

## Cite and Release Policy

### 411.1 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.

### 411.2 POLICY

It is the policy of the Shasta County Sheriff's Office 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.

#### 411.2.1 DISCRETION TO ARREST

While the Sheriff Office recognizes the statutory power of peace officers to make arrests throughout the state, deputies are encouraged to use sound discretion in the enforcement of the law. On-duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot and/or fresh pursuit, while following up on crimes committed within the County, or while assisting another agency. On-duty deputies who discover criminal activity outside the jurisdiction of the County should, when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

Off-duty deputies observing criminal activity should generally take enforcement action only when it reasonably appears that imminent risk to life or property exists and the reasonable opportunity does not exist to contact the law enforcement agency with primary jurisdiction. In such situations the involved deputy shall clearly identify him/herself as a sheriff's deputy.

Deputies are authorized to use verbal or written warnings to resolve minor traffic and criminal violations when appropriate.

### 411.3 DEPARTMENT PROCEDURE

The following procedure will be followed to comply with this law.

#### 411.3.1 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 deputy 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.

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### 411.3.2 JAIL RELEASE

In certain cases, it may be impractical to release a person arrested for misdemeanor offenses in the field. The person arrested may instead be released after booking at the jail, with Watch Commander approval.

Any person arrested for a misdemeanor offense shall be released on his/her written promise to appear after the booking procedure is completed, unless disqualified for reasons listed below.

### 411.3.3 DISQUALIFYING CIRCUMSTANCES

A person arrested for a misdemeanor shall be released on a notice to appear unless one of the following situations is present (Penal Code § 853.6(i)):

- (a) The person arrested is so intoxicated that he/she could be a danger to him/herself 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 his/her own safety
  1. The Shasta County Sheriff's Office 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, 40303 and 40305.
  1. Any person arrested for any offense listed in Vehicle Code § 40303(b) shall, in the judgment of the arresting deputy, either be given a 10 day notice to appear or be taken without delay before a magistrate in the county of arrest.
  2. If a person under Vehicle Code §§ 40303 or 40305 does not have satisfactory identification, the deputy may require the individual to provide a right thumbprint (or other finger). However such print may not be used for other than law enforcement purposes.
  3. Should any person arrested on a notice to appear claim under penalty of perjury not to be the person listed in the notice, such person may request that his/her thumbprint be taken for comparison at a fee not to exceed the actual cost of such service.
- (d) There are one or more outstanding arrest warrants for the person.
- (e) The person could not provide satisfactory evidence of personal identification.
- (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.

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- (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.
- (j) The charges fall under Penal Code § 1270.1 (serious or violent felonies, domestic violence, etc.)

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be properly documented on the booking form. This form shall be uploaded into Spillman as a file attachment for approval.

### 411.3.4 OTHER REASONS FOR NON-RELEASE

If the person arrested is not released for one or more of the reasons specified in Policy Manual § 420.33, the Deputy shall state specifically on the booking form the reason for non-release. Such reasons for non-release 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 deputy responsible for the release of prisoners to conclude that the suspect should be held for further investigation

### 411.3.5 INSTRUCTIONS TO CITED PERSON

The citing deputy 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.

## **411.4 CITATION RELEASE ON MISDEMEANOR WARRANTS**

Penal Code § 827.1 allows the release by citation of a person designated in a warrant of arrest unless one 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.

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- (e) The person arrested is a danger to himself or herself 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 his or her own safety
- (g) The person has other ineligible charges pending against him/her
- (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 section.

### **411.5 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 Shasta County County codes

All other misdemeanor violations for juveniles should be documented with a case number and the case should be referred to the Shasta County Probation Dept. for further action including diversion.