

U.S. Department of Justice

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# National Institute of Justice

## *Issues and Practices*

## Citation Release

- Why law enforcement agencies are turning to citation release programs.
- Assessing the impact of citation release on costs, resources, and court appearances.
- Choosing a citation program best suited to your local needs.
- Laying the groundwork for a major change in arrest policy.
- Assessing and improving your citation program's effectiveness.

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**James K. Stewart**  
*Director*

## **CITATION RELEASE**

*by Debra Whitcomb, Bonnie P. Lewin, Margaret J. Levine*

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Issues and Practices in Criminal Justice is a publication series of the National Institute of Justice. Designed for the criminal justice professional, each Issues and Practices report presents the program options and management issues in a topic area, based on a review of research and evaluation findings, operational experience, and expert opinion in the subject. The intent is to provide criminal justice managers and administrators with the information to make informed choices in planning, implementing and improving programs and practice.

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## PREFACE

For the last two decades, the criminal justice system has sought to improve its procedures for handling defendants prior to trial. With the emergence of the bail reform movement in the 1960s, a range of nonfinancial release techniques—including citation release, release on recognizance, conditional release, and deposit bail—have been adopted to minimize the use of surety bail and pretrial detention as the major mechanisms for assuring the appearance of arrestees in court. Citation release, in which arrestees are released pending their first court appearance on a written order issued by law enforcement personnel, is the focus of this report.

Citation release has gained increasing usage in recent years for a range of misdemeanor and ordinance offenses and has come to represent an essential component of a comprehensive pretrial release system. As it is currently used, the procedure takes three forms: field release, in which the arrestee is issued the citation at or near the scene of the incident; stationhouse release, in which the arrestee is transported to the police stationhouse before the citation is issued; and jail release, in which the citation is issued after the defendant is booked at a prearrestment detention facility. This study considers all three variations of the citation release procedure.

Among the potential advantages associated with citation release generally are cost savings (derived from reductions in patrol officer time, transportation, booking fees, and detention costs), reduced jail populations, and reduced complaints from defendants about jail conditions or maltreatment by arresting officers. At the same time, however, several potential disadvantages are associated with citation release, most notably increased rates of failure to appear, a threat to the sanctioning power of law enforcement officers and the criminal justice system generally, an extension of criminal sanctions to persons who previously would have received no more than a warning for their misbehavior (the “widening net” theory), and misuse of officer discretion in issuing citations. Of the three citation release variations, field release offers the strongest, and jail release the weakest, likelihood of realizing both the benefits and the drawbacks associated with the procedure.

Field citation offers the greatest potential for benefits both to the defendant and the criminal justice system: patrol officers are removed from service for only a brief period of time, typically 30 minutes or less; no transportation costs are incurred; defendants are subjected to the least amount of disruption. At the same time, however, field release offers the arresting officer little assurance that the defendant (a) has given

true identification; (b) is not a serious offender with an extensive criminal record; or (c) will appear in court as directed. For these reasons, many patrol officers doubt the value of field citations in achieving the ultimate goal of ensuring that criminal offenders are brought to justice.

The second alternative, stationhouse release, offers law enforcement agencies greater confidence in the authority of their arrests: information provided by the defendant can be verified and criminal histories checked before release is granted. This higher level of confidence is achieved at some cost, however, particularly in the time involved in transporting defendants to the stationhouse and the inconvenience suffered by the defendants.

The third release option, at the jail, obviously offers the greatest degree of assurance to the arresting officer: defendants generally undergo the entire identification and booking process before they can be released. However, this option is the most costly: jail release incurs the time not only of arresting or transporting officers, but of detention facility staff as well. Finally, jail release most closely resembles a traditional, custodial arrest and, as such, is most disruptive to the defendant.

Thus, as the point of release approaches the jail, the arresting agency achieves greater confidence in the likelihood that the defendant will be brought to justice, but at increasing costs to the criminal justice system and the defendant. Indeed, a study conducted in Oakland, California, estimated that the department could realize a savings of \$20.37 per field citation compared to only \$11.72 per jail citation. This study is further discussed in Chapters 3 and 7.

### Development of the Research Study

This document examines the citation release procedure as it has developed in the United States, and highlights, where possible, the advantages and disadvantages of specific program procedures, operations, and policy decisions. The audience for this report includes two rather disparate groups: jurisdictions with existing citation release procedures, and jurisdictions which may be considering implementation. Thus it includes information of interest to both program designers and program operators. In addition, the document may be useful to legislators in the development and/or modification of state statutes authorizing the use of citation release for criminal offenses.



The information in this document is drawn from three major sources: a literature review of research on the topic of citation release; a telephone survey to 25 law enforcement agencies operating citation release throughout the United States; and site visits to six law enforcement agencies. The report is thus intended to be a synthesis of research and current experience.

Among the research contributing to this study was a report produced by Floyd Feeney of the Center on Administration of Criminal Justice, University of California, Davis, and sponsored by the Police Foundation, entitled, *The Police and Pretrial Release*.<sup>1</sup> That study involved a review of the existing literature on citation release, a mail survey of over 200 police agencies, telephone contacts with over 40 agencies, and on-site observation in 20 jurisdictions. Also contributing to this research was an LEAA-sponsored document by the American Justice Institute entitled, *Citation Release: An Alternative to Pretrial Detention*, which presents guidelines for the implementation and management of citation release procedures.<sup>2</sup> A second major report by the American Justice Institute provided additional data and recommendations for adopting or expanding citation release on a county level.<sup>3</sup>

The second major source of information was a telephone survey of 25 law enforcement agencies conducted by Abt Associates Inc., in February 1981. These telephone interviews were undertaken to gain a representative picture of the current operations of citation release procedures throughout the country. The agencies were identified through the review of research literature and contacts with researchers and practitioners. The agencies included both county-based and city-based departments; police agencies and sheriffs' departments; and those using different forms of citation release, including field release, stationhouse release, and postdetention release. These agencies were questioned on a wide variety of subjects including the type of statutory authorization, eligibility criteria, identification and booking procedures, and procedures for notifying arrestees of future court dates and for responding to failures to appear. Information was also obtained on statistical summaries of the types and proportion of offenses released on citation and failure-to-appear rates.

Drawing from the telephone interviews, and in consultation with experts on the topic of citation release who served as Advisory Board members for this project, six law enforcement agencies were chosen for more intensive study: the Boulder County, Colorado Sheriff's Department; the Nassau County, Long Island Police Department; the Minneapolis, Minnesota Police Department; the Oakland, California Police Department; and the San Francisco, California Police and Sheriff's Departments. Among the criteria for selecting these departments were geographical area, size of the department, utilization of any or all of three variations of citation release, unique

features, and the availability of data specific to the use of citations. Site visits were made to each by Abt Associates staff during the spring and summer of 1981. During the visits, interviews were conducted with police chiefs, police officers, sheriffs, prosecutors, and court personnel. The experiences of these sites are highlighted throughout the report, and are supplemented through the review of programmatic materials obtained from other law enforcement agencies.

