


DPS STANDARD OPERATING PROCEDURE			
	SUBJECT:	SECTION(s):	DISTRIBUTION:
	APPEARANCE TICKETS DPS SOP 2011-33	ALL	ALL PERSONNEL
ISSUING AUTHORITY:		EFFECTIVE DATE:	SUPERSEDES:
ROBERT MALDONADO CHIEF OF PUBLIC SAFETY (ELECTRONICALLY SIGNED)		AUGUST 25, 2011 Revised Date: December 17, 2019	REVIEWED/REVISED RE WARRANTS PG. 4, CALEA, IACLEA

Appearance Tickets

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NO PRIMARY IACLEA STANDARDS

NO PRIMARY CALEA STANDARDS

REFERENCES:

- NYS Criminal Procedure Law Section 150 Appearance Tickets
- SOP 2009-05 Arrest, Detention and Transportation of Prisoners
- Petit Larceny Appearance Ticket Form (in Forms folder on G Drive)

ATTACHMENTS: None

I. APPLICABILITY: This Standard Operating Procedure is applicable to all Syracuse University Department of Public Safety personnel.

II. PURPOSE: The purpose of this policy is to establish departmental procedure and guide the action of all members of the Syracuse University Department of Public Safety regarding the use of appearance tickets as an alternative to an “in custody”, physical arrest. The Department encourages the use of appearance tickets as an alternative to a physical arrest for eligible offenses as permitted by law and wherein the release is not anticipated to result in another violation of law, or would pose a substantial risk to the subject, another citizen, to private property or the University.

III. POLICY: It is the policy of the Syracuse University Department of Public Safety to issue appearance tickets in lieu of custodial arrest for an eligible violation of law whenever practical, and in the officer’s discretion that such release will create no further law enforcement or safety problems.

IV. DEFINITIONS:

- A. Appearance Ticket:** An appearance ticket is a written notice issued and subscribed by a police officer, peace officer or other public servant authorized by State Law or Local Law enacted pursuant to the provisions of the municipal home law to issue the same directing a designated person to appear in a designated local criminal court at a designated future time in connection with his/her alleged commission of a designated offense.

A notice conforming to such definition constitutes an appearance ticket regardless of whether it is referred to in some other provision of law as a summons or by any other name or title (NYS CPL SECTION 150.10).

- B. Local Law Appearance Ticket:** A City of Syracuse Appearance Ticket may be issued for a violation of any local law/ordinance occurring within the City of Syracuse, which is answerable in City Court Criminal Division.
- C. Petit Larceny Appearance Ticket:** The Petit Larceny Appearance Ticket will be used for a simple petit larceny occurring in the City of Syracuse, when no other criminal charges are associated with the case. The form is a four-part form that will constitute the Incident Report, court Information, Arrest Report and Appearance Ticket all in one.

- D. Principal:** A defendant in a criminal action or proceeding, or a person adjudged a material witness therein, or any other person so involved therein. **(12/18/19)**
- E. RELEASE ON OWN RECOGNIZANCE:** A court releases a principal on [his/her] own recognizance when, having acquired control over his/her person, the court permits him/her to be at liberty during the pendency of the criminal action or proceeding involved upon condition that he/she will appear whenever his/her attendance may be required. **(12/18/19)**

V. PROCEDURES: APPEARANCE TICKETS:

A. Appearance Tickets: Types and Authorized Uses:

1. Appearance Tickets (as defined by the NYS CPL above) May be Issued for the Following Offenses: If a defendant is charged with a misdemeanor or a Class E felony, the arresting officer must issue an appearance ticket also referred to as a Desk Appearance Ticket (DAT), which allows the defendant to be released and then return to court on a preset arraignment date. This date must be no more than 20 days later, unless the defendant is participating in a pre-arraignment diversion program that requires more time. There are several exceptions to appearance ticket eligibility:
 - a. Domestic violence cases.
 - b. Sex offense cases.
 - c. Several Class E felony charges that involve either escape from custody or bail jumping. (Outlined in Section C)
 - d. Cases where it is reasonably expected that an order of protection will be issued.
 - e. Cases where the defendant has an outstanding warrant or history of failing to appear in court.
 - f. Cases where a drivers license may be suspended or revoked.
 - g. Cases where the defendant cannot establish identity – although a formal photo identification is not required.
 - h. If the defendant appears to "face harm without immediate medical or mental health care". **(12/18/19)**
2. A Local Law Appearance Ticket (City of Syracuse) may be issued for a violation of any local law occurring within the City of Syracuse, which is answerable in City Court Criminal Division.
 - a. Use of this form shall not be authorized, without supervisory or command approval in the following circumstances:
 - i. Where there are additional penal law charges filed or pending;
 - ii. Where there is evidence to be recovered or;
 - iii. If there are circumstances requiring the preparation of an Incident Report.

