



DEPARTMENTAL
GENERAL
ORDER

M-7

Rev.
25 Oct 96

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CITATIONS FOR ADULT MISDEMEANORS

The purpose of this order is to set forth circumstances under which arresting and booking officers may issue or deny citations for adult misdemeanor offenses.

I. DEFINITIONS

- A. **Misdemeanor**, as used in this order, shall mean any offense punishable by fine or imprisonment in a county jail for not more than six months and/or by fine not exceeding \$1,000 (Penal Code Section 19). Those offenses that are punishable as either a misdemeanor or a felony shall be handled as felonies.
- B. **Arrest**, as used in this order, shall mean taking a person into temporary custody in the field either by actual restraint or by the person's submission to detention.
- C. **Physical arrest**, as used in this order, shall mean taking a person into custody **and** transporting him/her to the jail.
- D. A **citation** is a Notice to Appear (836-001) which releases an arrested person and directs him/her to appear in court on a particular day to respond to the arrest charge. Citations may be issued after either an arrest or a physical arrest; that is, they may be issued in the field or at the jail.
- E. An **adult** is a person 18 years of age or older.

II. GENERAL POLICY

- A. It shall be Departmental policy to issue citations for misdemeanor offenses or following a citizen's arrest for a misdemeanor offense

unless one or more of the criteria set forth in Part III of this order exist.

- B. Persons arrested for infractions shall be cited pursuant to Penal Code Section 853.5 unless they refuse to sign the citation or fail to present satisfactory personal identification.
- C. Misdemeanor offenders shall not be detained in the jail merely upon the request of an arresting officer. Jail Section supervisory personnel shall base a decision to detain or release an offender on the Departmental criteria set forth in Part III of this order.

III. CRITERIA FOR PHYSICAL ARREST/GROUNDS FOR DENYING FIELD AND JAIL CITATION

	<u>Circumstances for Physical Arrest</u>	<u>Authority for Denying Citation</u>	<u>Misdemeanor Warrants</u>
A.	The person is a danger to him/herself or others due to intoxication or being under the influence of drugs or narcotics (VC 23152/3 violations - refer to General Order P-2 for chemical testing and Admin Per Se license suspension procedures)	853.6i (1)	827.1(e)
B.	The person requires medical examination or medical care or is otherwise unable to care for his/her own safety (including H&S 11550, PC 647(f))	853.6i (2)	827.1(f)
C.	The person cannot provide satisfactory evidence of personal identification	853.6i(5) VC 40302(a)	827.1(j)
D.	The person refuses to sign the citation (VC 40302b) or demands to be taken before a magistrate (VC 40302c); and any circumstance(s) listed under VC 40303	853.6i(3) 853.6i(8)	827.1(i)
E.	The prosecution of the offense(s) for which the person is arrested, or the prosecution of any other offense(s) would be jeopardized by immediate release of the person arrested	853.6i(6)	

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	<u>Circumstances for Physical Arrest (Cont'd)</u>	<u>Authority for Denying Citation</u>	<u>Misdemeanor Warrants</u>
F.	The person is wanted for parole and/or probation violations	Department Policy	
G.	There is reason to believe that the person will fail to appear in court if released on citation. The basis for this determination shall be specifically stated on the offense report.	853.6i(9)	
H.	There is reasonable likelihood that the offense would continue or resume or that the safety of persons or property would be immediately endangered by the release of the person. Offenses which the Department determines to be continuous include but are not limited to: <ol style="list-style-type: none">1. Prostitution, PC 647(b)2. Soliciting/engaging in lewd act, PC 647(a)3. Indecent exposure, PC 314.14. Encouraging to commit indecent exposure, PC 314.25. Keeping/residing in house of ill fame, PC 3156. Keeping a disorderly house, PC 3167. Prevailing upon one to visit a place of prostitution, PC 3188. An addict or habitual shoplifter9. Violating a protective court order involving domestic violence, PC 853.6(a)10. Panhandling	853.6i(7)	827.1(h)
I.	The warrant of arrest indicates that the person is not eligible to be released on a citation		827.1(k)

	<u>Circumstances for Physical Arrest (Cont'd)</u>	<u>Authority for Denying Citation</u>	<u>Misdemeanor Warrants</u>
J.	The misdemeanor cited in the warrant involves violence (Refer to General Order E-4, DOMESTIC VIOLENCE, regarding criteria for making misdemeanor arrest and citation release in domestic violence/dispute cases)		827.1(a)
K.	The misdemeanor cited in the warrant involves a firearm		827.1(b)
L.	The misdemeanor cited in the warrant involves giving false information to a peace officer		827.1(d)
M.	The misdemeanor cited in the warrant involves resisting arrest		827.1(c)
N.	The person designated in the warrant has other ineligible charges against him/her		827.1(g)

