repair Order is included in this unit (Figure 1) and in the state publication, Guidelines for the Issuance of Safety Equipment Repair Orders, to demonstrate the method for writing-in those defects for which no provision is made on the form currently in use.

The numbered captions in the Guidelines are in the same sequence as they appear on the repair order, and if the vehicle contains defects corresponding with each caption, that particular defect would be checked on the repair order. With additional equipment on certain vehicles, and until the repair order can be revised, there are several defects which must be written on the repair order in the same manner as a speedometer/odometer defect has been written in the past. Inasmuch as all defects do not pertain to all types of vehicles, certain categories will not apply to certain types of vehicles.

#### Assignment of Safety Equipment Repair Order Books

The officer must complete the proper receipt forms and return them to the State Motor Vehicle Administration when SERO books are assigned. Once assigned, the books cannot be reassigned; partially used books must be returned to the State Motor Vehicle Administration.

#### Certification

The following is a list of defects indicated on a Safety Equipment Repair Order, which has been issued to a passenger car, commercial vehicle up to and including 3/4 ton, or motorcycle, and which may be certified by the State

FIGURE 1



**SAFETY EQUIPMENT REPAIR ORDER**

(PURSUANT TO SECTIONS 429 THROUGH 436 OF ARTICLE 66 1/2, ANNOTATED CODE OF MARYLAND)

TD-7 (9-67)

READ NOTICE ON OTHER SIDE

DATE

OPERATOR'S FULL NAME	TIME
	-M

**O**  
**W**  
**N**  
**E**  
**R**

OWNER'S FULL NAME

STREET

CITY STATE ZIP CODE

VEHICLE LIC. NO.	STATE	MAKE OF VEH.	YEAR	STYLE
------------------	-------	--------------	------	-------

VEHICLE SERIAL NO.	TITLE NUMBER
--------------------	--------------

N.S.E.W.

ON ROUTE #

OFFICER'S NAME	OFFICER'S NO.	POLICE DEPT.
----------------	---------------	--------------

- |   |  |
|---|--|
| <input type="checkbox"/> 50 BRAKES            | <input type="checkbox"/> 65 TAG LIGHT(S)       |
| <input type="checkbox"/> 51 TIRES             | <input type="checkbox"/> 66 DASH LIGHTS        |
| <input type="checkbox"/> 52 STEERING          | <input type="checkbox"/> 67 WHEEL ALIGNMENT    |
| <input type="checkbox"/> 53 EXHAUST SYSTEM    | <input type="checkbox"/> 68 REARVIEW MIRRORS   |
| <input type="checkbox"/> 54 WINDSHIELD WIPERS | <input type="checkbox"/> 69 DOOR LATCH/HANDLE  |
| <input type="checkbox"/> 55 HEADLIGHTS        | <input type="checkbox"/> 70 GAS TANK           |
| <input type="checkbox"/> 56 TAILLIGHTS        | <input type="checkbox"/> 71 TURN SIGNALS       |
| <input type="checkbox"/> 57 HORN              | <input type="checkbox"/> 72 WHEELS/LUGS        |
| <input type="checkbox"/> 60 BUMPER(S)         | <input type="checkbox"/> 73 HOOD/CATCH(S)      |
| <input type="checkbox"/> 61 GLASS             | <input type="checkbox"/> 74 FLOOR/TRUNK PAN(S) |
| <input type="checkbox"/> 64 STOP LIGHTS       | <input type="checkbox"/> 76 FENDER(S)          |

OPERATOR'S/OWNER'S SIGNATURE	COPY
X	1

**Certification of Inspection**

**MUST BE COMPLETED BY AN AUTHORIZED MARYLAND INSPECTION STATION**

I HEREBY CERTIFY THAT THE DESCRIBED VEHICLE HAS BEEN INSPECTED, AND THE INDICATED DEFECT(S) HAS (HAVE) BEEN CORRECTED.

SIG. OF REGISTERED MECHANIC	DATE OF INSPEC.
NAME OF INSPECTION STATION	STATION NO.
ADDRESS OF STATION	

AREA 1754227

STATE POLICE FILE COPY

PAPER PAT'D BY H.C.R.CO

Police and participating local police departments. Only these defects or any combination of them will be certified. The Truck Weight Enforcement Division of the Maryland State Police will only certify said defects on commercial vehicles over 10,000 pounds GVW during operational hours at the various Scale Houses. If any other defect is indicated, the vehicle must be taken to an Authorized Inspection Station for certification of the repair order.

- |                                     |                           |
|-------------------------------------|---------------------------|
| 54 - Windshield Wipers              | 71 - Turn Signals         |
| 56 - Taillights                     | 73 - Hood/Catch(es)       |
| 57 - Horn                           | 76 - Fender(s)/Flaps      |
| 60 - Bumper(s)/Rear Protector Frame | 78 - Hazard Warning Lamps |
| 61 - Glass                          | 79 - Parking Lamps        |
| 64 - Stoplights                     | 80 - Side Marker Lamps    |
| 65 - Tag Light(s)                   | 81 - Clearance Lamps      |
| 66 - Dash Lights                    | 82 - Identification Lamps |
| 68 - Rearview Mirrors               | 85 - Back Up Lamps        |
| 69 - Door Latch/Handle              | 86 - Reflectors           |

The following is a list of defects that must be certified by an Authorized Inspection Station.