3. Petit Larceny Appearance Ticket: (City of Syracuse) The Petit Larceny Appearance Ticket will be used for a simple petit larceny occurring in the City of Syracuse, when no other criminal charges associated with the case.
 - a. The form is a four-part form that will constitute the Incident Report, ("15"), court information, arrest report and appearance ticket all in one.
 - b. If the officer is the deponent, he/she completes the body of the form as usual, signs as deponent and attaches the statement of prosecution from the victim.
 - c. If the victim is the deponent, he/she completes/dictates the body of the form and signs as the deponent. No attachments are needed. It is based on personal knowledge/observation.
 - d. In both situations, the officer and supervisor should sign name and include ID number.
 - e. The officers will need to complete a DA checklist, add any property maintained as evidence to BEAST and a copy of property form will need to be added to this case and a Supplemental Report completed to cover the notifications made.
 - f. Any affidavits associated with the case are to be included in court case and added in narrative of the Supplemental Report.
 - g. Complete Aegis CAD Summary
4. In instances where an appearance ticket, uniform traffic ticket or parking ticket could have been issued but an arrest is made instead, the reason for such action shall be recorded in the Incident Report as well as on the accompanying arrest report.

B. Checking The Defendant For Warrants Before Release:

1. After an officer establishes the identity of the defendant and before the officer issues an Appearance Ticket in lieu of physical arrest resulting in the release of the subject, the officer must first conduct a warrant check. This is to ensure the defendant is not the subject of an active arrest warrant before the subject is released on an appearance ticket.
2. If the check indicates that the defendant has an outstanding warrant the officer will immediately contact the warrant originating agency regarding the circumstances relating to their contact with the subject. An appearance ticket may be issued if either the subject is TOT a police agency on the warrant or if the subject is to be released without the warrant being executed. The situation will be described in detail in the reports of the incident.

Refer to the Warrant Section of SOP 2009-05 Arrest, Detention and Transport of Prisoners for detailed instructions.

C. Appearance Tickets: Requirements Regarding Issuance:

1. All Elements for Arrests Present: All the elements necessary to make a legal arrest must exist before an appearance ticket can be issued.
2. Identity MUST be Well Established: An appearance ticket will not be issued (custodial arrest required) when there is a reasonable uncertainty as to the identity of the person charged relating to the negative wants and warrant check based on that identity.
3. After Physical Arrest Because of New Information/Circumstances: When the defendant has been physically arrested and the condition for such arrest and/or detention has been resolved (i.e. intoxication, identity uncertain, etc.) an appearance ticket may be issued where allowed by law.
4. Unlawful Possession of Marijuana: When a defendant has been arrested for Unlawful Possession of Marijuana (Penal Law 221.05) and no other offense is charged, an appearance ticket must be issued
5. Most Felonies Ineligible: No appearance ticket will be issued for any class A, B, C or D felony.
6. Exceptions: An appearance ticket will be issued for all offenses other than class A, B, C or D felonies or a violation of the following: **(12/18/19)**
 - a. Rape in the third degree NYSPL 130.25. (Class E Felony)
 - b. Criminal Sex Act in the third degree NYSPL 130.40. (Class E Felony)
 - c. Escape in the second degree NYSPL 205.10. (Class E Felony)
 - d. Absconding from temporary release in the first degree NYSPL 205.17. (Class E Felony)
 - e. Absconding from a community treatment facility NYSPL 205.19. (Class E Felony)
 - f. Bail jumping in the second degree NYSPL 215.56. (Class E Felony)
7. Intoxicated and Danger to Self or Others: An appearance ticket will not be issued to a defendant (a custodial arrest is required) at a time when such person appears to under the influence of alcohol, narcotics or other drugs to the degree that he/she may endanger him/herself or another person.
8. Domestic Incident: An appearance ticket will not be issued (custodial arrest required) when parties are involved in a Domestic Incident or Domestic Violence Act.

D. Duties and Responsibilities of Issuing Officer:

1. "Arrestable" Offense: The officer issuing an appearance ticket must be sure that all the elements of an offense necessary to make a legal arrest exist before an appearance ticket are issued.