IV. PROCEDURES FOR ISSUING FIELD CITATIONS

- A. A warrant check shall be made before the member determines whether the detained person is eligible to be cited.
- B. Offender's Eligibility to Receive Citation
 - 1. Persons who meet any of the criteria set forth in Part III are ineligible for a field citation.
 - 2. In the event that a person is ineligible to be cited, the member shall state the reason for the physical arrest in the narrative portion of the Arrest Report (536-252).
 - 3. If there are multiple charges, a person must be eligible for citation release on each charge. If the person is taken into

custody, additional citable offenses, if any, shall be noted on the Arrest Report.

4. The above instructions do not apply to juveniles or to diplomatic and consular officials. [Departmental General Order O-3, PROCESSING JUVENILE OFFENDERS](#), addresses juvenile citations and Training Bulletin III-O discusses Diplomatic Immunity.

C. Issuing Field Citations on Misdemeanor Warrants

1. Whenever a warrant check reveals that a detained person is wanted on a misdemeanor warrant, the detaining member shall determine whether the offender is eligible to be cited based upon the conditions set forth in Part IV, B, of this order. If the offender is not cited, the member shall document the reason on an Arrest Report.
2. If the offender is eligible for a citation release, the member shall telephone or radio the Fugitive/Warrants Unit for warrant confirmation and obtain the following information:
 - a) Whether the warrant states that the person is eligible to be cited,
 - b) If the person is eligible to be cited, the:
 - (1) Court name and location.
 - (2) Date and time the offender is to appear. (If more than one person is charged with the commission of a misdemeanor in connection with the same incident, those who are cited shall be assigned the same court date, if possible. Court information for local warrants is printed on the daily "Hot Sheet.")
 - (3) Docket number.

D. Completing and Depositing Citations

1. Misdemeanor Offense - the member shall complete and deposit the citation form (836-001) and any other required offense reports according to Report Writing Manual Insert N-1, Notice to Appear - Misdemeanor Citation.
2. Traffic Violations - the member shall complete and deposit the citation form (836-001) and any other required offense reports according to Report Writing Manual Insert N-2, Notice to Appear - Traffic Citation.
3. If the offender is ineligible to be cited and is physically arrested, the member shall complete an offense report and an Arrest Report (536-252).
4. Do not complete an Arrest Report if a citation is issued.

V. CITATION/REPORT PROCESSING PROCEDURES

- A. Individuals who are cited and released in the field shall be given the pink copy of the citation.
- B. The citing officer shall attach the original and yellow copy of the citation to the offense report, if any, and deposit it in the basement report receptacle. The original and yellow copy of citations resulting from warrant arrests shall also be deposited in the basement report receptacle.
 1. Erroneously completed field citations for non-traffic offenses shall be voided and deposited in the basement report receptacle with documentation explaining the reason for voiding the citation. The word "void" shall be stamped or written across the face of each copy of the citation. The Bureau of Field Operations Commander shall designate a supervisory officer to review all voided non-traffic citations for control purposes.
 2. All copies of erroneously completed traffic citations shall be attached to a written report or interoffice letter setting forth the circumstances and delivered directly to the Traffic

Operations Section. The word "void" **shall not** be written across any copy of the citation.

VI. JAIL CITATIONS

- A. Persons who are physically arrested on misdemeanor offenses/warrants shall be reevaluated for eligibility for citation release according to the criteria set forth in Part III.
- B. All misdemeanor offenders who are physically arrested shall be booked before they are released, except as follows:
 - 1. Persons arrested for no more than two minor traffic warrants who post bail or arrange for bail within three hours following their arrests (VC 40304.5). If the person has funds to cover the bail, the arresting or transporting officer shall escort the person to the Jail Section administrative office or Records Section and stand by until bail is posted.
 - 2. Persons released under the authority of Penal Code Section 849(b) prior to booking.
- C. The Jail Section commander may elect to cite and release persons arrested for charges listed under Part III, H, when the number of prisoners held in the jail approaches or reaches maximum capacity.
- D. If a Jail Section sergeant decides to cite the offender, he/she shall:
 - 1. Write the required court information on the jail citation before giving the offender the copy.
 - 2. If there is a warrant, mail a copy of the citation and the abstract or original warrant to the proper jurisdiction.

By order of

Joseph Samuels, Jr.
Chief of Police
BWGO8/M-7