

**POLICY  
302**

**EFFECTIVE  
DATE  
01-01-14**

**Eugene  
Police Department**



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## Citations in Lieu of Custody

### 302.1 PURPOSE AND SCOPE

Pursuant to *Oregon Revised Statutes 133.055*, officers may issue a criminal citation to a person if the officer has probable cause to believe that the person has committed a misdemeanor or certain felonies. This policy governs only criminal citations.

### 302.2 STATUTORY REQUIREMENTS

In accordance with *ORS 181.515* the Eugene Police Department will not issue a citation in lieu of custody if the crime is a C felony, a misdemeanor crime involving sexual conduct, or is a violation of the Uniform Controlled Substances Act unless the suspect is fingerprinted and the fingerprints submitted to the Oregon State Police.

Officers may not issue a citation, even if fingerprinted, if any of the following circumstances apply:

- (a) The crime for which the suspect is under arrest is an A or B felony
- (b) The crime for which the suspect is under arrest is statutorily mandated to be physically arrested and lodged at a jail (APA, VRO, etc.)

Officers will cite offenders into the court before which they would appear if arrested. The citations must specify the time, date and court of appearance, and the court date shall not be later than 30 days after the citation was issued (*Oregon Revised Statutes 133.055 and 133.060*).

#### 302.2.1 DISCRETION TO ARREST

While this department recognizes the statutory power of peace officers to make arrests throughout the state, officers are encouraged to use sound discretion in the enforcement of the law. On-duty arrests will generally be made outside the boundaries of the city only in cases of hot and/or fresh pursuit, or while following up on crimes committed within the city or while assisting another agency. On-duty officers who discover criminal activity outside the jurisdiction of the City should consider contacting the agency having primary jurisdiction, when circumstances permit, before attempting an apprehension.

Off-duty officers observing criminal activity should only take enforcement action when it appears necessary to prevent imminent risk to life or significant property damage and the reasonable opportunity does not exist to contact the law enforcement agency with primary jurisdiction.

In such situations the involved officers shall clearly identify him or herself as a peace officer.

### **302.3 DEPARTMENT PROCEDURE**

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

#### **302.3.1 FIELD CITATIONS**

Upon obtaining satisfactory identification and verifying that there are no outstanding warrants for the individual, officers may issue citations to a person upon probable cause to believe that the person has committed a misdemeanor or has committed a felony eligible for citation under state law (see Section 302.2), unless there is a disqualifying reason making the person ineligible for citation (*ORS 133.055*.)

#### **302.3.2 DISQUALIFYING CIRCUMSTANCES**

In certain circumstances, cite and release may not be appropriate. Those situations include:

- (a) *Oregon Revised Statutes 133.055* specifically exempts persons arrested for assault or menacing at the scene of a domestic violence complaint. Those persons must be physically taken into custody and shall be transported and lodged at the jail.
- (b) The person has outstanding warrants for his or her arrest.
- (d) The investigation or prosecution of the offense or offenses for which the person was arrested, or the investigation or prosecution of any other offense or offenses, would be jeopardized by the immediate release of the person arrested.
- (e) 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.
- (f) The person has indicated they will not appear or there is other reason to believe that the person would not appear at the time and place specified in the citation. The basis for this determination shall be specifically stated such as:
  - 1. Previous history of failure to appear is documented.
  - 2. The person lacks ties to the area, such as a residence, job or family.
  - 3. The person initially provided a false name or identification or has previously used false names to avoid prosecution.

- (g) The person arrested is so intoxicated that he/she could be a danger to himself/herself or to others. (Release may occur as soon as this condition no longer exists.)
- (h) Unusual circumstances lead the officer to conclude that the suspect should be held for further investigation.

### **302.3.3 INSTRUCTIONS TO CITED PERSON**

The citing officer will, if practical to do so, call attention to the time and place for appearance and take any other reasonable steps he or she deems necessary to ensure that the defendant understands his or her written obligation to appear.

### **302.4 CITATIONS IN LIEU OF CUSTODY ON WARRANTS**

If the offense is not excluded under Oregon Revised Statutes 133.055, the court may authorize an officer to issue and serve a criminal citation in lieu of custody (*Oregon Revised Statutes 133.110.*) Officers should not issue citations under the following circumstances:

- (a) The crime cited in the warrant involves violence.
- (b) The crime cited in the warrant involves a firearm.
- (c) The crime cited in the warrant involves resisting arrest.
- (c) The crime cited in the warrant involves giving false information to an officer.
- (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 indicated they will not appear if released on a citation.
- (j) The person cannot provide satisfactory evidence of personal identification.
- (k) The warrant of arrest does not indicate that the person is eligible to be cited in lieu of custody.

### **302.5 JUVENILE CITATIONS**

Completion of criminal citations for juveniles is generally not required with the following exception: Misdemeanor traffic violations of the Vehicle Code should be cited through Municipal Court.

All other misdemeanor crimes for juveniles may be documented in a police report with a case number and the case should be referred to the Juvenile Court or appropriate investigative section for further action. There is no need to issue a Juvenile a Citation in Lieu of Custody; however, there may be fingerprint and/ or custody requirements. (Also see Policy 324, Temporary Custody of Juveniles.)