

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



Citations as Alternatives to Arrest

What's the problem?

In their report on “Citation in Lieu of Arrest” [the International Chiefs of Police](#) noted: “As arrest numbers and prison populations have increased, a movement toward pretrial criminal justice reform has taken root. Stakeholders in the criminal justice system have sought 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). As part of this movement, there has been increased discussion of using citation in lieu of full custodial arrest in appropriate situations.

A citation is a written order, in lieu of a warrantless arrest, that is issued by a law enforcement officer or other authorized official, requiring a person to appear in a designated court or governmental office at a specified time and date. [The Final Report of The President's Task Force on 21st Century Policing](#) specifically recommends: “Law enforcement agencies should consider adopting preferences for seeking ‘least harm’ resolutions, such as diversion programs or warnings and citations in lieu of arrest for minor infractions” (Final Report, 2015, p. 43).

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. This means that 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.

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](#)).

What's the solution?

There are many ways to reduce the number of low-risk individuals unnecessarily detained prior to trial. One particularly promising approach used by a majority of states, including Maryland, allows officers to issue more citations in place of arrests when a citation is more 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 marijuana ([NCSL, 2013](#)). MAJR believes an expanded use of citations is appropriate and beneficial from the dual perspectives of cost and public safety. We suggest giving officers the 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.

Will this work?

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 citation for nearly a third of all incidents, most often for disorderly conduct, theft, trespassing, driving under suspension, and possession of marijuana. Two-thirds of these agencies have a positive view of citations (others are neutral). Officers are usually given broad discretion to determine whether to cite or arrest in individual cases. 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 relationships between communities and police by reducing the ill will that results from unnecessarily removing individuals from their families and communities.
- Increased use of citations could reduce overcrowding and costs in the criminal justice system.
- Citations avoid many of the hardships and adverse costs associated with arrest, such as loss of employment.
- Citation may deter future involvement with the criminal justice system.
- The use of citations avoids pretrial release and detention decisions based solely on the individual's financial ability to post prescribed bail amounts. This practice can be considered unfair or even discriminatory.

As noted by the [National Conference on State Legislatures](#), “the use of citations can contribute to lower jail populations and local cost savings by diverting from detention arrestees who pose little risk to public safety and are likely to appear for their court date” (NCSL, 2013). While the failure to appear rate may be somewhat higher when citations are used in lieu of arrest (there are no recent studies), best practices such as the use of reminders of the court date have been shown to increase the rate (ICF, 2016). The Maryland Alliance for Justice Reform feels that expanding the proper use of citations in lieu of arrest can enhance public safety and have a significant impact on the cost of enforcing public safety throughout Maryland.

Status of the Legislation in Maryland

This legislation has been introduced every year since 2017. In the legislative session of 2021 Delegate Dumais again introduced this legislation as HB0445.

As amended with law enforcement support and passed overwhelmingly by the House in 2017, HB 323 permitted but does not require police officers to issue a citation for any simple possession of drugs charge when a person is not also subject to arrest for any felony, other offense involving serious injury or immediate health risk, or open warrant. Thus, the Citations Bill preserves officers' discretion to arrest when necessary to ensure public safety, to confirm a suspect's identification, and to process other open warrants and more serious charges. 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.

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 District Court statistics.

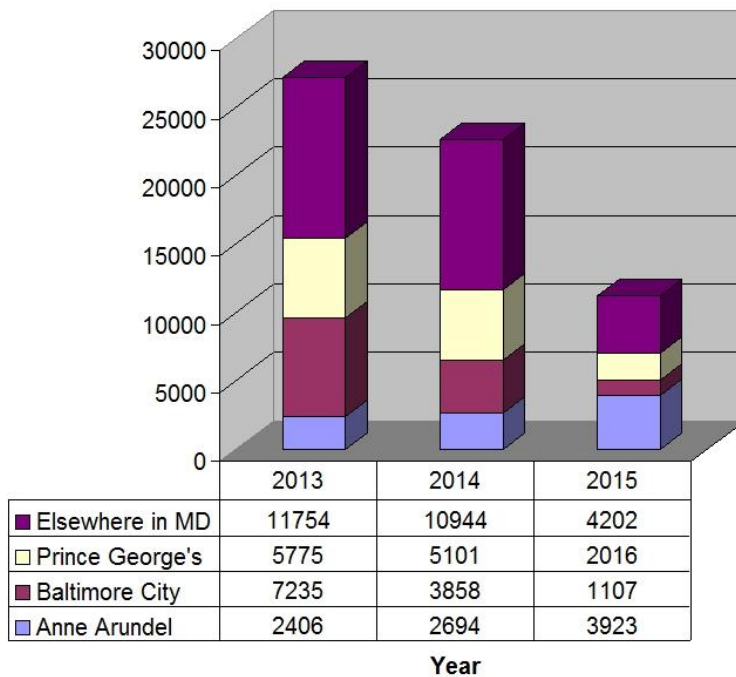
Importance of Training

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. 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 the study of "Criminal Citations Issued."

Criminal Citations Issued

GOCCP Report to the State of Maryland

<https://goccp.maryland.gov/reports-publications/law-enforcement-reports/criminal-citations/>



Learn More!

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

International Chiefs of Police, *Citation in Lieu of*

Arrest (2016): <http://www.iacp.org/Portals/0/documents/pdfs/IACP%20Citation%20Final%20Report%202016.pdf>

<https://www.theiacp.org/sites/default/files/all/c/Citation%20in%20Lieu%20of%20Arrest%20Literature%20Review.pdf>

National Conference on State Legislatures, *Citation in Lieu of*

Arrest (2019): <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx>

National Institute of Corrections, *Corrections Statistics by State* (ND): <http://nicic.gov/statestats/?st=md>

Pretrial Justice Institute, “Citation in Lieu of Custodial Arrest: Recommendations”

(ND): <http://www.pretrial.org/solutions/citation/>

Many other resources can be found at: <https://www.ma4jr.org/>

FBI “2018 Crime in the United States”: <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/arrest-table.xls> [The FBI reports, nationwide, that 86.4% of all drug arrests](#) are for simple possession.

The [American Bar Association](#) estimates that over 75% of all held in pretrial detention are for drug possession or other nonviolent offenses. ABA (2019) “Criminal Justice Debt Problems” https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/economic-justice/criminal-justice-debt-problems/

The [Washington Post](#) reports that [drug crime is the single most common reason](#) for those sentenced to prison in Maryland.