

## Cite and Release Policy

### 413.1 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.

### 413.2 POLICY

It is the policy of the South San Francisco 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.

### 413.3 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.

#### 413.3.1 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 (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.

#### 413.3.2 RELEASE AFTER BOOKING

In some cases it may not be feasible or desirable to release a person in the field. The person should instead be released on citation after booking at the jail. All bookings shall be approved by the Watch Commander or the authorized designee.

#### 413.3.3 TRAFFIC VIOLATIONS

Officers shall issue traffic citations or make physical arrests as per Sections 40302 C.V.C. (Mandatory Appearance) or 40303 C.V.C. (Optional Appearance). Misdemeanor citations may be

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issued to persons arrested for 23152 C.V.C. violations if the violator is booked into First Chance. Violators contacted for 20002 C.V.C. or 31 C.V.C. can be cited and released with the promise to be booked at the station on a later date.

#### 413.3.4 SSFPD MISDEMEANOR CITATION & RELEASE PROCEDURES

##### Booking - Fingerprints and Photograph

- (a) If the subject being arrested is being released with a notice to appear for a bookable offense, then the subject must be either immediately fingerprinted and photographed before their release or they must be provided with a booking information form so they can be booked later.
- (b) If the arrestee was fingerprinted and photographed at the time of their arrest, the booking officer shall complete a proof of booking form (#OD01-938) and provide the arrestee with the top yellow copy and advise him/her to take it with them to court. The white copy goes to Records for filing in the subject's I.D. jacket (stapled to the citation).
- (c) If the arrestee is not booked at the time of arrest, the citing officer will provide the person with a copy of Form SSFPD-OD-15-859, "Booking Information", and will tell the arrestee they must respond to the SSFPD for booking as directed.

##### Appearance Date

- (a) In order to remain consistent with the Release on Own Recognizance procedure, the appearance date on the notice to appear will be the same as per jail cite and release procedures. The appearance date will be 60 days after the date of the issuance of the citation, and it will be the day of the week specified by the Northern Judicial District and the District Attorney's Office.
- (b) When more than one person is being issued a notice to appear and released for misdemeanor offenses arising out of one related incident, then the officer should give the same appearance date to all the defendants in order for consistency for the District Attorney's office.
- (c) The citing officer shall, at the time he/she asks the defendant to sign the notice to appear, call attention to the time and place for appearance and take any other steps he/she deems necessary to ensure that the defendant understands his/her written promise to appear.

##### Routing Procedure for the Notice to Appear

- (a) Copy #1 (white) will be forwarded to the District Attorney's Office by Records personnel.
- (b) Copy #2 (yellow) shall be given to the defendant
- (c) Copy #3 (hard card) will be scanned by Records to the police report and to their RIMS persons file. Records will then file the hard card in the suspect's ID jacket (if they have an old ID number) or delivered to the Administrative Assistants for filing (if they don't have an old ID jacket).

##### Processing of Misdemeanor Citations

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- (a) The initiating Officer shall attach the first and third copies of the notice to appear to completed case report, enter the citation number onto the arrest tab in RIMS, and then give the case report to the Supervisor for review and approval.
- (b) Records Specialists - Refer to Records Procedure No. 85-002.

### Completing the Booking Process

- (a) In addition to several other steps to be taken by Records Specialists, the following procedure is to be followed by Patrol personnel when booking subjects who have been issued misdemeanor citations.
- (b) When booking (full fingerprints and photograph) is done prior to releasing an arrestee, the arresting officer will:
  - (a) Take a mug shot of subject.
  - (b) Have Communications run subject through computer for rap sheet, warrants, etc.
  - (c) Fingerprint the subject using Live Scan. When executed, a fingerprint card will be printed from the "copy room" printer. The card will be given to Records Specialists who will file it.

## **413.4 NON-RELEASE**

### **413.4.1 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)

### **413.4.2 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

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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.
- (b) The person arrested requires medical examination or medical care or is otherwise unable to care for their own safety.
- (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:
  - 1. Previous failure to appear is on record
  - 2. The person lacks ties to the area, such as a residence, job, or family
  - 3. 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 Division.

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### **413.5 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.

### **413.6 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 South San Francisco 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 Bureau for further action including diversion.