- |                      |                                  |
|----------------------|----------------------------------|
| 50 - Brakes          | 70 - Gas Tank (Fuel System)      |
| 51 - Tires           | 72 - Wheels/Lugs                 |
| 52 - Steering        | 74 - Floor/Trunk Pans            |
| 53 - Exhaust System  | 77 - Speedometer/Odometer        |
| 55 - Headlights      | 83 - Fog/Auxiliary Driving Lamps |
| 67 - Wheel Alignment | 84 - Emergency Warning Lamps     |

## Violator Contact Procedures

The officer should review the violator contact procedures described in Unit XXV as guidelines for the issuance of the Safety Equipment Repair Order. In addition, the officer, when issuing a SERO and before terminating the contact, should:

- Review the nature of the violation (defect) until it is clear that the motorist understands it;
- Carefully review what the driver (or owner, if they are not the same) must do to have the defect certified, including whether the defect can be certified by the State Police or must be taken to an Authorized Inspection Station;
- Describe the consequences of failure to have the defect certified within 10 days, that is, the automatic suspension of registration privileges on the vehicle 30 days from the date of issuance of the order;
- Remind the motorist that the insurance information on the postcard copy of the SERO should be provided by the vehicle owner, in full, before the card is mailed or handed over to the State Police.
- Advise the motorist to read the IMPORTANT NOTICE TO OWNERS on the reverse of the SERO, being sure to indicate that some defects can be certified by the State Police or participating local police forces, and whether the defect for which the vehicle is cited is included in that group;

- Indicate that the vehicle owner can determine a convenient Inspection Station by looking in the telephone company's Yellow Pages under Service Stations and automobile dealers, many of which are authorized to perform this function, and should NOT recommend an Authorized Inspection Station to the motorist;
- Remind the motorist that it is the vehicle owner's responsibility to see that the certification is communicated to the State Police within the specified time limits.

#### Distribution of Copies

The repair order consists of an original and four copies, including a post card copy for reporting certification to the State Police. Each copy is marked at its bottom in red block letters as to its distribution.

Copies 3, 4, and 5, which are attached as a unit, are presented immediately to the violator. Copy 3 is for the inspection station; Copy 4 for the vehicle owner, and Copy 5 is designated, "State Police Postal Card." Each copy of the repair order is printed on chemically treated paper so that all copies bear the same information when the officer completes the form; the bottom of Copy 3 is used for certification, which is carboned on 4 and 5.

Copy 1 is the State Police File Copy and should be turned in by the officer to his supervisor at the end of the workshift. Copy 2 is retained by the officer.

TO CHECK YOUR PROGRESS PLEASE ANSWER THE FOLLOWING QUESTIONS.

Directions: A number of statements regarding Safety Equipment Repair Orders (SERO) are listed below. On your response sheet, circle the letter A if the statement is accurate or the letter I if it is inaccurate.

1. A SERO may be issued for effective equipment only on passenger vehicles.
2. The SERO is a standardized form used throughout the state of Maryland.
3. The SERO is classified as a citation since it requires a follow-up by the motorist.
4. The SERO may not be issued to vehicles bearing antique registration plates.

Directions: The items below are vehicle defects found on the Safety Equipment Repair Order (SERO). On your response sheet circle the letters SP if the State Police may certify the defect as having been corrected or the letters IS if the defect requires the vehicle to be taken to an Authorized Inspection Station.

5. Windshield Wipers (54)
6. Hazard Warning Lamps (78)
7. Wheels/Lugs (72)
8. Hood/Catch(es) (73)
9. Exhaust System (53)
10. Headlights (55)
11. Bumper(s)/Rear Protector Frame (60)

Directions: On your response sheet circle the letter C if the item represents a correct violator contact procedure when issuing a repair order (SERO). Circle the letter I if it represents an incorrect contact procedure.

12. Review the nature of the defect until it is clear the motorist understands it.
13. Describe the consequences of failure to have the defect certified within 10 days.
14. Indicate a number of Inspection Stations that would be convenient for the motorist.
15. Remind the motorist that his vehicle registration will be automatically suspended after 45 days if the defect is not corrected and certified.

CHECK YOUR RESPONSES WITH THE KEY ON PAGE XXVI - 40.

REVIEW ANY ITEMS YOU MISSED BEFORE CONTINUING.



## ISSUING TRAFFIC CITATIONS

### General Considerations

The officer should be familiar with both the traffic offenses specified in Article 66 1/2, Motor Vehicle Laws of Maryland, and with those specific to his jurisdiction, if any. Although warnings may be issued for many of these violations, the officer must issue a citation for some and must make a traffic arrest for others. In addition, there are special provisions regarding juveniles and nonresidents. In deciding whether to issue a citation or a warning, the officer must be familiar with the policy of his jurisdiction on the issuance of warnings.