## Overview of the Report

The purposes of this report are twofold: first, to provide criminal justice planners with a sound basis for assessing the value of a citation release program as it may apply in their own jurisdictions; and second, to offer assistance to law enforcement agencies in improving or expanding current citation practices, or introducing citation as a new procedure. With these goals in mind, the document attempts to analyze operational experience and research findings, presenting the results in a way that supports both policy development and programmatic decision making. It does not purport to offer a prescription for an "ideal" citation program; rather, it offers options for implementing various aspects of citation release and a discussion of their relative strengths and weaknesses. Until research on the subject reaches a more advanced stage, it will be left to the reader to assess these options and choose those which best fit the local environment.

Chapter 1 describes the citation release alternative both in the context of history and of current usage. Today, virtually every state authorizes the use of some form of citations in certain situations, and a large number of enforcement agencies report some level of implementation. However, closer examination reveals that in many locations, the universe of offenders that are eligible for citation release is quite limited, and that only a relatively small proportion of ostensibly eligible offenders are actually released on citation. This finding suggests that there is considerable room for expansion of the citation procedure.

Chapter 2 provides detailed descriptions of the three variations of citation release: field, stationhouse, and jail release. Drawing largely from the practices observed in the five communities visited in researching this document, the chapter discusses eligibility requirements, screening procedures, and booking requirements for each of the three release options.

Chapter 3 continues from the descriptive information provided in Chapter 2 to offer an analysis of the advantages and disadvantages associated with each of the three variations of citation release as well as with the procedure in general. Drawing both from the literature and from the practical experience of the departments visited, this chapter serves both to summarize the "pros" and "cons" of the three options and to foreshadow a number of issues that are treated in greater depth in subsequent chapters.

Chapter 4 turns to an analysis of the legal setting for citation release and the preliminary steps of developing basic program

<sup>1</sup>Floyd Feeney, *The Police and Pretrial Release* (Lexington, MA: Lexington Books, 1982).

<sup>2</sup>Walter H. Busher, *Citation Release: An Alternative to Pretrial Detention, Concepts and Guidelines* (Sacramento: American Justice Institute, March 1978).

<sup>3</sup>National Institute of Corrections, *Countywide Citation Release Programming*, by Jerome A. Needle and Walter H. Busher (Sacramento: American Justice Institute, 1982).

policy. It reviews certain legal questions that have been asked about the citation practice, and presents a full review and discussion of existing legislation authorizing (or mandating) the use of citations, identifying commonalities across states as well as distinguishing features. The chapter then discusses several issues regarding the citation form itself: its function, content, and procedures for routing through various divisions of the arresting agency and the court, and ways of maintaining control over the distribution and issuance of citations. Finally, the chapter analyzes the departmental general order, which defines the way citation release is administered. While certain elements of both the citation form and the general order may be derived directly from the enabling statutes, agencies still possess considerable latitude in fleshing out policy concerns and procedural details that are not explicitly answered in the legislation.

Chapter 5 introduces several issues relevant to the actual implementation of a citation program within a given jurisdiction. It begins with the need to identify and prioritize the objectives of the program. The chapter then discusses the need to seek the input of other criminal justice agencies, particularly the courts, prosecutors, and other enforcement agencies in the community. The acceptance of the rank and file patrol officers is particularly vital in achieving a smooth transition to the new procedure and encouraging maximum utilization. Although there is little available in the literature to guide departments in preparing their officers for citation release through training, Chapter 5 presents the approaches taken by several of the departments visited. Finally, the chapter considers the potential reactions of certain community groups, most notably local merchants, the bail bonding industry, and crime victims.

Chapter 6 focuses on a specific aspect of citation release that is of particular concern to many law enforcement officers: its effect on appearances in court. Many officers fear that a mere promise to appear is not sufficient to compel defendants to report as directed, and thus that the citation procedure allows many offenders to go free without sanction. Chapter 6 presents the available research testing the extent of failure to appear among cited defendants. Also reported from the literature and from departmental experience are ways of containing the failure-to-appear rate, such as shortening the time interval between the arrest and the scheduled arraignment date or restricting eligibility to defendants thought to pose a lesser risk of flight (e.g., local residents).

Many criminal justice planners may be reluctant to adopt or expand citation release due to an absence of hard data on which to base these decisions. Chapter 7 attempts to guide program managers in developing a fundamental data base, both through information that should be readily accessible and other information that may require coordination of resources or the introduction of new data collection procedures. The chapter suggests appropriate program objectives, both for assessing the process and the impact of the citation procedure, and indicates the data needs and information sources for each objective. The chapter concludes with an invitation to readers to support research on the process, impacts, and costs/benefits of citation release.

Chapter 8 concludes the document by offering a general approach to implementation which should be adapted to match the needs and expectations of the local environment.

## CHAPTER 1 INTRODUCTION

### 1.1 History of Citation Release

The use of citation release for criminal offenses in the United States is an outgrowth of procedures for responding to traffic law violations, coupled with the impetus provided by the bail reform movement in the 1960s. In the early 1900s, violators of motor vehicle laws were arrested, taken into custody, and brought immediately before a magistrate where the case was either adjudicated quickly or bail was set if the defendant wished to be tried. Persons unable to post bail remained in custody pending trial. However, with the widespread use of automobiles and subsequent increase in the volume of traffic infractions, the traditional arrest and custody procedures became too cumbersome and demanding of available departmental manpower, and gave way to other procedures which did not involve taking the alleged violator into custody. In some jurisdictions, defendants were released under threat of rearrest by warrant if they failed to appear for prosecution. In other jurisdictions, the judicial function of bail setting was delegated to the police. Instead of taking the defendant to court, the police set bail according to a predetermined schedule and accepted the defendant's money. As with the judicial bail setting function, if the defendant was unable to post bail, he stayed in jail. A few states provided for peace officers to release alleged violators on citation, that is, a promise to appear before a magistrate instead of money bail. The citing on promise to appear practice for traffic offenses became widespread in the following fifty years, and except for the more serious cases, replaced the older arrest procedure.<sup>1</sup> Support for citation release for traffic offenses was gradually embodied in statutes in most states. By 1942, some 17 states had adopted provisions of the Uniform State Laws pertaining to citation release and 13 other states had created statutory provisions authorizing the use of citations for traffic offenses.<sup>2</sup>

The use of citations for nontraffic criminal offenses was proposed by the Interstate Commission on Crime in 1941 in the Uniform Arrest Act. The new provision was adopted shortly thereafter in a few states, including New Hampshire, Rhode Island, and Delaware; however, its use tended to be sporadic and was much more common for regulatory offenses than for criminal offenses.<sup>3</sup> It was not until some twenty years later, with the emergence of the bail reform movement in the 1960s,

that serious consideration was given to using the citation procedure for criminal cases. Through the development of alternatives to traditional money bail, the bail reform movement sought to make pretrial release practices more equitable and to reduce the number of defendants detained before trial solely as a result of their inability to post bail. The bail reform movement was based on two premises: first, that defendants' community ties, including such factors as length of residence in the community, family membership, and employment status, can be used to assess risk of flight in addition to such criteria as the nature of the charge and defendants' prior criminal record; and second, that the individual characteristics of defendants can be used to determine the least restrictive conditions which will ensure their appearance at court.

