

Cite and Release Policy

410.1 PURPOSE AND SCOPE

This policy provides guidance on when to release adults who are arrested for a criminal misdemeanor offense on a written notice to appear (citation) and when to hold for court or bail. This policy will also provide guidance on when to use written advisal notices in lieu of a written notice to appear (citation).

410.2 POLICY

It is the policy of the Santa Monica Police Department to release all persons arrested on misdemeanor or other qualifying charges on a citation with certain exceptions (Penal Code § 853.6).

If there is a reason for non-release, the Department's mission to protect the community will be the primary consideration when determining whether to release any individual in lieu of holding for court or bail.

The Santa Monica Police Department developed written advisal notices to provide discretionary options for officers conducting enforcement in the field. The goal of these written advisal notices is to document the violation, to educate the violator and to provide them resources and services.

410.3 STATUTORY REQUIREMENTS

Citation releases are authorized by Penal Code § 853.6. Release by citation for misdemeanor offenses can be accomplished in two separate ways:

- (a) A field release is when the violator is released in the field without being transported to a jail facility.
- (b) A jail release is when a violator is released after being transported to the jail and booked.

410.4 RELEASE BY CITATION

Except in cases where a reason for non-release as described below exists, adults arrested for a misdemeanor offense, including a private person's arrest, shall be released from custody on a citation (Penal Code § 853.6).

The citing officer shall, at the time the defendant signs the notice to appear, call attention to the time and place for appearance and take any other steps they deem necessary to ensure that the defendant understands their written promise to appear.

410.4.1 FIELD CITATIONS

In most cases an adult arrested for a misdemeanor offense may be released in the field on a citation in lieu of physical arrest when booking and fingerprinting is not practicable or immediately required provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present

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(Penal Code § 853.6; Penal Code § 1270.1). In such cases the arresting officer should check the booking required box on the citation form to indicate that the person will be photographed and fingerprinted at a later time when ordered by the court.

When a booking photo or fingerprints are needed for the furtherance of any investigation, the person should be released on citation after booking instead of on a field citation.

410.4.2 RELEASE AFTER BOOKING

In some cases, it may be impractical to release a person arrested for misdemeanor offenses in the field. The person arrested may instead be released on citation after booking at the jail, with approval from the Watch Commander. Any person arrested for a misdemeanor offense shall be released on his/her written promise to appear after the booking procedure is completed, unless he/she is disqualified for release based on the reason(s) listed below.

410.5 NON-RELEASE

410.5.1 DISQUALIFYING OFFENSES

An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

- (a) Misdemeanor domestic battery (Penal Code § 243(e)(1))
- (b) Felony domestic battery (Penal Code § 273.5)
- (c) Serious or violent felonies (Penal Code § 1270.1(a)(1))
- (d) Felony intimidation of witnesses and victims (Penal Code § 136.1)
- (e) Violation of a protective order and the arrested person has made threats, used violence, or has gone to the protected person's workplace or residence (Penal Code § 273.6)
- (f) Stalking (Penal Code § 646.9)
- (g) Misdemeanor violations of a protective order relating to domestic violence if there is a reasonable likelihood the offense will continue or the safety of the individuals or property would be endangered (Penal Code § 853.6)

410.5.2 REASONS FOR NON-RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The Watch Commander may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the Department and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

- (a) The person arrested is so intoxicated that they could be a danger to themselves or to others. Release may occur as soon as this condition no longer exists.