Article 66 1/2, Paragraph 16-109, provides that a person halted by an officer for a misdemeanor, which includes violation of Maryland's traffic laws, or a traffic offense under local law, and is not to be taken before a District Court commissioner as required or permitted by the law, the officer "shall prepare a written traffic citation," using the Maryland Uniform Complaint and Citation (see Figure 2).

The citation is required by the law to contain "a notice to appear in court; the name and address of the person; his driver's license number; the State registration number of his vehicle, if any; the offense charged; the time and place the person shall appear in court; and, such other pertinent information as necessary." The time specified on the citation for the person's appearance at the court must be at least five days after the alleged violation, unless the person charged demands an earlier hearing.

FIGURE 2

**MARYLAND UNIFORM COMPLAINT AND CITATION**  
 AS PRESCRIBED BY THE MOTOR VEHICLE ADMINISTRATOR  
 PURSUANT TO ART. 66 1/2 SECT. 16-117  
 DRIVER'S LICENSE NO. \_\_\_\_\_ STATE \_\_\_\_\_

DEFENDANT'S (FIRST) NAME \_\_\_\_\_ (MIDDLE) \_\_\_\_\_ (LAST NAME) \_\_\_\_\_

ADDRESS IN FULL \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

HEIGHT \_\_\_\_\_ WEIGHT \_\_\_\_\_ RACE \_\_\_\_\_ SEX \_\_\_\_\_ BIRTH DATE \_\_\_\_\_

EMPLOYER (NAME AND ADDRESS) \_\_\_\_\_ TELEPHONE NO. \_\_\_\_\_

VEHICLE LICENSE NO. \_\_\_\_\_ STATE \_\_\_\_\_ YR. & MAKE \_\_\_\_\_ VEHICLE TYPE \_\_\_\_\_

ON \_\_\_\_\_ S \_\_\_\_\_ M \_\_\_\_\_ T \_\_\_\_\_ W \_\_\_\_\_ T \_\_\_\_\_ F \_\_\_\_\_ S \_\_\_\_\_ MONTH \_\_\_\_\_ DAY \_\_\_\_\_ AT \_\_\_\_\_ AM \_\_\_\_\_ PM

THE DEFENDANT NAMED ABOVE DID UNLAWFULLY VIOLATE ARTICLE \_\_\_\_\_

66 1/2  27  56  LOCAL ORDINANCE SECTION \_\_\_\_\_  
 81.  89-B.  MARYLAND RULES AND REGULATIONS SUB-SECTION \_\_\_\_\_

BY (CHARGE) \_\_\_\_\_ TYPE \_\_\_\_\_

AND WAS  INVOLVED IN AN ACCIDENT  PI  PD  
 SPEEDING \_\_\_\_\_ MPH IN A \_\_\_\_\_ MPH ZONE

AT \_\_\_\_\_ IN \_\_\_\_\_ COUNTY  
 YOU ARE SUMMONED TO APPEAR ON \_\_\_\_\_ 19 \_\_\_\_\_ AT \_\_\_\_\_ AM \_\_\_\_\_ PM  
 AT THE DISTRICT COURT OF MD. NO. \_\_\_\_\_ RM. NO. \_\_\_\_\_

LOCATED AT: \_\_\_\_\_ SPC P \_\_\_\_\_ AREA \_\_\_\_\_

YOU MAY PAY A FINE \$ \_\_\_\_\_ (ESTABLISHED BY THE COURT)  
 YOU MUST STAND TRIAL. BOND \$ \_\_\_\_\_ POSTED \_\_\_\_\_

RECEIVED BY \_\_\_\_\_ DATE \_\_\_\_\_  
 COMMITTED \_\_\_\_\_ COMM. JUDGE DATE \_\_\_\_\_

I PROMISE TO APPEAR FOR TRIAL UNLESS I PAY THE FINE BEFORE THE TRIAL DATE.

\_\_\_\_\_  
 (SIGNATURE OF DEFENDANT)

I DO SOLEMNLY DECLARE AND AFFIRM UNDER PENALTY OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

OFFICER'S SIGNATURE \_\_\_\_\_ ID. NO. \_\_\_\_\_

PLEA	VERDICT	FINE \$	COST \$
DISPOSITION	<input type="checkbox"/> CONTRIBUTED TO AN ACCIDENT		
TRIAL JUDGE'S SIGNATURE			

TRIAL DATE \_\_\_\_\_

NUMBER

**PRESS FIRMLY YOU ARE MAKING (7) COPIES**

The citation must specify that the person is to appear before a judge of the District Court within the county in which the offense charged is alleged to have occurred and which is the nearest and most accessible from the place where the alleged violation occurred.

The person charged with the violation may give a written promise to appear in court by signing at least one copy of the citation, in which case the officer shall give one copy of the citation to the person charged, and shall not take him into physical custody for the violation. It is important to remember that the Uniform Complaint and Citation form is not to be used for nonmoving local parking violations.

