

**DAYTON POLICE DEPARTMENT
GENERAL ORDER
MINOR MISDEMEANOR CITATIONS**



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POLICY STATEMENT

Minor misdemeanor violations are offenses for which the maximum penalty is a fine of no more than \$150 and no jail term. Ohio statutes require that minor misdemeanor violators be issued a citation in lieu of physical arrest unless conditions enumerated by law are met.

Dayton Police Officers must carefully weigh the circumstances surrounding every minor misdemeanor violation they encounter to evaluate the interests of public safety and the safety of the violator. Only in those cases where there is a clear imperative for a physical arrest and when permitted by law should a physical arrest be made for a minor misdemeanor violation.

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I. ORC (Ohio Revised Code) §2935.26 Minor misdemeanor citation (See also General Order 3.02-2, Traffic Enforcement, section III.A.)

A. ORC §2935.26: *Notwithstanding any other provision of the Revised Code, when a law enforcement officer is otherwise authorized to arrest a person for the commission of a minor misdemeanor, the officer shall not arrest the person, but shall issue a citation, unless one of the following applies:*

1. *The offender requires medical care or is unable to provide for his own safety.*
2. *The offender cannot, or will not, offer satisfactory evidence of his identity.*
 - a. An officer will make reasonable attempts at identifying the offender prior to physical arrest through:
 - 1) Follow-up investigation with an on-scene individual whom the officer deems credible (family member, household member, neighbor, co-worker, etc.) who knows the violator and can confirm information provided and provide on sight identification if necessary.
 - 2) MIS (Management Information System), LEADS (Law Enforcement Automated Data System), MCCJIS (Montgomery County Criminal Justice Information System), OHLEG (Ohio Law Enforcement Gateway), AFIS (Automated Fingerprint Identification System) and/or Live ID verification of information provided including vehicle registration information. Contact with the vehicle's owner if other than the violator to verify the violator's identity and legitimate use of vehicle.
 - 3) Examination of available identification or personal papers that provide some verification of information given by the violator regarding their identity, place of residence and/or employment.
 - 4) If the above means still do not provide sufficient information to verify identity, the violator will be transported to the Bureau of Identification for fingerprinting and photographing to try to verify the identity the violator.
 - Unless it is determined that the identified individual has a verified warrant (regardless of whether the agency that issued the warrant will respond to take custody of the violator) or has provided false or misleading information regarding their identity and place of residence and/or employment, then they will be cited and released rather than booked into the Montgomery County Jail.



- b. These steps must be documented on the back of the citation.
3. *The offender refuses to sign the citation.*
- eCitations do not allow for offender signature. Discretion should be used for traffic offenders refusing to sign if the eCitation program or if equipment is not functioning.
4. *The offender has previously been cited for the identical misdemeanor and has failed to either appear in Court, or otherwise properly respond to the citation.*
- A supervisor will make the final determination on making a physical arrest for a minor misdemeanor traffic offense.
- B. When the offender is booked on a citation, officers will:
- Serve the defendant with their copy, and
 - Either
 - (Pre-printed citations / B-tags) Remove the proper hard copy to the district headquarters for submission and leave all other copies at the jail. OR
 - (eCitations) Print one "Court Copy", circle the violation that the violator is booked on and write "Booked" near the charge. Drop the Court Copy page into the drop box in the sally port.
- "Booked" will be written on the order-in space. If there are multiple charges on one citation and the defendant is being booked under only one charge, then "Booked" will be written on the order-in space.
- A defendant should be booked on all possible traffic charges. However, when a defendant is being booked on a traffic charge(s) but not booked on other traffic charges arising from the same incident and additional citations are being issued, write "**BOCC** (Booked on Companion Charges)" under the order-in section of the additional citation(s). This will alert the Court Detail personnel that there are additional citations for the defendant in the system. All paperwork for any additional citations will be turned in with the original charge for which the defendant was booked; this will include any minor misdemeanor citations for criminal violations (i.e., possession of marijuana). These citations should also have "**BOCC**" under the order-in section.
- C. A defendant who is not booked on the minor misdemeanor citation will have an order-in date written on the citation. "Booked on Companion Charges" will not apply.
- D. IDENTIFICATION ISSUES
1. According to State of Ohio vs. Satterwhite, Court of Appeals of Ohio, Second Appellate District, Montgomery County, January 25, 1996, the purpose of the identification exception is not to create a requirement that citizens carry papers (ID cards) to prove who they are. Its purpose is to provide officers with a means of reasonably assuring themselves that the person they are charging, and allowing to proceed on their way, will likely comply with the instructions on the citation. Thus, persons are not only required to say who they are, which is necessary for the citation, but to provide "satisfactory evidence" of their identity to the officer. This implies more than the accused's own verbal representations; it requires some form of additional corroborative evidence that is reasonably reliable.
 2. This issue is important because evidence of another crime may be found as a result of a search incident to an arrest made under the "identification exception". The courts rightfully wish to protect honest people from unnecessary arrest because they do not have some form of official identification with them. However, officers do not have to rely on a person's own representations (their word). The person must provide some form of corroboration. The court is not specific in declaring what this corroborative evidence can be.
 3. Officers who physically arrest a person for a minor misdemeanor and find evidence of some other crime must articulate in the arrest report why they believe the person was not being truthful or was "stonewalling" them. Officers should also articulate why they were not reasonably assured of the person's identity.