In 1961, the Manhattan Bail Project was undertaken in New York City by the Vera Foundation as an experiment in the selection of defendants to be released on their own recognizance, that is, on their simple promise to return to court. The project sought to test the notion that more comprehensive and verified information on a defendant's ties to the community and prior record could improve the judicial decision-making process. Project staff went into the jails and interviewed defendants awaiting arraignment. The information they obtained was then verified by telephone contacts and incorporated into a recommendation report submitted to the judge at the arraignment hearing. After three years of study, the Manhattan Bail Project demonstrated that judges were significantly more likely to grant release on recognizance to defendants upon whom they had background information and release recommendations than to defendants upon whom no additional information was provided. Moreover, the majority of defendants released on their own recognizance, following the recommendation of the Vera staff and subsequently reminded of their obligation to appear, did appear in court.<sup>4</sup>

The findings of the Manhattan Bail Project generated national interest in bail reform. Many jurisdictions implemented similar jail-based pretrial release programs; the federal Bail Reform Act, passed in 1966, created a presumption in favor of releasing defendants on their personal recognizance; model pretrial release codes were developed; and state bail laws were revised.

<sup>1</sup>Walter H. Busher, *Citation Release: An Alternative to Pretrial Detention, Concepts and Guidelines* (Sacramento: American Justice Institute, March 1978), pp. 23-24.

<sup>2</sup>Floyd Feeney, *The Police and Pretrial Release* (Lexington, MA: Lexington Books, 1982), p. 16.

<sup>3</sup>Ibid., p. 18.

<sup>4</sup>Charles Ares, Anne Rankin, and Herbert Sturz, "The Manhattan Bail Project: An Interim Report on the Use of Pretrial Parole," 38 *New York University Law Review*, 67 (1963).

The experiences of jail-based pretrial release projects across the country during the 1960s confirmed the Manhattan Bail Project findings that, for many detained defendants, a written promise to appear in court was at least as effective as money bail in gaining their appearance in court. These findings subsequently gave rise to the hypothesis that it might be feasible to release defendants charged with minor offenses who possessed verifiable roots in the community at a point even earlier in the criminal justice process than arraignment—immediately following arrest—without jeopardizing appearance rates. The first major effort to test this hypothesis was the Manhattan Summons Project, an experimental effort undertaken by the Vera Foundation in conjunction with the New York City Police Department in 1964.

Using telephone verification techniques and an objective point scale successfully applied in the Manhattan Bail Project, Vera workers interviewed defendants charged with simple assault and petty larceny at the 14th Precinct and made recommendations to the desk officer at the stationhouse, who would then release eligible defendants on a summons (synonymous with citation, or notice to appear). The defendants were required to appear in court from five to ten days later. The Vera Foundation assumed the responsibility for notifying defendants of their court dates. The Manhattan Summons Project was an immediate success. During the first six months of operation, 346 defendants charged with petty larceny and assault were interviewed, 231 defendants were recommended for release, and 223 summonses were issued. Of the 223 defendants released on a summons, only four failed to appear in court.

By 1967, the project was expanded citywide and the Vera interviewing staff were replaced by line police officers. When the project was adopted citywide, the eligibility criteria were expanded to include some three hundred charges, encompassing almost all misdemeanors and petty violations. Exclusions were limited to certain misdemeanors which by state law required fingerprinting. Subsequent modifications in the project procedures involved extending the authority to issue summonses to department store security guards and railroad, housing, and transit authorities. These authorities would fill out a pre-summons interview, obtain telephone consent of the desk officer at the nearest precinct, and then issue the summons. In addition, the Manhattan Summons Project worked out a procedure whereby the court complaint required in a summons case was prepared at the precinct stationhouse when the summons was issued, thus eliminating the need for the summoning officer to appear in court on the return date of the summons.<sup>5</sup>

The success of the Manhattan Summons Project spurred further interest in the use of citation release in the late 1960s and 1970s. States enacted legislation authorizing citation release, and law enforcement agencies began releasing certain defen-

dants at the earliest possible point—at the scene of the arrest (field citation). By 1980, the expanded use of citation release was endorsed by a number of national police and criminal justice standard setting organizations, including:

- the President's Commission on Law Enforcement and the Administration of Justice, 1967;
- the American Bar Association, Minimum Standards for Criminal Justice, 1968;
- the American Law Institute, Model Code of Prearrest Procedures, 1972;
- the National Advisory Commission on Criminal Justice Standards and Goals, 1973;
- the International Association of Chiefs of Police, Model Rules for Law Enforcement Officers, 1974;
- the National Conference of Commissioners on Uniform State Laws, Uniform Rules of Criminal Procedures, 1974;
- the National District Attorneys Association, National Prosecution Standards, 1977;
- the National Association of Pretrial Services Agencies, Performance Standards and Goals for Pretrial Release, 1978; and
- the American Bar Association, Revised Standards for Pretrial Release, 1979.

While early standards merely recommended the adoption of citation release as an option for law enforcement agencies in selected circumstances, more recent standards have moved away from "permissive" use, particularly for misdemeanor offenses. Rather, contemporary standards reflect a trend toward mandatory use of field citations for all misdemeanor offenses (except if certain conditions are present), and permissive use for certain felonies at the stationhouse after full inquiry has been made into the defendant's community ties and likelihood of flight. They also encourage law enforcement agencies to adopt policies and procedures that provide guidelines for the exercise of the individual officer's discretion.

For example, the National Association of Pretrial Release Agencies' Performance Standards and Goals for Pretrial Release recommend mandatory issuance of citations in the field for persons charged with misdemeanors and permissive issuance of citations in the field for persons charged with non-serious felonies unless one of six conditions prevails:

- (1) the accused fails to give proper identification;
- (2) the accused refuses to sign the citation;
- (3) arrest or detention appears necessary to prevent imminent bodily harm to the accused or another person;
- (4) the accused does not show sufficient evidence of ties to the community;
- (5) the accused has previously failed to appear or failed to respond to a citation; or
- (6) arrest or detention appears necessary to carry out legitimate investigative action in accordance with law enforcement regulations.

<sup>5</sup>Criminal Justice Coordinating Council of New York City and Vera Institute of Justice, "The Manhattan Summons Project," New York City, 1969.

If a law enforcement officer decides not to issue a citation in the field for misdemeanors, the standards state that the officer should be required to indicate in writing his reasons for failure to issue a citation. The standards further recommend that law enforcement officers, jail officials, or pretrial services agencies should be permitted to issue citations at the stationhouse to defendants charged with misdemeanors and non-serious felonies when circumstances which prevented their release in the field have changed; and to defendants charged with serious felonies when an independent inquiry shows that the defendant has ties to the community, there is little likelihood of imminent bodily harm to the accused or another person, and little likelihood of failure to appear in response to the citation.<sup>6</sup>

As of 1981, all but nine states<sup>7</sup> had adopted statutes or rules of criminal procedure which authorize the use of citation release for certain criminal offenses. A review of the content and language of these statutes appears in Chapter 4, Section 4.2.