#### Assignment of Complaint and Citation Books

As noted on the Citation Books themselves, the officer must complete all receipt forms and return them to the State Motor Vehicle Administration when books are assigned. Once assigned, the books cannot be reassigned; partially used books must be returned to the State Motor Vehicle Administration.

## Functions of the Citation Form

The citation form serves as a convenient record of the offense alleged, the surrounding circumstances, and performance requirements for the following parties:

- Law Enforcement Agency. Information for selective enforcement (time, location, type of violation, etc.) and a source of information for the officer if the case goes to court.
- Violator. Nature of the violation alleged and the date, time, and place the person is to appear in the court indicated.
- Court. Complaint and court record.
- State Motor Vehicle Administration. Information pertaining to the driver's point-system record, to reexamination, to driver improvement, or to driver's license suspension or revocation.

The form summarizes such critical information as:

- Who committed the traffic offense,
- When the offense was committed,
- What the nature and circumstances of the violation were,
- Where the violation was committed, and where a hearing will be held.

In addition, the seven-copy form has a unique registered number which makes the officer accountable for every form.

## Special Provisions

Juveniles. Violators under 16 may not be issued citations, but must be taken into custody and remanded to the juvenile court following established departmental procedures in use for juvenile offenders. Traffic law violators who are at least 16, but less than 18 years old are treated as adult violators when issuing citations except in the following instances:

- Homicide by vehicle
- Unauthorized use or occupancy of a motor vehicle
- Tampering with a motor vehicle
- Operating a motor vehicle under the influence of alcohol or drugs.

Nonresidents. In general, a nonresident motorist who is stopped in Maryland and charged with a traffic violation may not be issued a citation but must be taken before the District Court commissioner within the county in which the offense is charged and which is the nearest and most accessible to the place of the alleged violation. There he must post either collateral or bond to secure his appearance for trial at a later date.

Nonresident operators of commercial vehicles may be issued citations if the person, firm, or corporation operating the vehicle has made a written application to the Maryland State Police and been granted this prerogative.

Nonresidents of Maryland who are residents of six states with whom Maryland has established nonresident violator compacts are entitled to receive citations to the same extent as Maryland residents with a few

exceptions as noted below. States currently having nonresident violator compacts with the State of Maryland are Delaware, the District of Columbia, New Jersey, North Carolina, Virginia, and Louisiana.

The following guidelines apply to residents of these six states:

- The alleged offender must be a resident of the compact state and hold a valid driver's license from that state at the time of the violation, except that the District of Columbia will accept a complaint if the District resident has a valid Maryland driver's license.
- The alleged offender from a compact state may receive a citation only for those violations for which a Maryland resident is entitled to receive a citation.
- An alleged offender from a compact state is not entitled to receive a citation for the following violations:
  - A traffic violation for which the issuance of a citation is prohibited under Maryland law;
  - A traffic violation, the conviction for, or the forfeiture of collateral for which, requires the revocation of the motorist's driver's license (for example, failure to stop and give aid when involved in an accident resulting in injury or death of any person);
  - Parking violations, highway weight limit violations, and the illegal transportation of explosive or hazardous materials.

## Parking Violations

The Maryland Uniform Complaint and Citation may be used for parking violations specified in Article 66 1/2, Motor Vehicle Laws of Maryland, but not for local nonmoving parking violations. A separate parking violation citation form is used by county and municipal law enforcement agencies. The student should become familiar with the form appropriate for his jurisdiction, including the general features of the form, the proper method and order for completing each entry, the source of information for the various entries, and the disposition of copies of the form.

Sample copies of the form and instructions for its use will be provided by the student's training instructor.

## Completing the Citation Form

General guidelines for completing the form and for distribution of copies are included in the State Motor Vehicle Administration pamphlet, Instructions for Use of Uniform Complaint and Citation Book. The instructor will go through the form item-by-item, explaining in detail how it is to be completed; an opportunity for practice on sample forms will be provided to the student.

As with the Safety Equipment Repair Order form, many of the items to be entered on a Complaint and Citation are self-explanatory, especially those items dealing with identification of driver and vehicle. A few minor points of possible confusion, though, should be mentioned.

Line 7 of the form (counting the heading and control number as the first line) asks for the driver's employer (name and address) and "telephone number"; it is the intention of the Motor Vehicle Administration that this block be filled with the defendant's telephone number, not the employer's number.

On line 8, the officer is to note the "vehicle type" by using the abbreviations found on the registration card, such as: 2 DR, 4 DR, 2 DHT, S/W, BUS, TRAC & TRAIL, etc.

On line 9, the day of the week is to be circled, and the date and time filled in.

The next section of the citation identifies the violation -- first by number of the relevant rule or statute (line 10), then by a brief description of the charge (line 11), using the accepted formulations for describing violations.

