



OFFICE OF THE CITY MANAGER

NO. LTC# 305-2015

LETTER TO COMMISSION

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: July 29, 2015

SUBJECT: CIVIL CITATION ALTERNATIVE TO ARREST FOR MISDEMEANOR  
POSSESSION OF MARIJUANA

A handwritten signature in black ink, appearing to be 'JL Morales', written over the 'FROM' and 'DATE' lines.

This Letter to Commission is prepared to inform the Mayor and City Commission of the Police Department's intention to begin exercising the civil citation alternative to arrest for misdemeanor possession of marijuana effective on Monday, August 3.

The recently enacted City Ordinance authorizing a civil citation in lieu of arrest became effective on July 18, 2015. It has taken the Department until now to develop a policy and train its officers to implement the policy direction of the Commission. Enforcement of this civil infraction option will now begin on August 3.

The attached document is an excerpt from the Department's comprehensive Arrest Procedure policy. It contains the new policy guidance on misdemeanor marijuana possession that the Department has issued its officers and trained them on. The policy is consistent with the representations of the Police Chief at the First and Second Readings of the ordinance before the Commission and is the Department's best efforts to follow the Commission's direction.

Commission members might want to take note, in particular, about how juveniles (less than 18 years of age) in possession of misdemeanor amounts of marijuana will be handled, as this issue was not explicitly discussed at the Commission's hearings. Juveniles will not be issued civil citations. They will be charged with misdemeanor possession. The reason for this is that the court system and the State Attorney's Office have well established processes in place for juveniles to opt for a civil disposition, expungement of the arrest, drug abuse education, treatment and social services support all under court supervision and with the involvement of informed parents/guardians. We are in agreement with the State Attorney's Office that this is a much better option for any juvenile who is using small amounts of marijuana rather than just giving him/her a civil infraction ticket on the street. The State Attorney's Office requested that the Police Department take this approach, and we agreed.

The Department will collect data on all misdemeanor arrests and civil infractions. We cannot predict how often the civil infraction tool will be used but will be prepared to come back to the Commission with data and analysis over time and as requested.

Attachments

OSTO

JLM:DJ0:tr

# POLICE

	<b>STANDARD OPERATING PROCEDURE</b>	<b>SOP #001</b>
	<b>ARREST PROCEDURES</b>	
<p><b>CALEA Standard(s):</b> 1.1.4; 1.2.1; 1.2.3a; 1.2.3b; 1.2.3c; 1.2.5a; 1.2.6; 1.2.7; 44.2.1b; 44.2.2d; 61.1.2a; 70.1.1; 70.2.1; 72.5.5; 74.1.1a; 74.1.1b; 74.1.1c; 74.1.1d; 74.1.1e; 74.1.1g; 74.1.1h; 74.1.3a; 74.1.3b; 74.1.3c; 74.1.3d; 74.1.3e; 74.1.3f ; 74.3.1; 74.3.2</p>		

**PURPOSE:** To establish procedures for effecting arrests with or without a warrant.

**SCOPE:** This Standard Operating Procedure (SOP) applies to all employees of the Department.

**POLICY:** It is the policy of the Department that arrests shall be made in compliance with the United States (US) Constitution, the State of Florida Constitution, Florida Statutes (FS), Miami-Dade County ordinances, City of Miami Beach ordinances and this SOP.

**PROCEDURE:**

\* \* \*

**II. Alternatives to Arrest [1.2.6]**

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**B.** Pursuant to City Ordinance 70-1(c)(1) and (2), officers are expected to issue a civil citation in lieu of physical arrest for possession of cannabis in an amount of 20 grams or less, as set forth in section 893.13(6)(b) of the Florida Statutes and/or possession of cannabis drug paraphernalia, as set forth in sections 893.146 and 893.147(1)(b) of the Florida Statutes, unless:

1. Such violations are charged in conjunction with any offense that is a felony, driving under the influence, domestic violence incident, violent crime or other misdemeanor criminal offense (e.g. trespass after warning, criminal mischief, or defrauding an innkeeper);
2. Such violations involve the open or public consumption of cannabis;
3. Such violations involve the driver and/or any occupant of a motor vehicle;
4. Such violations involve indicia of intent to sell cannabis (e.g. statements against interest, multiple bagged quantities and/or large amounts of cash, other observed conduct consistent with sale or intent to sell);
5. Such violations involve an individual who is currently on probation or parole;
6. Such violations involve an individual who is out of custody on a pending criminal court case (e.g. out on bond, released on his/her own recognizance, electronic monitoring, etc.);
7. Such violations involve a juvenile (a person under the age of 18 years). Juveniles found in possession of cannabis, regardless of amount, shall be arrested and taken to the county Juvenile Assessment Center. See **SOP #112 – Juvenile Offenders/Victims** for additional guidance; [44.2.2d]
8. Such other exceptional circumstance for which the officer believes physical arrest is more appropriate and the arrest is approved by a supervisor.

- C. Civil citations issued pursuant to this section shall be documented in a **Case Report** and **City of Miami Beach Code Compliance Division – Notice of City Code Violation and Fine** form and cite to City Ordinance 70-1(c)(1) and/or (2).
- D. Cannabis and/or cannabis drug paraphernalia seized in connection with the issuance of a civil citation pursuant to City Ordinance 70-1(c)(1) and/or (2) shall be impounded as evidence in accordance with SOP #006 – Evidence.
- E. Officers shall give a disposition of “51C” on the radio when a civil citation has been issued pursuant to City Ordinance 70-1(c)(1) and/or (2).

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APPROVED BY:



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Daniel J. Oates  
Chief of Police

References to Forms:

Consulate Notification of Arrest or Detention (Form #074)

City of Miami Beach Code Compliance Division – Notice of City Code Violation and Fine form