

County of Santa Clara

Office of the County Executive

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TO: Santa Clara County Police Chiefs Association

FROM: Office of the County Executive,
County of Santa Clara

RE: Recommended Standardized Intake and Release Guidelines

DATE: September 12, 2017

The Pre-Booking Diversion Working Group, which includes personnel from the Office of the Sheriff, Office of the District Attorney, Public Defender's Office, Office of Pretrial Services, and Reentry Services, have collaborated to revise the intake and release guidelines that will serve the needs of the various law enforcement agencies in Santa Clara County. It is intended that use of these guidelines will provide greater consistency and also effect cost savings, both in terms of officer time for transportation and in the number of individuals processed at the County Jail.

Recommendation: The Police Chiefs Association adopt these guidelines and establish them as appropriate in their individual agencies.

Recommended Guideline

GUIDELINE: It is the intention of the law enforcement agencies of Santa Clara County and the Department of Correction to ensure eligible misdemeanor arrestees will be cited and released on their written promise to appear in court, pursuant to PC 853.6 consistent with the following procedure, including appropriate discretion.

PURPOSE: To establish uniform procedures for the issuance of Misdemeanor Citation Releases.

APPLICABILITY: This guideline applies to all law enforcement agencies within Santa Clara County and the Department of Correction.

REFERENCES: PC 853.6

DEFINITIONS: Citation: A summons to appear before a court of law.
Promise to Appear: A citation release form utilized for arrestees who are eligible for a citation release.

PROCEDURE:

I. Citation Guidelines

- A. In any case in which a person is arrested for an offense declared to be a misdemeanor, including a violation of any city or county ordinance and does not demand to be taken before magistrate, that person shall be considered for citation.
- B. Arrestees booked on a Felony, a Commitment, Civil Contempt, Remand or "No Bail," Court Order are excluded from this policy.
- C. Deferred for citation release will be the misdemeanor-charged arrestees who are not:
 - 1. Sober
 - 2. Able to identify or care for themselves
 - 3. Willing to sign a Promise to Appear
- D. Arrestees considered for citation release **will not** be eligible for release if one or more of the following circumstances apply:
 - 1. The arrestee continues to be unidentifiable (e.g. the arrestee refuses to give his or her name and date of birth and must be booked as "John/Jane Doe").
 - 2. The arrestee demands to be taken before a magistrate or persists in refusing to sign a promise to appear in court.
 - 3. The arrestee was arrested and released for a similar charge, other than PC647(f) or H&S 11550 in the previous twenty-four (24) hours, or there is a reasonable likelihood that the offense or offenses will continue or resume, or that the safety of persons or property will be imminently endangered by the release of the arrestee. To deny the citation release, the arresting officer must specify the reason on the Affidavit Re Probable Cause and Bail Setting, and on the Employee's Report on Citation Release Denial.
 - 4. The offense involves violence or firearms/weapons and within the previous twelve (12) months, the arrestee has a pending case or conviction for violence or firearms/weapons violations. The receiving officer/deputy must run a criminal history to determine if the arrestee falls into this category.
 - 5. The arrestee is being charged with VC 23152, driving under the influence, and, within the previous twelve (12) months, has a pending case or conviction for driving under the influence, or within the previous five (5) years has a prior conviction for the same offense. To determine if the arrestee falls into this category, the receiving officer/deputy will check DMV and CJIC history. The DMV printout will be destroyed after review. The receiving officer/deputy will review the history to determine if the arrestee has a felony conviction under Vehicle Code Section(s): 23152, 23175, 23550, 23550.5, or 23153 within the previous ten (10) years. When applicable, the arresting officer will upgrade the charge to felony status. The bail shall be set per the bail schedule for habitual offenders. If the arresting officer is unavailable when previous violations are discovered, the

receiving officer/deputy will complete the Employee's Report on Citation Policy form and note in the "Remarks" area that the subject is charged with misdemeanor VC 23152a/b and has been convicted on one or more of the listed sections. The District Attorney will upgrade the misdemeanor charge(s) to felony status at the next review.

6. The arrestee is being charged with PC 166.4 or PC 273.6 (violation of a protective order involving domestic violence). If this determination is made, the arresting officer shall write his or her recommendation for citation and release on the Affidavit Re Probable Cause and bail setting and on the face of the Pre-Booking Information Sheet. The bail for these charges must be set at the scheduled bail amount. Only the arresting officer may ask to have a magistrate to review the bail amount for possible increase/decrease on misdemeanor arrests. The arresting officer must document the reasons for the increase/decrease request at the bottom of the Affidavit.