On line 11 (a) following the charge, there is a block to record "type." Three responses are possible. If the arrest results from a Radar or Vascar stop, the entry should be "Radar" or "Vascar"; if the arrest is made by an officer in an unidentified patrol vehicle, the correct entry is "U". Otherwise, the block should be left blank.



Next, on line 12, the officer should make check marks to indicate whether the violation involved an accident, and, if so, whether the result was personal injury or property damage. He should also check "speeding," if applicable, and record the driver's speed as well as the speed limit in effect. All citations should show the location of the violation.

The actual "summons" section begins on line 13. In addition to the location of the court, is the county of the violation, "IN \_\_\_\_\_ COUNTY". Fill in the name of the county in which the violation occurred. In those rare instances where citations are issued for violations which occur in Baltimore City, cross through the word COUNTY and write in Baltimore City.

On line 14, fill in where the defendant is "summoned" to appear on a given date, at a given time.

Line 15 immediately following the time of the defendant's appearance is to be left blank for District Court use. The remainder of the section should be filled in with the proper District number (and the room number, IF the violation is under the jurisdiction of Baltimore City courts; otherwise, "room number" is left blank).

The address of the court is entered on lines 16 and 16 (a). Nothing is recorded initially in the block marked "SPC P" (special project). It will be used if any specific research data are needed in the future. A Special Order will be issued in that event, indicating what information is to be entered in the "SPC P" block.

On line 17, the officer checks the "payable fine list" and marks the box indicating whether a fine may be paid, and the amount required; if the offense is marked by an asterisk on line 18 in the "payable fine list," then the defendant must stand trial, and the appropriate box is marked.

The items regarding the posting of bond, its acceptance, and the Commissioner's name are to be filled in (by the Commissioner) if the defendant must be brought before a Commissioner; the arresting officer leaves these spaces blank. (Applicable spaces on lines 18, 19 and 20).

The defendant's signature is secured on line 21, and the officer furnishes his own signature and identification number on line 23.

All entries on lines 24, 25 and 26 will be entered by the court.

#### Distribution

The Uniform Complaint and Citation form consists of an original and six carbons. Copy 4, the defendant's copy, is presented immediately. The officer should retain the remaining copies only until the end of his workshift.

Copies 1, 2, 6, and 7 should be turned in to the officer's supervisor. These are the court copies, and should be mailed to the proper District Court within 24 hours after the arrest.

Copy 3 is the Police Headquarters copy, and should also be turned in to the officer's supervisor.

Copy 5 is retained by the officer.

Each citation book includes a summary of instructions for the officer on its inside front cover.

#### Officer's Copy

The printed form on the reverse side of Copy 5 should be filled out by the officer as soon as possible after the violator leaves the scene of the traffic stop. It constitutes part of the officer's original notes and can be invaluable for courtroom preparation prior to trial. Notes should be recorded on the officer's copy of every citation he issues, especially in view of the fact that he may issue between 10 and 100 tickets a month and that the trial, if any, may be several weeks following the alleged violation.

Although the form is designed to elicit specific information, the officer should use any portion of the form he wishes to note specifics regarding the alleged violation he feels are pertinent to the case.

A copy of the reverse side of Copy 5 is included in this Unit with sample information written down as the officer might do when using the form (see Figure 3).

TO CHECK YOUR PROGRESS PLEASE ANSWER THE FOLLOWING QUESTIONS.

FIGURE 3

TITLE NO. DEFENDANT'S COLOR VEHICLE  
OFFICER IS PATROLLING N, S, E, W ON ROUTE ROAD NAME OR NO.  
IN CAR <sup>PATROL</sup> CAR # WITH COULD TESTIFY TO FACTS SURROUNDING CASE.  
OBSERVED DEF. GOING N, S, E, W ON ROUTE ROAD NAME OR NO.  
AT LOCATION SPECIFIC OPERATING VIOLATOR'S CAR  
GOT BEHIND DEF. AT SPECIFIC LOCATION  
STOPPED DEF. LOCATION TOTAL DISTANCE FEET TENTH MILES  
SPEED IF APPLICABLE OTHER VIOLATIONS IF APPLICABLE  
WEATHER CONDITIONS ROAD CONDITIONS  
TRAFFIC CONDITIONS  
WITH DEF. AT TIME ANYONE PRESENT WITHIN DEFENDANT'S VEHICLE. DEFENSE WITNESSES  
SPEEDOMETER IMPORTANT IN SPEED OFFENSES TESTED DATE - - - -  
CONDITION OF SPEEDOMETER - TEST RESULT  
OTHER WITNESSES AND REMARKS:

Directions: Using your response sheet, circle the letter of the item which most correctly completes the following statements.