## 1.2 Current Citation Release Practices

The increase in the number of state statutes and national commission recommendations encouraging citation release has led to more widespread use of this strategy. However, authoritative information about citation release practices is quite limited. There is a paucity of current statistics on: the number of law enforcement agencies using citation; the percentage of arrestees, both overall and by specific charge categories, released on citation by various law enforcement agencies; and the types of charges most frequently cited. Likewise, statistics are not generally available to identify the proportion of arrestees released in the field or at the stationhouse. This section summarizes the information available.

### Number of Law Enforcement Agencies Using Citation Release

The number of jurisdictions in which citation release is used appears to be quite large, although the exact number is not known. Research conducted by Floyd Feeney at the Center on the Administration of Criminal Justice provides the most comprehensive information to date on the prevalence of citation release. Feeney mailed a four-page questionnaire to all 50 state police agencies and to all police departments and sheriffs' offices in cities and counties of more than 100,000 population; in states having few cities or counties of that size, the minimum population was lowered to yield a representative sample. The survey asked about the agencies' use of citation release, procedures that had been adopted, and impressions

regarding the value and effectiveness of the citation release practice. Almost 75 percent of the 217 agencies that responded to this 1976 survey reported that they were using the citation procedure for some kind of nontraffic offense. This included 81 percent of the cities over 100,000; 62 percent of the cities under 100,000; 78 percent of the state police agencies and 69 percent of the sheriffs' offices. Eighty-seven percent of the agencies that use the procedure for nontraffic offenses use it for both ordinance violations and misdemeanors.<sup>8</sup> In every state with a statute or court rule authorizing citations, the Center reports that there is now at least one agency that has adopted the procedure. Also, even in states which do not have a statute or court rule, many agencies have nonetheless adopted the use of citations. As such, the procedure is now in use in 45 states.<sup>9</sup> While Feeney's data clearly support a conclusion that citation release is used extensively, they also illustrate that a sizeable number of agencies are not using the procedure at all. Indeed, it has been estimated that law enforcement agencies in as many as 800 cities—perhaps 31 of which are larger than 100,000—are not using citation release.<sup>10</sup>

### Utilization Rates of Citation Release Within Law Enforcement Agencies

While the prevalence of citation procedures in law enforcement agencies is one indicator of its use, a more illuminating measure is the agency's utilization rate of citation release, that is, the extent to which arrestees are released on citations pending their first court appearance. Unfortunately, data on citation utilization rates are sparse, and when available, are often not comparable since definitions of utilization rates vary.

Two measures of utilization rates are often reported. The first, known as the "eligibility-based" measure, refers to the number of individuals released on citation out of the total number of individuals eligible for citation. As will be discussed under Section 4.2 on statutory development, state laws, court rules, and law enforcement agency policies often exclude certain types of individuals from eligibility for citation release. Most commonly, state statutes often declare that persons arrested on felony charges are ineligible. Persons arrested on certain misdemeanor charges may also be specifically disqualified. Additionally, law enforcement agencies use other release criteria, such as requiring that the arrestee reside in the jurisdiction for a specific time period and that the arrestee present adequate identification. Thus, using the eligibility-based measure of utilization, the number of persons released on citation represents those charged with offenses that are citable under state law, court rules, or policies minus the number who do not meet the release criteria.

<sup>6</sup>National Association of Pretrial Services Agencies, *Performance Standards and Goals for Pretrial Release and Diversion: Pretrial Release* (Washington, D.C.: The National Association of Pretrial Services Agencies, 1978), pp. 9-10.

<sup>7</sup>States which do not provide statutorily for citation release are Alabama, Georgia, Massachusetts, Missouri, North Dakota, South Carolina, Texas, West Virginia, and Wyoming.

<sup>8</sup>Feeney, *The Police and Pretrial Release*, p. 7.

<sup>9</sup>*Ibid.*, p. 22.

<sup>10</sup>National Institute of Corrections, *Countywide Citation Release Programming*, by Jerome A. Needle and Walter H. Busher (Sacramento: American Justice Institute, 1981), p. 16.

The second measure of utilization refers to the number of individuals released on citation out of the total population, which includes both individuals who meet the eligibility criteria and individuals who do not meet the eligibility criteria. Typically, this rate is portrayed as the proportion of misdemeanor arrestees released on citation out of the total misdemeanor arrestee population. Both types of measures are necessary to provide an accurate understanding of an agency's citation release practices and the impact of these practices on the total population of misdemeanor arrestees. The eligibility-based measure may indicate that an agency is releasing a large percentage of the eligible population. However, if the eligibility criteria are restrictive, the percentage of the misdemeanor population released on citation will be much smaller.

Studies of seven agencies in 1973 and 1974 indicated that citation rates, as a percentage of total misdemeanor arrests, ranged from 20 percent to 54 percent, with the median rate equalling 23.5 percent.<sup>11</sup> Table 1.1 displays utilization rates for a more recent time period from thirteen agencies. Cross-site comparisons of overall utilization rates are difficult to make, not only because of the different definitions of utilization rates, but also because the definition of misdemeanor offenses differs from state to state. Still, as the earlier research demonstrated, citation rates vary markedly across agencies. An examination of the five agencies which report utilization rates as the proportion of all misdemeanor arrestees released on citation (Minneapolis, Washington, D.C., Portland, Bronx, and Boulder County) indicate that citation rates range from a low of 21 percent to a high of 71 percent.

The extensiveness of citation release is obviously related to the kinds of offenses for which this procedure may be used. Table 1.2 displays utilization rates for specific charges from the jurisdictions visited in the course of preparing this report. The data show that citation release is used extensively for petty theft, drug offenses, and simple assault. In each of the jurisdictions, at least 40 percent of persons arrested for petty theft are cited and 38 percent of the persons arrested for drugs are cited. In four of the five jurisdictions, at least 32 percent of the persons arrested for simple assault are cited. For the other offenses, release rates show more variation across the jurisdictions. For example, the citation rate for disorderly conduct varies from a low of 4.3 percent in Minneapolis to a high of 67 percent in Boulder County. These figures may not be directly comparable, however, because different jurisdictions may classify different offenses under the charge of "disorderly conduct."

Table 1.3 displays the types of offenses for which citations are most frequently issued for eight agencies. The range of charge types and frequency of citations for specific charges vary enormously across the jurisdictions. However, in many of the jurisdictions, citations are issued more for petty theft than

other offenses. Although not shown on the table, both the San Francisco Sheriff's Department and the Oakland Police Department report that a large proportion of jail citations are issued to persons arrested for driving while intoxicated.

Variations in citation utilization rates, both overall and for specific charges, and differences in the types of charges most frequently cited, are a function of several factors. These include legislative provisions and policy guidelines pertaining to eligibility criteria, the level of screening and verification involved in the release decision-making process, the level of top management support for citation release, and the particular demographic and socioeconomic characteristics of the defendant population. In Washington, D.C., for example, the citation procedure is only used in the evenings. Defendants arrested during the day when court is in session are not eligible for citation release, but rather are arraigned that same afternoon. The limited availability of the citation procedure accounts for the lower utilization rate and also explains why certain offenses, such as petty theft, are cited proportionately less than in other jurisdictions where citation release is available during the day.