Note: If an arrestee requests to bail at the scheduled amount before a magistrate has reviewed the case, he or she must be allowed to bail at said amount. Correctional staff will not stamp the paperwork 'Magistrate to Set' on a misdemeanor charge.

7. The offense involves domestic violence, specifically PC 273.5 or PC 243(e)(1).
8. The arrestee is charged with a probation violation and a probation/parole hold has been placed, PC 1203.2(a) or PC1203.2(b).
9. The arrest is on any misdemeanor warrant that involves:
 - a. Violence, firearms, resisting arrest, or three (3) or more failures to appear in the last three (3) years.
 - b. A "No Citation" court order.
 - c. A "No Bail" court order.
 - d. A bail amount of fifteen thousand dollars (\$15,000) or more.

Note: If the warrant is an 'Out of County' warrant that states "Cite and Release," the intake/booking officer/deputy will issue a citation and notify the county of origin of the court date and time.

II Citation Procedure

- A. The receiving/booking officer/deputy is responsible for determining if an arrestee is eligible for citation and release at the time the arrestee's paperwork is received.
 1. If a citation should be issued, the receiving/booking officer/deputy will write the word "SCIT" at the top of the Pre-Booking Information Sheet. A citation will be printed with the booking packet.

2. If a citation should not be issued because the arrestee is not eligible, the receiving/booking officer/deputy will complete an Employee's Report on Citation Release Denial form indicating the reason(s) the arrestee is not eligible. The form shall be distributed as follows:
 - a. The original (white copy) will be filed in the arrestee's booking jacket.
 - b. The copy (pink copy) will be filed in the arrestee's classification jacket.
- B. At the discretion of Administrative Booking staff, an inmate's charge status may be reviewed for citation eligibility any time after booking and prior to arraignment. If the inmate becomes eligible for citation, Administrative Booking staff will direct the printing of a Promise to Appear citation form on the facility's citation printer.
 1. The receiving officer/deputy will ensure that the Promise to Appear citation form is delivered to the inmate as soon as possible for signature.
 2. Once the housing unit officer/deputy obtains the inmate's signature on the Promise to Appear form, he or she will return the signed form to the receiving officer/deputy.
 3. The receiving officer/deputy will return the completed citation form to the Administrative Booking Unit.
 4. Administrative Booking staff will initiate the inmate's release if applicable.

III. Release by Citation Procedure

- A. Upon completion of the booking process, the release officer/deputy will process arrestees eligible for release by citation.
- B. Intake/booking staff will advise the Booking Sergeant when an arrestee, ready for release, is pending a review by Mental Health staff. The Booking Sergeant will ensure that the Mental Health referral does not cause unnecessary delays in the normal citation process.
- C. The release officer/deputy is responsible for monitoring the ID Status Board and releasing the arrestees as they become eligible.
 1. Arrestees not charged with any on-view under the influence offenses involving alcohol and/or controlled substances (i.e. PC 647(f), H&S 11550, VC 23152) may be released as soon as the booking process is complete.
 2. Arrestees charged with on-view offenses involving alcohol or controlled substances may be released after five (5) but not more than eight (8) hours after acceptance absent exigent circumstances. If the arrestee is not ready for release after eight (8) hours, medical staff will evaluate the arrestee for continued retention. The ID officer/deputy will make a notation of the medical evaluation on the back of the arrestee's custody sheet.

3. If an arrestee is placed in a safety cell or restraint chair, the booking and release process may be delayed. If the arrestee is eligible for release and the delay goes beyond the eight (8) hours, the Booking Sergeant will advise the Watch Commander.
4. If an arrestee requires emergency medical treatment at a hospital, the Booking Sergeant will determine if the arrestee can be released prior to transport, at the hospital or upon the arrestee's return from the hospital. The Booking Sergeant will consider the following circumstances when making his or her decision:
 - a. The completion of the booking process.
 - b. The arrestee's ability to sign the Promise to Appear citation form.
 - c. The arrestee's level of cooperation.
 - d. The arrestee's current charges as related to the arrestee's current sobriety (e.g. under the influence of drugs or alcohol). Refer to section III, C, 2 of this policy.

IV. Policy Revision

- A. All Sheriff's Office policies will be periodically reviewed by Operational Standards and Inspection Unit (OSIU).