16. The resident of a state currently having a nonresident violator compact with the State of Maryland who commits a traffic violation in Maryland may:

- a. Not be issued a citation, but must be taken before the District Court Commissioner within the county in which the offense is charged
- b. Be issued a citation only for those violations for which he would receive one in his home state
- c. Be issued a citation only for those violations for which a Maryland resident is entitled to receive one
- d. Be issued a written warning, a copy of which is forwarded to the Department of Motor Vehicles of the state in which the violator is a resident

17. The State of Maryland does not have a nonresident violator compact with which jurisdiction:

- a. Louisiana
- b. Pennsylvania
- c. North Carolina
- d. Virginia

18. The Maryland Uniform Complaint and Citation Form may be used for:

- a. Traffic violations by nonresidents which, the conviction for, requires the revocation of the motorist's driver's license
- b. Citing nonresident motorists who illegally transport explosive or hazardous material
- c. Parking violations specified in Article 66 1/2 of the Motor Vehicle Laws of Maryland
- d. All of the above

19. In regard to the assignment of Complaint and Citation Books, the police officer has the responsibility to:

- a. Complete all receipt forms and return them to the District Court
- b. Destroy any partially used books which the officer cannot use
- c. Reassign, to other officers, those books which he cannot use
- d. Complete all receipt forms and return them to the State Motor Vehicle Administration

CHECK YOUR RESPONSES WITH THE KEY ON PAGE XXVI - 40.

REVIEW ANY ITEMS YOU MISSED BEFORE CONTINUING.

## MAKING TRAFFIC ARRESTS

### General Considerations

Policies and procedures for making traffic arrests (without warrants) vary somewhat from jurisdiction to jurisdiction, although there are general guidelines applicable to any officer. Some procedures are specified in state law, as are certain offenses and situations where the officer must make an arrest and those where an arrest is optional. These are the only traffic law offenses for which an arrest can legally be made. Similarly, there are special provisions that apply to the arrest of juveniles and nonresidents. As in other traffic law enforcement actions, the officer must exercise judgment that is founded in a thorough knowledge of the motor vehicle laws, specifically the various traffic offenses and the elements that define them, and in departmental policy and procedures.

As defined in an earlier unit, a traffic arrest occurs when a person the officer believes has committed a traffic law violation is taken into physical custody and detained until he or she can be brought before a District Court, duly authorized commissioner or a representative of the commissioner. A traffic arrest is the most extreme form of enforcement action available to the officer.



## Primary Objectives

The primary objectives of a traffic arrest are to:

- Preclude the possibility of continued violation (such as driving under the influence of alcohol or drugs) and a continuing hazardous traffic situation
- Increase the chances, where doubt may exist, that the violator will appear in court.

## Requirements

There are four basic requirements in making a traffic arrest:

- Authority. The officer must have the legal authority to make a traffic arrest and must know the extent of his jurisdictional authority; under Maryland law, any officer of a duly constituted state, county, or municipal law enforcement agency has the authority to make arrests.
- Awareness. The violator must fully understand that he or she is being arrested, except where this is impossible (for example, a violator whose faculties are impaired by the use of alcohol or drugs).
- Intent. The officer in making the arrest must have the intent of detaining or taking the violator into custody for the ultimate purpose of bringing the offender before the court, although the offender may be later released on bail, bond, or personal recognizance.

Seizure and Detention. The alleged offender's freedom must be interrupted and he must be taken into custody by the officer.

### Arrest Procedures

General guidelines for apprehending violators were given in Unit XXIV and for contacting and evaluating violators in Unit XXV. Procedures for handling violators arrested for traffic law violations vary from jurisdiction to jurisdiction; however, the officer generally does not use those procedures specified for felons. The apprehension and arrest of persons charged with offenses related to driving under the influence of alcohol or drugs is discussed in a later unit. In making some arrests, the officer must follow the guidelines established by the courts for informing the offender of his rights under the law -- the so-called Miranda warning. (The Miranda warning is discussed later in this unit.)

The officer should become familiar with procedures established by his jurisdiction for searching individuals and vehicles, for protecting the personal property of violators, for protecting and handling the violator's vehicle, for transporting him to headquarters or to the court, and for charging, booking, etc.

### Arrest Situations

Maryland's traffic laws specify several offenses and situations where, although the violation involved is a misdemeanor, the officer should arrest the offender. Arrests under state law are discussed in the paragraphs that follow.

Serious Offenses. For the following violations of Article 66 1/2, Motor Vehicle Laws of Maryland, Paragraph 16-105, the officer should arrest the alleged offender:

- Homicide by vehicle
- Driving under the influence of alcohol
- Driving under the influence of drugs (or a combination of drugs or of drugs and alcohol)
- Failure to stop, to give information, or to render reasonable assistance, in the event of an accident resulting in death or personal injuries
- Reckless driving.

Refusal to Sign Citation. A violator's refusal to sign a citation constitutes a refusal to sign a promise to appear in court as specified. Under Article 66 1/2, Paragraph 109(d), it is implicitly stated the officer should arrest and take into custody any violator who refuses to sign a citation.

Nonresidents. Persons stopped for a traffic law violation in Maryland who are not residents of the State of Maryland are to be taken into custody and brought before a District Court commissioner where they may post bail or bond. However, nonresidents of the State of Maryland who are residents of states with whom Maryland has nonresident violator compacts in effect may receive citations to the same extent as Maryland residents. (See Non-residents under ISSUING TRAFFIC CITATIONS above.)