In New York City, which reports one of the highest citation utilization rates, citation release has come to be regarded as an essential management tool and receives strong support from management. However, there is considerable variation in utilization rates among the boroughs and over time. This variation is a result of two factors. First, there is variation in the demographic characteristics and charge types among defendants across the boroughs. And second, the New York City citation procedure is characterized by decentralized administration. Each issuing authority is free to issue or decline citations within the broad constraints and guidelines of statute and local policy. Also, decentralized administration allows for wide variations in the depth of investigation that precedes each decision to release or detain;<sup>12</sup> departments that devote considerable resources to verifying the information supplied by arrestees may be more likely to grant release on citation.

### 1.3 Issues Surrounding Citation Release

While there is very little statistical evidence to support conclusive statements regarding the "pros" and "cons" of the citation release procedure, certain common responses appeared in the course of conducting the literature review, telephone survey, and site visits for this research. In this section, and throughout the document, the relative strengths and weaknesses of field, stationhouse, and jail release (where applicable) are explored, both as variations of citation release and as alternatives to traditional arrest procedures.

The *field release* procedure, in which police officers may release an arrestee at or near the crime scene, offers the greatest

<sup>11</sup>U.S. Department of Justice, Law Enforcement Assistance Administration, National Institute of Law Enforcement and Criminal Justice, *Instead of Jail, Volume 2: Alternatives to Pretrial Detention*, by John J. Galvin, et al. (Washington, D.C.: Government Printing Office, 1977).

<sup>12</sup>New York City Criminal Justice Agency, "DAT Policy Review: First Report on a CJA/NYPD Pilot Program in the Bronx," New York, March 1979, p. 3.

**Table 1.1 Citation Utilization Rates**

<b>Jurisdiction</b>	<b>Type of Citation Release</b>	<b>Utilization Rate/Definition</b>	<b>Time Frame</b>	<b>Source</b>
Minneapolis, MN Police Department	Field	28% of all misdemeanors	Jan.-June 1981	3rd precinct, compiled by Abt Associates Inc.
Oakland, CA	Field and Jail	36.2% of all eligible misdemeanors - Field = 10% - Jail = 26.2%	July 1980-June 1981	Oakland Police Dept.
San Francisco, CA Police Department	Field and Stationhouse	16.3% of all misdemeanor and felony arrests	Jan.-June 1981	San Francisco Police Department
San Francisco, CA Sheriff's Department	Jail	11.3% of all bookings in County Jail #1	1980	San Francisco Sheriff's Booking Logs
Washington, D.C.	Stationhouse	36.4% of all misdemeanors	1980	D.C. Pretrial Services Agency
Portland, OR Police	Field	21% of all misdemeanor arrests	Jan. 1977	David Sumi, "An Analysis of the Use of Citation Versus Custody for Misdemeanor Offenses: City of Portland and Multnomah County, Oregon," Office of Justice Programs, Portland, Oregon, 1978
NYC Police Department	Stationhouse	Proportion of all misdemeanor and violation arrests:		New York City Criminal Justice Agency
- Manhattan		41% 36% 25% 17%	1977 1976 1975 1974	
- Brooklyn		49% 48% 41% 58%	1977 1976 1975 1974	
- Queens		21% 22% 40% 53%	1977 1976 1975 1974	
- Staten Island		41% 78% 77% 74%	1977 1976 1975 1974	
- Bronx		55% of all misdemeanor arrests Proportion of all misdemeanor and violation arrests:	Sept. 1978-Feb. 1979	
		35% 41% 24% 45%	1977 1976 1975 1974	
Cincinnati, OH Police Department	Stationhouse	Proportion of all eligible misdemeanor offenses (domestic violence, second time DWI, certain probation violations, and failure to appear offenses are not eligible):		Cincinnati Police Division Stationhouse Release 1980 Report
		32% 45% 40% 42% 39% 53% 45%	1980 1979 1978 1977 1976 1974 1973	
Boulder County, CO	Field	71% of misdemeanor arrests for seven offenses. 81% of eligible misdemeanors for seven offenses	July-Dec. 1980	Compiled by Abt Associates Inc. for seven charges: assault, theft, vandalism, narcotics, disorderly conduct, trespass, and harassment
Omaha, NB	Field	17% of all misdemeanor arrests	Aug. 1975-Aug. 1976	Julie Horney, "Citation Arrest-Extending the Reach of the Criminal Justice System?" <i>Criminology</i> , Vol. 17 (February 1980): 419-434

**Table 1.2 Citation Utilization Rates for Specific Charges**

San Francisco, CA		Oakland, CA		Cincinnati, OH		Minneapolis, MN		Boulder County, CO	
Petty Theft	55.8%	Petty Theft/ Credit Card	39.6%	Shoplifting Larceny under \$50	51.2%	Petty Theft	47.4%	Petty Theft	71.0%
Marijuana	39.3%	Drugs	48.0%	Drugs	37.2%	Marijuana	57.0%	Drugs	71.0%
Simple Assaults	34.4%	Assault & Battery	32.3%	Assault	35.3%	Assault	17.5%	Assault	63.0%
Disorderly Conduct	39.2%	Disorderly Conduct	16.0%	Disorderly Conduct	16.0%	Disorderly Conduct	4.3%	Disorderly Conduct	67.0%
Weapons	12.9%	Weapons	15.8%	Weapons	25.0%	Weapons	0	Trespass	78.0%
Prostitution	16.7%	Disturbing Peace	25.3%	Prostitution	34.9%	Open bottle/ Alcohol Poss.	60.0%	Harassment	77.0%
Gambling	66.7%	Gambling	10.0%	Criminal Dam. & Trespass.	18.5%	Damage to Property	48.5%		
Malicious Mischief	36.5%	Traffic	54.3%	Receiving Stolen Property	36.4%	Loud Party	68.0%		
Liquor Laws	77.7%			Menacing	33.3%				
Jan. through June 1981 Source: San Francisco Police Department Statistics		July 1980 through June 1981 Source: Oakland Police Department Statistics		1980 Source: Cincinnati Policy Division		Jan. through June 1980 for 3rd Precinct Source: Compiled by Abt Associates Inc.		July through Dec. 1980 Source: Compiled by Abt Associates Inc.	

potential in terms of savings: it reduces the costs incurred in transporting the arrestee to the stationhouse or detention facility and minimizes the booking fees which many departments must pay to detention facilities. At the same time, field release reduces the amount of time the arresting officer is removed from patrol: the citation procedure may be accomplished in 20 minutes or less, compared to two hours or more for transporting and booking arrestees at the stationhouse. Available data to support these claims are presented in Chapter 3.

