

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

MISDEMEANOR CITATIONS
SUBJECT

DATE: March 1, 2005

NO: P-12

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: **Misdemeanor Citations**
Citation Procedure

I. POLICY

Persons 18 years of age or older, who are arrested on misdemeanor charges, will be released on a "Promise to Appear" citation unless the offender qualifies for booking at the jail under one or more of the criteria for booking listed in this General Order.

II. LAW

- A. Officers will become familiar with Penal Code Section 853.6 which provides for releases on misdemeanor charges.
- B. Officers will become familiar with Penal Code Section 818 P.C. which provides the authority for citing persons on traffic warrants.

III. PROCEDURE

- A. It is the responsibility of the officer effecting the arrest or accepting a misdemeanor citizens arrest to determine if the offender is eligible for release.
- B. Persons arrested for a misdemeanor violation(s) will not be released on a citation if one or more of the following reasons for non-release is met:
 - 1. IDENTIFICATION: The subject can not provide satisfactory evidence of personal identification. (Officers must exhaust all available resources; Cal-I.D., Criminal History, CDL, RMS.)
 - 2. JEOPARDIZES PROSECUTION: The prosecution of the offense for which the subject was arrested would be jeopardized by the immediate release of the subject. (Requires explanation on the green narrative page of the booking slip.)
 - 3. SAFETY: Available information and observation of the subject indicates a likelihood that the offense(s) would continue or the safety of persons and/or property would be endangered by the subject's release.
 - 4. REFUSAL TO SIGN: The subject refuses to sign, or is unable to sign, the written "Promise to Appear".
 - 5. CHARGES/HOLDS: The subject has ineligible charges or holds pending. (This would pertain to additional non-citable charges and/or jurisdictional holds; i.e., parole violation, out of county warrant, etc.)
 - 6. ARREST: All subjects will be cited on all outstanding warrants unless the following is indicated:

- a. The warrant indicates "Mandatory Appearance Required".
 - b. The charge is for DUI and the subject has three (3) prior arrests for DUI and/or FTA's for DUI.
 - c. The warrant has a bail of \$20,000 or more.
 - d. The warrant indicates "No Bail".
 - e. The warrant indicates "Cash Bail Only". (This would be most often printed on warrants for SMC violations.)
7. SUPERVISORY DISCRETION: Based on the situation, or for possible liability reasons, a supervisor can authorize the booking or citing of an arrestee.
- C. When an offender is arrested, in lieu of being cited, the arresting officer will complete the misdemeanor incarceration section of the San Joaquin County Sheriff's Booking/Arrest report.
- 1. The officer shall document the non-release, of the offender, in the narrative of his/her arrest report.
- D. Misdemeanor Citation Procedure
- 1. The citing officer will clearly mark "Yes" or "No" in the box on the citation indicating "BOOKING REQUIRED". When "Yes" is written, the magistrate is required to have the defendant physically booked into county jail.
 - a. Generally a cited person will be booked on any charge for which incarceration is a possible punishment (except 11357b H&S, 647f P.C., 25662 B&P, and local ordinances).
 - b. An exception occurs when a subject would be booked but due to illness or injury has been, or will be, hospitalized for a period of time.
 - 2. The arresting officer will specifically advise the cited person of the date, time, and the place to appear. Also advise the cited person that failure to appear will constitute an additional violation.
 - a. Refer to current court schedule for dates and times to appear.
 - 3. All criminal offenses are to be cited to the Stockton Superior Court.
 - 4. The court date box must be checked and the date and time written in the space provided. The specific date will be determined using the current court schedule.
 - 5. The offender is given the yellow copy of the citation.
 - 6. When the offense involves petty theft, the citation must show what was stolen and its value. This is written in the space below the stated violation.
 - 7. Refer to General Order P-19 for policy and procedure regarding infraction warrants.