- a. When responding to a petit larceny shoplifting or other arrest by a citizen, the officer must determine if the arrest is valid.
 - b. Note: As a DPS Peace Officer, acting pursuant to their special duties and operating within our Geographical Area of Employment (GAOE) we have authority under law to accept custody of a person detained under a citizen's arrest for any offense relating to 'Prevention of crime and the enforcement of law and order'. (CPL140.25 2b). Reference is made to SOP 2009-05 Arrest, Detention & Transportation of Prisoners for details on citizen arrest procedures.
 - c. If the elements of the crime are still present the subject may be arrested by the DPS Officer under authority of 140.25 CPL, Arrest Without a Warrant, if supported by a signed deposition from the citizen.
2. Check Eligibility Closely The officer(s) will check to see if any of the conditions outlined in the previous section of this SOP, Section C Appearance Tickets Requirements for Issue, exist before issuing an appearance ticket.
 3. Contact Information: Before issuing an appearance ticket an officer must inform the arrestee that they may provide their contact information for the purposes of receiving a court notification to remind them of their court appearance date from the court or pretrial services agency. Such contact information may include one or more phone numbers, a residential address or address at which the arrestee receives mail or an email address. The contact information shall be recorded and be transmitted to the local criminal court.
 4. Reports: All the reporting procedures that apply to any investigation that results in an arrest, Incident Report, Arrest Report, [State of New York], affidavits, interviews, etc. also apply when an appearance ticket is issued.
 5. When making reports for an arrest by a citizen, officers will include in the INCIDENT REPORT all available information regarding evidential property, such as serial numbers, make, model, color, etc.
 - a. The responding officer will prepare the Arrest Report and have the citizen making the arrest sign the report as the arresting person.
 - b. The officer will complete the arrest report and indicate in the body of the report that the arrest is a citizen's arrest.
 - c. The officer will complete a Court Information alleging the facts of the offense as described by the arresting citizen.
 - d. The citizen will sign the Information as the complainant. In instances where an appearance ticket is to be issued, the officer will sign the appearance ticket.
 6. Reporting Requirements: When an arrest is made for a violation of a general ordinance of the City of Syracuse, a misdemeanor or E felony (when allowed by law) and an appearance ticket is not issued, the arresting officer must document in the Incident Report the reason(s) for not issuing the appearance ticket.

- a. Tickets issued by an Officer during a tour of duty shall be entered on Appearance Ticket Log before going off duty.
7. Supervisory Approval Required before Appearance Ticket Issuance: Once the information necessary for the issuance of an appearance ticket arrest is gathered and or the necessary reports are completed, the officer will provide their Patrol Sergeant with this information and or accompanying reports for approval.
8. Return Date: An appearance ticket must be made returnable at a date as soon as possible, but in no event later than twenty days from the date of issuance, or at a later date, with the court's permission due to enrollment in a pre-arraignment diversion program. The appearance ticket shall be made returnable in a local criminal court. **(12/18/19)**
9. A peace officer who has issued and served an appearance ticket at the scene, must within twenty-four hours of issuance, file or cause to be filed with the local criminal court the appearance ticket, an accusatory instrument and any contact information of the defendant. **(12/18/19)**

E. Duties and Responsibilities of the Patrol Sergeant:

1. Approve the Appearance Ticket Issuance: Once the officer has accomplished requisite information necessary for the issuance of an appearance ticket and or the necessary reports are completed, the Patrol Sergeant will review the information and either approve the issue of the appearance ticket or suggest what the appropriate course of action is.
2. Patrol Sergeant to Seek Additional Guidance if in Doubt: If there is any question as to whether an appearance ticket should or should not be issued, the Patrol Sergeant shall contact the Duty Officer for direction.

F. Administrative Control Of Appearance Tickets:

1. Each Patrol Sergeant will ensure that he/she has a minimum of five appearance tickets available while on duty.
2. Appearance tickets are pre-numbered and an appearance ticket control form is utilized to record appearance tickets that are issued to officers.
 - a. Appearance Ticket Logs shall be kept current and any Appearance Ticket issued by an Officer during a tour of duty shall be entered before going off duty.
3. Officers shall sign for the tickets issued and the shift supervisors, through the authority of the Patrol Commander, will exercise control over the tickets under their control.

G. Voiding an Appearance Ticket:

1. If an appearance ticket must be voided, the officer shall write the word "void" across the face of the ticket, explain the reason for the void in an Inter-Departmental-Memorandum and;

2. Submit the voided ticket and interdepartmental memorandum through channels to the Deputy Chief for Law Enforcement and Community Policing. (12/18/19)

POLICY REVISION HISTORY

NO	SECTION REVISED	DATE ISSUED
1	Reviewed and Revised re format/Titles	2/11/13
2	Reviewed/Revised re Petit Larceny Short Form, Summary	09/29/14
3	Reviewed/Revised re Petit Larceny Short Form/IACLEA	08/20/15
4	Reviewed/Revised re CALEA/IACLEA Warrants Pg. 4	08/08/17
5	Added requirements re: appearance tickets	12/17/19