Juveniles. The juvenile court has exclusive original jurisdiction for all traffic law violations where the alleged offender is under sixteen years of age, and for the following four violations where the alleged offender is between 16 and less than 18 years of age:

- Homicide by vehicle
- Unauthorized use of occupancy of a motor vehicle
- Tampering with a motor vehicle
- Operating a motor vehicle under the influence of alcohol or drugs.

Thus, all violators under 16 and those between 16 and less than 18 who commit the four violations listed above must be arrested, taken into custody, and remanded to the juvenile court. They are to be handled in accordance with policy and procedures established by the arresting office's jurisdiction for juvenile offenders. Juvenile offenders between 16 and less than 18 who are charged with committing other traffic law violations for which arrest is mandatory shall be handled as adult violators.

## Optional Arrests

Under Maryland law, the police officer has the option to arrest persons (or to issue them citations) when--

- The person does not furnish satisfactory evidence of identity;
- The officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court;
- The person is charged with violating the laws regarding the transportation of hazardous (usually explosive) materials;
- The person is charged with violating the laws relating to the failure or refusal of a motorist who submit the vehicle and load to a weighing or to remove excess weight, if directed to do so;
- The person fails to stop and give information in the event of an accident resulting in damage to a vehicle or to other property legally upon or adjacent to a highway;
- The person is charged with any violation that caused or contributed to an accident resulting in injury or death to any person.

## Formal Arrest Statement

In Miranda vs Arizona (1964), the U.S. Supreme Court established guidelines that police officers must follow when questioning an accused person in a "custodial environment." Custodial interrogation is defined as questioning by an officer (or officers) "after a person has been taken into custody or

otherwise deprived of his freedom of action in any significant way." Thus, the prime consideration for the officer is whether a custodial environment exists. If it does, a statement of rights and a waiver of rights are necessary before questioning can proceed; if not, the person involved need not be so advised before being questioned.

Miranda warnings are applicable in Maryland by determination of the Attorney General to all criminal offenses, including all violations of the motor vehicle laws, where incriminating questions are asked in a custodial environment. Thus, the following policy and procedures are to be followed:

No Warning Required. Any person, resident or nonresident, who is observed by an officer committing a violation of the motor vehicle laws and who is entitled to receive a traffic citation and acknowledge receipt by signature, and who is not placed in a custodial environment, need not be advised of his rights under Miranda.

Warning Required. Any person, resident or nonresident, who is stopped for a violation of the motor vehicle laws and is not entitled to receive a traffic citation and acknowledge receipt by signature, and who is arrested for the alleged offense, and questioned, is considered to have been placed in a custodial environment, and must be advised of his rights under Miranda before the product of the officer's questions can be used against him in court. This applies as well to those situations in which the officer exercises the option he has under the law to arrest the alleged offender.

Discussion. The significant difference in these two situations is that, in a stop where an arrest occurs, although the offender may not actually be in physical custody, he has been deprived of his freedom of action in a significant way. When a citation is issued, the alleged offender is free to proceed on his way when he has signed the citation, thereby promising to appear in court at the appointed time, and is not considered to be in a custodial environment. Once an alleged offender is in actual physical custody for any crime, and questioned for the purpose of gathering evidence for prosecution, the Miranda ruling applies, and the person must be advised of his rights under the law.

When an ordinary traffic arrest is made and the person is taken before a District Court, a court commissioner, or his representative, the person arrested knows that upon posting bond or collateral he is free to go on his way until the time to appear in court, and is thus at most in temporary custody. This does not constitute an arrest to which the Supreme Court intends Miranda to be applied unless the person arrested is questioned in such a way that his answers could be used against him in court. Ordinarily these are arrests for on-view violations and no further evidence other than the officer's observation of the offense is required for prosecution.

It is important to note that police officers may stop motorists for investigatory purposes (for example, to check driver's licenses, certificates of registration, safety equipment), during the course of which an offense that warrants arrest may be discovered, without giving an initial Miranda warning.

The warning must, however, be given when the decision to make an arrest is made. In investigatory stops of the type discussed above, the elements of arrest are lacking in that while the motorist is detained temporarily, there is no intention on the part of the officers to take him into custody. Thus, when a person is merely stopped and questioned, the Miranda rule does not apply; the officer is considered in such situations to be fulfilling his duties to protect the public by seeking to detect or prevent criminal activities.

On-the-scene questioning by a police officer in an effort to determine whether a crime has been committed does not constitute an arrest involving a "custodial environment" and does not require a warning. It is when the officer has reasonable grounds to believe a crime has been committed and that the person being questioned is the one who committed it, and this determination leads to the arrest of the person (not the issuance of a citation), that a warning must be given.

The Warning Statement. The officer must ensure that he communicates the statement of constitutional rights to the person arrested clearly and completely, and that the person fully understands his rights and the consequences of waiving them. A waiver should be obtained in writing or with adequate witnesses if the waiver is oral. The burden is on the state, and therefore on the officer, to prove that the person arrested has a thorough understanding of his rights. The following is the standard Miranda warning; variations in wording, however, may occur in local usage.