While the opportunities for time and money savings are certainly greater for field release than for the stationhouse alternative, field release also runs certain risks. The most commonly cited risk is the department's inability to obtain positive identification on the arrestee (i.e., fingerprints and photographs). Most departments do require arrestees to produce an identification document before they can be released in the field, but there is no assurance that such documents have not been forged or stolen. A second risk incurred in the citation procedure is failure to appear. As will be shown in Chapter 6 below, the available research suggests that eligibility requirements for citation release can be adjusted to produce rates of failure to appear that are satisfactory to the local community. Finally, patrol officers may be reluctant to release arrestees at the crime scene: victims may be dissatisfied with the apparent leniency of the police response to the incident, or the officers themselves may doubt the sanctioning power of a written notice to appear. This problem of victim and officer nonacceptance can be largely resolved through a good training program.

A final potential drawback that pertains especially to field release is the so-called "widening net" effect, i.e., the theory that as control becomes less punitive, it is extended to greater numbers of persons. Proponents of this theory have predicted that implementation of citation release procedures would lead to increases in the total number of persons coming before the courts. The new arrest alternative, although intended to reduce the number of persons being subjected to full custody arrest, could also reduce the number to whom nothing is done.<sup>13</sup> The one formal study of this hypothesis (discussed in Chapter 3) produced equivocal results. The study found no increase in the total number of misdemeanor arrests after citation release procedures were implemented, but increases were recorded in arrests for larceny and assault. Although these increases were attributed to several factors, the ease of issuing citation release was prominent.<sup>14</sup>

The *stationhouse release* procedure essentially reverses the advantages and disadvantages cited above for field release. The cost and time savings are reduced because the arresting officer must transport the arrestee to the stationhouse. However, the officer gains confidence in the strength of the arrest because identifying information supplied by the defendant can be verified by telephone contacts and record checks before the defendant is released. Further, both officers and victims have the satisfaction of knowing the arrestee has at least had a "taste" of custodial detention.

<sup>13</sup>Norval Morris, *The Future of Imprisonment* (Chicago: University of Chicago Press, 1974).

<sup>14</sup>Julie Horney, "Citation Arrest: Extending the Reach of the Criminal Justice System?" *Criminology*, Vol. 17 (February 1980): 419-434.



**Table 1.3 Frequency Distribution of Types of Offenses Cited**

San Francisco, CA		Oakland, CA		Nassau County, NY		New York City Police Department for Selected Precincts in Brooklyn and Manhattan		Cincinnati, OH		Washington, DC		Minneapolis, MN		Boulder County, CO	
Petty Theft	12.3%	Traffic	51.5%	Open Container		Theft	33.0%	Shoplifting	25.9%	Drugs	41.6%	Petty Theft	64.0%	Trespass	27.0%
Marijuana	9.4	Petty Theft and		Violations	35.0%	Traffic	10.0	Larceny		Petty Larceny	16.7	Driving While		Assault	21.3
Disorderly		Credit Cards	10.0	Petty Theft/		Conduct	17.0	Under		Possession of		Intoxicated	5.3	Harassment	15.5
Conduct	7.1	Assault &		Shoplifting	20.3	Drugs	13.0	\$150	9.8	Implements of		Loud Party	4.45	Theft	11.0
Simple Assault	6.7	Battery	7.7	Traffic	13.1	Assault	7.0	Assault	7.1	Crime	7.8	Open Bottle/		Narcotics	9.7
Traffic	5.2	Drugs	3.1	Public		Others	19.0	Drugs	6.3	Prostitution	6.8	Alcohol		Vandalism	9.6
Malicious		Disturbing		Lewdness	3.5		100.0%	Prostitution	5.9	Weapons	7.6	Possession	4.45	Disorderly	
Mischief	2.9	Peace	1.8	Possession of				Criminal		Simple Assault	4.7	Damage to		Conduct	6.5
Liquor Laws	2.3	Weapons	1.8	Fireworks	3.5			Trespass		Unlawful Entry	4.5	Property	4.75		100.0%
Prostitution	1.9	Gambling	1.3	Possession/				& Damage	5.9	Destruction of		Simple Assault	3.0		
Other Sex		Disorderly		Sale Alcohol	3.4			Disorderly		Property	2.3	Indecent Conduct	3.0		
Offenses	1.2	Conduct	.13	Simple Assault	2.4			Conduct	5.1	Receiving		Disorderly			
Gambling	1.0	Others		Criminal				Menacing	4.7	Stolen		Conduct	1.48		
Weapons	.9		22.67	Trespass	2.2			Public Intox.		Property	2.1	Others	9.57		
Fraud & Embez-			100.0%	Marijuana	1.7			& Dis-		Soliciting for			100.0%		
zlement	.7			Loitering	1.4			orderly		Lewd &					
Other Misc.	49.4			In Park After				Conduct		Immoral					
	100.0%			Hours	1.4			While		Purposes	1.8				
				Littering	1.2			Intoxi-	4.7	Other	4.1				
				Criminal				cated			100.0%				
				Mischief	1.2			Receiving							
				Disorderly				Stolen							
				Conduct	.9			Property	1.5						
				Weapons	.8			Weapons	1.5						
				Harassment	.8			Resisting							
				Others	9.6			Arrest	1.2						
					100.0%			Others	20.4						
									100.0%						
Total Cited - 5606		Total Cited - 6185		Total Cited - 889		Total Cited - 682		Total Cited - 1270		Total Cited - 3394		Total Cited - 337		Total Cited - 155	
January through June, 1982		July through June, 1981		January, February, June,		Fall, 1977		1980		1980		January through June, 1980		July through December, 1980	
Source: San Francisco		Source: Oakland Police		July, August, 1980 for		Source: New York City		Extrapolated for the		Source: D.C. Pretrial		3rd Precinct		Source: Compiled by Abt	
Police Department		Department Statistics		3rd Precinct		Criminal Justice Agency		year from a 20% random		Services Agency		Source: Compiled by Abt		Associates Inc.	
Statistics				Source: Compiled by Abt				sample of days.				Associates Inc.			
				Associates Inc.				Source: Cincinnati							
								Police Division							

*Jail release* is the most costly of the three alternatives because defendants are usually booked (fingerprinted and photographed) before they are released. However, the booking procedure enhances the arresting agency's confidence that they are not releasing serious criminals on the basis of false information.

Above and beyond these apparent strengths and weaknesses, there are two compelling reasons to institute a citation release procedure, whether in the field, at the stationhouse, at the jail, or in combination. First, on a very practical basis: the more persons who can be released on a promise to appear, the fewer persons will be detained. This concern is growing in magnitude as increasing numbers of jurisdictions are facing severe crowding problems in local jails. Second, some contend that the citation release decision, based on factors of community ties and likelihood of appearance, offers a more equitable standard for pretrial release than does stationhouse bail or bond, where the decision is based largely on the defendant's financial status.

## 1.4 Why Citation Release is Underutilized

Both the review of the literature and the examination of departmental practices conducted for this research suggest that, while citation release is prevalent, many agencies do not currently use the procedure. Among the agencies that do use it, the extent of use varies tremendously. This suggests that the potential for additional citation programming is great.

