

STANDARD OPERATING PROCEDURES



ADMINISTRATION DIVISION

CIVIL CITATION PROGRAM

City of Miami



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FIELD OPERATIONS DIVISION

DISTRICT PATROL

STANDARD OPERATING PROCEDURES

S.O.P. 2-34

SUBJECT: CIVIL CITATION PROGRAM

PURPOSE: The Miami Police Department (MPD) recognizes the need for alternatives to a physical arrest for certain misdemeanor violations that may be enforced through the issuance of a civil citation in lieu of an arrest. **(CALEA 1.2.6)**

SCOPE: City of Miami police officers have limited discretionary authority if the violator is eligible for the issuance of a civil citation in lieu of physical arrest.

CIVIL CITATION DETAIL: The Civil Citation Detail operates out of the Court Liaison Office located in the Richard E. Gerstein Building.

- The Detail will be responsible for collecting all civil citations deposited in the Civil Citation Box at each station no less than once a week.
- Once the administrative hearing has been set, the Detail will be responsible for ensuring evidence is sent to the Miami-Dade Police Department (MDPD) Laboratory for appropriate testing.

Manuel A. Morales
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Effective Date



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CIVIL CITATIONS: Officers encountering violators committing any of the following misdemeanors may issue a City of Miami, Civil Violation Notice form (“Civil Citation”). While an officer may exercise discretion and issue a Civil Citation in lieu of arrest, these offenses are still misdemeanor crimes and violators are subject to arrest:

1. Florida Litter Law – Fla. Stat. §403.413(6)(b);
2. Illegal Use of Dairy Cases/Egg Baskets/Poultry Boxes/Bakery Containers – Fla. Stat. §506.509;
3. Retail Theft by Removal of a Shopping Cart – Fla. Stat. §812.015(1)(d);
4. Possession of Cannabis in an amount of 20 grams or less – Fla. Stat. §893.13(6)(b); and
5. Possession of Drug Paraphernalia – Fla. Stat. §893.146 and §893.147(1)(b).

CRITERIA: Violators are eligible for civil citations in lieu of arrests under the following circumstances:

1. The violator has not been issued more than two (2) civil citations in the past by the Miami Police Department.
2. The violator has either:
 - a. no previous arrests, or
 - b. a previous arrest where the conviction is more than 3 years old and is unrelated to the current violation
3. The violator has produced valid identification.
4. Any of the disqualifying criteria listed below apply.

If the violator is not eligible to receive a citation, all officers shall adhere to **D.O. 11-16** titled Arrest Procedures.

Officers will not issue a civil citation under the following circumstances:

1. If the violator has been issued more than two (2) civil citations in the past for the same violation by the Miami Police Department.
2. If the violator has previously been issued a civil citation but has not paid the fine.
3. If the offense is in conjunction with any crime that would otherwise result in an arrest.
4. If the violation is for Possession of Cannabis and either:
 - a. The violator is smoking cannabis at a city-owned property (parks, administrative offices, etc.), government building, permitted special event, school, or while operating a vehicle, or
 - b. The cannabis is packaged in a manner consistent with the street level sale of narcotics.

If the violator is eligible for a civil citation and the officer effects an arrest in lieu of issuing a civil citation, the arresting officer shall indicate on the narrative portion of the Arrest Affidavit the exigent circumstances which lead to the arrest.

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The laws regarding stopping and detaining individuals remain the same. An officer's ability to stop and temporarily detain an individual is authorized when the officer has a reasonable suspicion that a person has committed, is committing, or is about to commit a crime. Like an arrest, the issuance of a citation should be based on the officer's probable cause determination that a violation of law has occurred.

Civil Citations are not applicable to juveniles. D.O. 11-25.4.1 defines a juvenile as any unmarried person under the age of 18 years old who has not been emancipated by the court.

Handling a Juvenile Offender(s) in custody:

In accordance with D.O. 11-25.5.1, Law enforcement officers have the authority to take a juvenile offender into custody under the same circumstances and in the same manner as if the juvenile were an adult. Although taking a juvenile into custody does not differ from an adult detention situation, procedural requirements safeguarding the distinct rights of a juvenile shall take place immediately after the juvenile is taken into custody. (CALEA 44.2.2c)

Procedures for Issuing a Civil Citation:

1. Prior to issuing a citation, officers shall conduct a record check at the Miami-Dade Clerk of the Courts website to ascertain whether the violator has been issued a civil citation in the past for any of the above-referenced violations. To conduct a record check for prior civil citations, including the payment status of pending civil citations go to: <http://www2.miami-dadeclerk.com/CEF/CitationSearch.aspx>
2. The search may be conducted by using either the violator's name or address. In the search results, officers will be able to see if any prior civil citations have been issued, the date of issuance, the types of violations cited, and whether the violator has paid the civil citation(s) that were issued in the past.
3. Officers issuing a civil citation will take a signal 14CC on the police radio. The issuing officer shall complete a Field Interview Report (FIVO). No Offense Incident Report is necessary.
4. Officers may only cite one (1) violation per citation. To cite an offender for multiple violations, the issuing officer must use a separate civil citation for each violation.
5. Upon issuing a civil citation, the issuing officer shall provide the violator with the yellow copy of the civil citation.

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6. The issuing officer shall deposit the white and blue copies of each civil citation in the designated Civil Citation Box before the end of the shift. A Civil Citation Box shall be located at each MPD station.
7. All available evidence must be delivered to the Property Unit.
8. For Possession of Cannabis and/or Drug Paraphernalia violations, officers must impound the evidence and write "CIVIL CITATION" and the Civil Citation Number on the bottom of the narrative section of the Property Receipt.
9. If a violator cited for Possession of Cannabis and/or Drug Paraphernalia requests an administrative hearing, the evidence impounded under that Citation will be transported to the hearing by the Miami-Dade Police Department ("MDPD").
10. Evidence impounded for violations involving Possession of Cannabis and/or Drug Paraphernalia will be disposed of after the violator has paid the fine or after the administrative hearing.
11. The Civil Citation Detail will work with the Property Unit to manage the transfer of evidence to MDPD and/or the disposal of the evidence. Officers do not need to complete property disposal forms.

Disposition of Civil Citations:

- Upon the issuance of a citation, the violator has three options: (1) pay the fine; (2) request an administrative hearing; or (3) register for the Miami-Dade County Diversion Program.
- If the violator requests an administrative hearing, a hearing will be set at the Stephen P. Clark Government Center. At the hearing, the issuing officer may be called upon to testify and a violator can be found guilty if the hearing officer finds that the preponderance of the evidence demonstrates that the named violator was responsible for the offense.
- Violators who opt to participate in the County's Diversion Program can complete community service hours in lieu of paying the civil fine.
- If the violator fails to choose one of the available options, the citation will be sent to the Miami-Dade Finance Department's Collection Division for processing. The outstanding fine may appear on the violator's credit report, will prevent the violator from applying for any County licenses and, if the violator owns real property, the fine will appear as a lien on their property until the fine is satisfied.