- You have the absolute right to remain silent.
- If you choose to answer, your answers can be used against you in court.
- You have the right to a lawyer; if you want a lawyer and cannot afford one, one will be provided for you.
- You have the right to talk privately with your lawyer before answering any questions, and to have him with you during questioning.
- If you elect to answer questions without having a lawyer present, you have a right to stop at any time and obtain the services of a lawyer.
- Do you understand your rights as explained?
- Do you knowingly waive these rights?

#### Appearance Before District Court Commissioner

Whenever any person is arrested, Maryland law specifies that he is to be taken before a District Court commissioner or an authorized representative of the commissioner within the county or municipality in which the offense charged is alleged to have been committed and which is the nearest or most accessible with reference to the place the alleged violation occurred. If no commissioner or duly authorized representative of the commissioner is available at the time of the arrest, and if there is no bail schedule established, the person arrested shall be issued a written Uniform Complaint and Citation and released from custody upon his signing the citation as a promise to appear in the court designated and at the time and date specified.

## Arrest Forms

The officer routinely completes a citation for each traffic arrest; in addition, he may be required by the court to complete the standard Statement of Charges (see Figure 4) when the person arrested is taken before the District Court commissioner or his representative. The officer should become familiar with the Statement of Charges and with any other forms used in his jurisdiction for recording data pertinent to a traffic arrest as well as the disposition of these forms.

The Statement of Charges is for the most part self-explanatory, and includes such information as:

- Date, time, and location of the arrest
- The specific offense together with its designation in the Maryland or local code
- Name, address, and telephone number of the alleged offender
- Physical characteristics of the alleged offender (for example, height, weight, eye color)
- Driver's license number of the alleged offender
- Name and badge number(s) of participating officer(s)
- Description of the circumstances surrounding the arrest.

TO CHECK YOUR PROGRESS PLEASE ANSWER THE FOLLOWING QUESTIONS.

Directions: Using your response sheet, circle the letter of the item which most accurately completes the following statements:

20. Which of the following is not a basic requirement in making a traffic arrest:
- a. Legal authority to make a traffic arrest
  - b. The violator must fully understand that he is being arrested (except for DWI arrest).
  - c. The officer can release the violator after obtaining the violator's written signature that he will appear in court.
  - d. The officer must have the intent of detaining the violator for the purpose of bringing the offender before the court.
21. The officer should become familiar with procedures established by his jurisdiction for:
- a. Searching individuals and vehicles
  - b. Protecting the personal property of violators
  - c. Transporting the violator to headquarters
  - d. All of the above

22. According to Maryland law, which of the following violations requires that the offender be arrested:

- a. Driving at a speed that exceeds the limit by 20 mph or more
- b. Reckless driving
- c. Going through a red light
- d. All of the above

23. Under Maryland law, the police officer has the option to arrest persons when the person:

- a. Does not furnish satisfactory evidence of identity
- b. Fails to stop and give information in the event of an accident resulting in damage to a vehicle
- c. The person is charged with a violation that caused an accident resulting in injury or death to any person
- d. All of the above

24. Miranda warnings are applicable in Maryland to:

- a. All criminal offenses where incriminating questions are asked in a custodial environment
- b. Only felony arrests
- c. All traffic stops for nonresidents of Maryland
- d. All of the above

25. When a police officer stops a motorist for a routine investigatory check of driver's license, etc., the Miranda warning should be given:

- a. Before the check is begun
- b. When the decision to make an arrest is made
- c. At either of the above times
- d. At neither of the above times

PLEASE CHECK YOUR RESPONSES WITH THE KEY ON PAGE XXVI - 40.  
REVIEW THOSE ITEMS YOU MISSED BEFORE TAKING THE POSTTEST.

THIS COMPLETES SELF-INSTRUCTIONAL UNIT XXVI.

XXVI

KEY TO EMBEDDED QUESTIONS

	Refer to Page XXVI -
1. I	6
2. A	6
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6. SP	7-8
7. IS	7-8
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11. SP	7-8
12. C	9-10
13. C	9-10
14. I	9-10
15. I	9-10
16. c. Be issued a citation only for those violations for which a Maryland resident is entitled to receive one	
17. b. Pennsylvania	17
18. c. Parking violations specified in Article 66 1/2 of the Motor Vehicle Laws of Maryland	18
19. d. Complete all receipt forms and return them to the State Motor Vehicle Administration	14

- |     |    |   |       |
|-----|----|---|-------|
| 20. | c. | The officer can release the violator after obtaining the violator's written signature that he will appear in court. | 27-28 |
| 21. | d. | All of the above  | 28    |
| 22. | b. | Reckless driving  | 29    |
| 23. | d. | All of the above  | 31    |
| 24. | a. | All criminal offenses where incriminating questions are asked in a custodial environment                            | 32    |
| 25. | b. | When the decision to make an arrest is made   | 34    |

**END**