It has been suggested that three factors currently account for the underutilization of citation release.<sup>15</sup> First, empirical documentation on the effectiveness of citation release is limited. Benefits of citation release are promoted and supported with logic and argumentation rather than with empirical evidence. Risks and costs, similarly, are often dismissed by advocates without presentation of empirical proof. The dearth of information on results of citation release induces many practitioners to forego efforts to employ the practice or to restrain use to situations felt, intuitively, to be safe. Police, in

particular, are concerned about the impact of citation release on failure-to-appear rates, commission of additional crimes by arrestees, and "respect for the law." Lacking evidence on these matters, they tend to resist citation programming or expanded programming. Second, program development and implementation efforts are hampered by faulty program designs.

In many agencies, citation release procedures are implemented without explicit goals and without sufficient monitoring mechanisms. As such, the information required to evaluate and modify the procedures is unavailable. This often leads to a degree of program atrophy. Finally, local government is not structured to nurture development and use of citation release procedures. Effective planning and operation of citation release programs requires integrated action among a broad and disparate array of departments, agencies, and officials.

\* \* \*

In sum, the use of citations for minor criminal offenses was a natural offshoot of the widely accepted use of traffic citations. The procedure has gained the unanimous support of several national commissions and standard setting groups. Still, utilization of nontraffic citations appears to be somewhat limited, not only in terms of the number of departments that have adopted the procedure, but in the types of offenses and defendants that qualify for consideration.

As the following chapters will demonstrate, law enforcement agencies have had varying experience with the use of citation release. Many have found ways to mitigate the disadvantages without detracting noticeably from the advantages. Given the current issues of burgeoning crime rates, overpopulated jails, declining police budgets with concomitant reductions in manpower, and mounting pressure to eliminate money bail, citation release is gaining increasing recognition as a viable pretrial release alternative among researchers, legislators, and police administrators alike. For those to whom the concept may be new, as yet untried, or available only in limited form, this report attempts to provide information that should be useful in any community.

<sup>15</sup>Jerome A. Needle, "Maximizing the Use of Citation," paper presented to the 1981 Symposium on Pretrial Services Workshop, Toronto, Ontario, July 1981.

## CHAPTER 2

### VARIATIONS OF CITATION RELEASE

#### 2.1 Introduction

As citation release is practiced today, an eligible arrestee may be released on a promise to appear at any of three points in the prearrest process: at the scene of the offense (field release), at the police stationhouse (stationhouse release), or at the jail or other prearrestment detention facility (jail release). Various combinations of the three release forms are available in different jurisdictions: some police departments offer only field release, others only stationhouse release, still others have both procedures. In many communities, the police do not operate a jail; rather, it is the responsibility of the sheriff who may enforce a release policy independent of that adopted by the police.

The sites visited in the course of preparing this document demonstrate the range of citation release combinations currently in use today. Table 2.1 portrays the citation release variations implemented by these departments:

**Table 2.1 Citation Release Variations  
Five Communities**

	Field	Stationhouse	Jail
Nassau County, New York	X	X	
Boulder County, Colorado	X		X*
Minneapolis, Minnesota	X		X*
Oakland, California	X		X
San Francisco, California	X	X	X*

\*Jails operated by sheriffs' departments

*Nassau County.* Nassau County, New York, is a large suburban community comprised of two cities, 64 incorporated villages, and 75 unincorporated areas. The Nassau County Police Department provides patrol services to all but 22 incorporated municipalities which have their own patrol services. The Department also provides detective, laboratory, and specialized services countywide. Nassau County Police issue "appearance tickets" to qualified defendants in the field and at the stationhouse. Arrestees who fail to obtain citation release and cannot make bail are taken to the detention facility at Police Headquarters, where they are arraigned no later than the following morning.

*Boulder County.* The Boulder County Sheriff's Department provides all law enforcement services to unincorporated areas of the county and two incorporated areas which do not maintain their own police force. The Sheriff's Department assists in major cases occurring in six additional communities and serves in an auxiliary capacity to the major cities of Boulder, Longmont, and Broomfield. The Boulder County Sheriff's Department operates both field release (known as "summons" release) and a "book and release" procedure from the county jail.

*Minneapolis.* The Minneapolis Police Department provides all law enforcement services within the city of Minneapolis. The Department offers only field release for qualified arrestees; those who do not qualify are taken to the Hennepin County Jail, operated by the Sheriff, where they may be considered for release under the Sheriff's citation policy.

*Oakland.* The Oakland Police Department is responsible for all law enforcement functions within the City of Oakland. The Oakland Police Department operates its own jail and offers only field and jail release; there is no stationhouse alternative.

*San Francisco.* The San Francisco Police Department, responsible for all law enforcement services within the city limits, offers both field and stationhouse release to qualified arrestees. Those who fail to qualify under the Police Department's standards are taken to the jail which is operated by the County Sheriff. There, they will be reconsidered for release under the Sheriff's citation policy.

The eligibility criteria, screening procedures, and booking requirements associated with citation release vary markedly among these agencies. This chapter explores these variations for field, stationhouse, and jail release alternatives, presenting examples from the above departments.

#### 2.2 Field Release

All the sites visited for this study offered field release to certain qualified defendants. Actual application of the field release procedure ranged from broad to restricted utilization, mandatory to discretionary implementation, and among the officers interviewed, enthusiastic acceptance to outright skepticism.

## Eligibility Requirements

As evidenced in the analysis of pertinent statutes and general orders in Chapter 4, there is great variation among departments in their definitions of who is eligible for field release. Both the elements of the offense and characteristics of the offender are considered.

Felony arrestees are almost universally ineligible for field release; even where the statute authorizes the release of certain felony suspects, the practice is seldom used. Most jurisdictions authorize police to issue field citations for virtually all criminal misdemeanors and violations of local ordinances.

In jurisdictions where the statute or police general order sets forth a presumption in favor of field release, such as Minneapolis or San Francisco, eligibility criteria tend to be broad and inclusive. In California, for example, an officer who opts *not* to issue a field citation for a misdemeanor offense must note on the arrest report the reason(s) for making a physical arrest. The California statute lists nine circumstances to consider in determining whether to issue a field citation:

- (1) extreme intoxication,
- (2) need for medical care or treatment,
- (3) certain vehicle code offenses,
- (4) one or more outstanding arrest warrants,
- (5) inadequate identification,
- (6) potential for jeopardizing prosecution,
- (7) continuing or dangerous offense,
- (8) refusal to sign the citation form, or
- (9) any other reason, specifically stated.

Requiring officers to identify their reasons for making a custodial arrest helps to ensure that arrest standards are applied consistently. Superior officers review arrest reports submitted at the end of each shift and can monitor the stated reasons for denying field release. In this way they can determine whether their patrol officers are making maximum use of the field release option so that remedial actions (in the form of memoranda, oral reminders, or more formal training) may be taken if necessary.

While general orders and statutes from other locales generally are not as directive as the California statute, particularly in the requirement for documenting the reason for nonrelease, their eligibility criteria are quite similar. Generally, all misdemeanor defendants are eligible for field release unless:

- they cannot produce satisfactory identification;
- they were arrested for continuing or dangerous offenses;
- they present a likelihood of failure to appear (no local address or community ties, resistive or belligerent behavior);
- they are unable to care for themselves, due to medical needs or intoxication;

- they have outstanding arrest warrants, particularly for prior failures to appear.