II. WHEN TO USE A MINOR MISDEMEANOR CITATION

- A. Minor misdemeanor citations are used whenever an officer feels enforcement action is necessary to handle a minor misdemeanor offense for both adult and juvenile violators.
- B. The minor misdemeanor citation is to be used only for juveniles ordered into the JJC (Juvenile Justice Center). Juveniles will not be arrested only on a minor misdemeanor violation. If there is an additional violation besides minor misdemeanor charges, a DIBRS (Dayton Incident Based Reporting System) report of arrest, containing all of the details including the information on the minor misdemeanor charge, will be submitted. When a report of arrest containing a minor misdemeanor charge is submitted, no minor misdemeanor citation will be issued.

III. VIOLATOR'S ALTERNATIVES

- A. Adult violator's instructions are printed on the back of their copy of the citation.
- B. The juvenile violator will be notified by the Montgomery County Juvenile Court when they are required to appear.

IV. MINOR MISDEMEANOR CITATION PROCEDURE

Minor misdemeanor citations are affidavits in a court of law. For the citations to be considered valid, the appropriate charge, wording and section(s) are required. (e.g., Public Intoxication, To wit: "Was found in an unlawful state of intoxication in a public place" RCGO 90.14). Merely writing a charge (e.g., "Public Intox") will not suffice for probable cause wording. Refer to the ORC or RCGO (Revised Code of General Ordinances) of the City of Dayton for appropriate statutes.

A. Police Officer's Responsibility

- i. Block print / type all entries on the citation except the officer's signature. The charge wording sections are required in the center open section of the citation.
- a. Adult order-in date for minor misdemeanor citations is ten (10) days from the date of violation (except weekends and holidays), at 1000 hours.
- b. Juvenile order-in is "TBN (To Be Notified)".
- 2. On the pre-printed citations (not eCitations), have the defendant sign the citation on the line provided on the right side.
- 3. Explain the options for disposing of the citation to the defendant.
 - a. Defendant may wait three (3) days before the Court date and pay the fine.
 - b. Defendant may appear in court on the order-in date and enter a plea.
- 4. Give the copy labeled, "DEFENDANT" to the offender.
- 5. Explain that failure to appear on or before the Court date may subject the offender to physical arrest.
- 6. Complete the Court's and Record's copies of the citation.
 - a. List additional officers, co-defendants, and any tagged evidence.
 - b. Write / type additional comments on the lines provided on the back of the citation.
- 7. DIBRS reports must be made for all minor misdemeanors when a CITIZEN is the complainant. Utilize



the summons procedure as in other misdemeanor offenses, where applicable.

B. Data Preparation Responsibility

The Data Preparation Unit is responsible for entering the record of the pre-printed minor misdemeanor citation into the MIS (Management Information System) and any further processing.