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- (b) The person arrested requires medical examination or medical care or is otherwise unable to care for their own safety
 - 1. The Santa Monica Police Department shall not release an arrestee from custody for the purpose of allowing that person to seek medical care at a hospital, and then immediately re-arrest the same individual upon discharge from the hospital, unless the hospital determines this action will enable it to bill and collect from a third-party payment source (Penal Code § 4011.10).
- (c) The person is arrested for one or more of the offenses listed in Vehicle Code § 40302, Vehicle Code § 40303, and Vehicle Code § 40305.
- (d) There are one or more outstanding arrest warrants for the person (see Misdemeanor Warrants elsewhere in this policy).
- (e) The person could not provide satisfactory evidence of personal identification.
 - 1. If a person released on citation does not have satisfactory identification in their possession, a right thumbprint or fingerprint should be obtained on the citation form.
- (f) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by the immediate release of the person arrested.
- (g) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.
- (h) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.
- (i) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically documented. Reasons may include:
 - (a) Previous failure to appear is on record
 - (b) The person lacks ties to the area, such as a residence, job, or family
 - (c) Unusual circumstances lead the officer responsible for the release of arrested persons to conclude that the suspect should be held for further investigation
- (j) A previous conviction, citation, or arrest for misdemeanor or felony retail theft from a store in the previous six months.
- (k) There is probable cause to believe that the person arrested is guilty of committing organized retail theft.

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the Watch Commander for approval and included with the case file in the Records Unit.

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410.6 MISDEMEANOR WARRANTS

An adult arrested on a misdemeanor warrant may be released, subject to Watch Commander approval, unless any of the following conditions exist:

- (a) The misdemeanor cited in the warrant involves violence.
- (b) The misdemeanor cited in the warrant involves a firearm.
- (c) The misdemeanor cited in the warrant involves resisting arrest.
- (d) The misdemeanor cited in the warrant involves giving false information to a peace officer.
- (e) The person arrested is a danger to themselves or others due to intoxication or being under the influence of drugs or narcotics.
- (f) The person requires medical examination or medical care or was otherwise unable to care for their own safety.
- (g) The person has other ineligible charges pending against themselves.
- (h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.
- (i) The person refuses to sign the notice to appear.
- (j) The person cannot provide satisfactory evidence of personal identification.
- (k) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear.

Release under this section shall be done in accordance with the provisions of this policy.

410.7 JUVENILE CITATIONS

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- Misdemeanor traffic violations of the Vehicle Code
- Violations of the Santa Monica City codes

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Criminal Investigations Division/Youth Services Section for further action including diversion.

410.8 REQUESTING INCIDENT NUMBERS

Many cases involving a criminal citation release can be handled without requesting an incident number. Traffic situations and local code violations can be documented on the reverse side of the records copy of the citation. Most Penal Code sections will require an incident number to document the incident properly in a report. This section does not preclude a sworn officer from requesting an incident number if the officer feels the situation should be documented more thoroughly in a report.

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410.9 WRITTEN ADVISAL NOTICE

Officers may issue written advisal notice forms in lieu of issuing a citation notice to appear in court for non-violent misdemeanors and infractions.

Written Advisal Notice Forms shall **not** be issued for any of the following:

- Any felony or felony/misdemeanor wobbler
- Incidents involving a use of force
- Battery on persons defined under 243(f)(1)PC through 243(f)(14)PC.
- Private persons arrests
- Restraining order violations
- Sex offender violations
- Outstanding warrants
- Person(s) under the influence of alcohol and or drugs
- Juveniles who have committed non-traffic related offenses

The officer should advise the person they are being issued a written advisal notice and not a notice to appear citation. The officer should also advise the person if they continue to commit the offense for which they have received a written advisal notice, then they could be subject to further enforcement action.

410.9.1 COMPLETION OF WRITTEN ADVISAL NOTIFICATION FORMS

Written advisal notice forms should be filled out as thorough as possible. The advising officer should positively identify the person in order to issue the written advisal notice.

The signature of the person is not required when issuing a written advisal notice. In the event a person refuses to sign the written advisal notice, the advising officer will process a person's unsigned written advisal by writing "REFUSED" in the violators signature line.

410.9.2 DISPOSITION OF WRITTEN ADVISALS

The processing and file copies of all written advisal notices issued by officers of this department shall be forwarded to the employee's immediate supervisor for review. The advisal copies shall be filed with the Records Unit.