


Memorandum



Date: July 7, 2015

To: Distribution B+

From:  J.D. Patterson, Director
Miami-Dade Police Department

Subject: Miami-Dade County Uniform Civil Violation Notice ("Civil Citation") – Procedures and Officer Discretion

Effective July 10, 2015, the following misdemeanor crimes have been added to Section 8CC of the Miami-Dade County Code (MDCC) making them enforceable as civil citations: Florida Litter Law; Illegal Use of Dairy Cases, Egg Baskets, Poultry Boxes or Bakery Containers; Trespass on Property Other Than Structure or Conveyance; Retail Theft by Removal of a Shopping Cart; Loitering and Prowling; Possession of Cannabis ("marijuana") in an amount of 20 grams or less; and Possession of Drug Paraphernalia. This new law does not apply to violations charged in conjunction with any felony, driving under the influence (DUI), an incident involving domestic violence, or violent crime.

Officers are reminded that the exercise of police authority based solely upon an individual's personal characteristics including, but not limited to race, color, ethnicity, gender, sexual orientation, age, physical handicap, religion or other belief system, or income status, unless such personal characteristics are part of an identifying description or characteristics of a possible suspect, is prohibited.

Officers now have the option to issue civil citations for these offenses and should use their discretion when observing these violations. Pursuant to the Miami-Dade Police Departmental Manual (DM), Chapter 12 - Part 1- General Conduct, III. Objectives and Rules, A. Law Enforcement Operations, 3. Discretion and limits of authority:

Discretion is defined as the authority to make decisions within legal boundaries using personal judgement. Use of discretion is guided and framed by law, policies, rules, procedures, training and supervision. Except for felonies and driving under the influence offenses where an individual must be physically arrested and incarcerated, officers are encouraged to use their discretionary authority in making an arrest; consistent with their oath of office, principles of professionalism, and departmental directives. No person may be released until the concerned officer establishes positive identification of the violator and completes all required reports.

The use of civil citations to cite violators have proven to be an effective and efficient method of educating the public and penalizing subjects.

Officers are encouraged to consider issuing civil citations in the following situations:

- The violator has no criminal history.
- The violator has a criminal past, but it is unrelated to the current violation.
- The violator has a past criminal record that is more than 3 years old.
- To educate the offender for a minor violation of law.

Officers should consider an arrest in the following situations:

- For possession of marijuana cases, if the violator is smoking marijuana in public or while driving a vehicle.
- The marijuana is packaged in a manner indicative of street level drug sales.
- If the violator has been issued three or more civil citations in the past for the same violation. A records check of prior citations issued can be made by going to <https://www2.miami-dadeclerk.com/CEF/CitationSearch.aspx>.
- If the violator has previously been issued a civil citation and has not paid the fine. A records check to determine whether a prior citation has been paid can be made by going to <https://www2.miami-dadeclerk.com/CEF/CitationSearch.aspx>.
- For Loitering and Prowling offenses, when there is a reasonable alarm or immediate concern for the safety of persons and property in the vicinity.
- For Trespass offenses, if the victim/owner of the property is concerned that the violator will remain or return to the property.
- The violator's identify cannot be verified by proper identification.

Procedures for issuing civil citations:

- Use signal 14CO.
- For all civil citation cases, provide the violator with a Miami-Dade County Diversion Program pamphlet (Pink Pamphlet).
- An Offense Incident Report does not need to be completed in conjunction with a civil citation.
- For marijuana and drug paraphernalia possession cases, officers must impound the evidence and write the citation number on the bottom of the narrative section of the Property Receipt. The property may be impounded at the district station and later transported to the Property and Evidence Section (PES) by a District representative.
- The white and blue copies of the civil citation shall be sent to the Police Legal Bureau (PLB) on a daily basis. The PLB will be responsible for sending the citations to the Clerk of Courts.
- For marijuana and drug paraphernalia possession cases, the PLB will work with the PES to dispose of the property. Officers do not need to complete property disposal forms.
- If a violator cited for marijuana or drug paraphernalia possession requests an administrative hearing, the PLB is responsible for transporting the evidence to the hearing if necessary. Officers do not need to pick up the evidence and transport it to court on the day of the violation hearing.

For more information on these new civil laws, please refer to Legal Note 2015-09. For further information on civil citations or the Miami-Dade County Diversion Program, please contact the Police Legal Bureau at (305) 471-2550.