Analysis of the use of field release in the sites visited revealed that shoplifting, or petty larceny, was among the offenses most commonly cited in the field. Many departments have enlisted the aid of department store security personnel in effecting a field release procedure for shoplifting suspects. In Nassau County, for example, police sponsored training for security personnel in several major stores, instructing them in proper procedures for making a citizens arrest, techniques for marking and preserving evidence, and how to complete the associated paperwork. When police officers respond to the call, they prepare an arrest report, conduct a warrant check, and if the suspect meets residency and identification requirements, the officers issue an appearance ticket. Shoplifting suspects apprehended in nonparticipating stores generally are not eligible for field release; police report that many store owners would rather see the suspects taken into custody.

Other offenses frequently cited in the field include trespassing, harassment, certain assault incidents, minor property offenses, and, increasingly, possession of small amounts of marijuana; also, a host of local regulatory and ordinance violations, such as animal violations, open container laws (drinking in public), and housing or health code violations, are typically subject to field release.

While a statute or general order may not explicitly exclude certain offense categories from eligibility, the nature of some offenses makes field release impractical or undesirable, thereby justifying a physical arrest. Examples of such offenses include:

- Driving while intoxicated, public drunkenness. Arrestees may be transported to a special facility for testing or detoxification, or to the stationhouse/jail until they are sober (typically a four-hour detention). Alternatively, some departments will release an intoxicated individual to a responsible third party if the arrestee is able to sign and understand the notice to appear.
- Prostitution, in many jurisdictions excluded from eligibility for field release on the grounds that the offense is likely to continue. Also, in some areas, prostitution arrestees have been required to undergo public health examinations prior to their release.
- Domestic violence and other assault cases. Physical arrest of an assaultive person is often viewed as the preferred means of defusing a potentially dangerous situation. Under certain circumstances, with effective crisis intervention by trained officers, certain assault incidents may be handled with a field citation.

- Citizens arrests, in many jurisdictions the only means by which an arrest can be made for a misdemeanor committed unseen by a law enforcement officer. Some departments deny field release for citizens arrests on the grounds that the arresting citizens would find the issuance of a citation to be an inadequate response. Shoplifting is the most frequent offense resulting in citizens arrests (by store security officers), and several police departments that have enlisted security guards in field release efforts (e.g., Nassau County, Oakland) report a high degree of compliance. Other offenses commonly associated with citizens arrests include family and neighborhood disputes; because of the potential (or actual) violence inherent in such situations, and because of the need for a spouse or neighbor to bring the complaint, field release is often impractical.

Busher has distinguished between eligibility and "suitability" criteria in the citation release decision.<sup>1</sup> According to his definition, eligibility criteria are those spelled out in the enabling legislation, court rules, or general orders, that can be applied unilaterally, for example: minimum local residence or types of offenses. Suitability criteria are those which require a judgment on the part of the arresting officer, for example, assessing the likelihood that the arrestee will fail to appear if released on citation. While eligibility and suitability criteria are applied in both the field and stationhouse release decisions, the judgmental criteria tend to carry more weight in the field where the arresting officer must reach a decision quickly without ready access to resources for verifying the information supplied by the arrestee.

## Screening Procedures

Screening procedures in the field are straightforward and uncomplicated. Officers who respond to, or observe, the commission of an eligible offense can immediately assess the nature of the offense as an initial criterion of eligibility. If it is not a continuing offense, if it is not among the jurisdiction's automatic exclusions, and if there is no perceived threat to safety, the officer can proceed to assess the arrestee's qualifications for field release.

At a minimum, most jurisdictions require the arresting officer to obtain some form of identification and perform a warrant check. A driver's license generally suffices as proof of identity, but if an officer is skeptical, other documents (particularly with photographs) may be requested. From these documents the officer can ascertain the arrestee's address and may question further as to length of residence, employment, and family. A warrant check is routinely performed, either by radio or by computer terminals in departments where patrol cars are so equipped. The officer may attempt to check for

prior criminal history through local information systems or NCIC. Beyond the identification and routine warrant check, however, more extensive screening before issuing a citation is usually discretionary for the officer. Point scales (described below in section 2.3) generally are not used in the field; they are too time-consuming to complete and the information cannot be verified on the spot.

Several officers interviewed in the sites visited raised concerns about the ease with which arrestees could obtain field release with false identification papers. Officers in Oakland, for example, cited a case in another city in which a shoplifting suspect obtained release on a promise to appear by providing police with identification papers that had been stolen in a purse-snatch incident. The suspect subsequently defaulted on her court appearance, and police later served a warrant on the purse-snatch victim, who successfully sued the arresting agency for false arrest, winning a \$750,000 judgment. Oakland officers believe that the potential for police liability is very great when arrestees are released without booking, and have attempted to reduce the likelihood of such a situation by revising the general order to stipulate that officers should obtain some form of identification with "a physical likeness or signature of the offender."

Some departments have experimented with having patrol officers obtain approval from a supervisor (frequently a sergeant) before finalizing a decision either to release in the field or to transport to the stationhouse or jail. Although both the Minneapolis and Oakland Police Departments used such a procedure in the initial stages of implementing their field release programs, it was soon dropped. It was not practical for patrol officers to hold an arrestee at the scene until a supervisor arrived to review the circumstances. Moreover, officers felt that the need to obtain supervisor approval detracted from their authority on the street. Instead, these departments and others have chosen to rely upon the patrol officers' judgment in the field. Their decisions may be reviewed later, when the supervisor reviews all arrest reports for a particular shift. Such monitoring of citation decisions tends to be sporadic, however, in most departments. Requiring patrol officers to specify, in writing, the reason(s) for nonrelease, as is done in California, greatly facilitates the monitoring function.

Once the officer has determined that an arrestee qualifies for field release, he proceeds to write the "ticket," or "tag." The typical contents of a field citation form are described more fully in Chapter 4. Most specify a date and time for the arrestee to report to a specified locale, which the officer reviews verbally with the arrestee. Many forms also provide for the defendant's signature. In many jurisdictions, refusal to sign the form is construed as a demand to go immediately before a magistrate, and those who refuse to sign are taken into custody. Elsewhere, as in Minneapolis, arrestees who refuse to sign remain eligible for field release nevertheless; informally, however, many officers interpret refusal to sign as an indication that the arrestee will fail to appear, and take that person into custody on that basis.

<sup>1</sup>Walter H. Busher, *Citation Release: An Alternative to Pretrial Detention, Concepts and Guidelines* (Sacramento: American Justice Institute, March 1978), p. 71.

## Booking Requirements

The primary purpose for booking an arrested person is to obtain fingerprints and photographs for the department's files. Such positive identification ensures that the arrestee is, indeed, the person he claims to be. Through fingerprints the department can check against local, state, or federal print files to determine whether the arrestee is wanted on other charges. Obtaining fingerprints and photographs in the field is problematic, however, and departments operating a field release procedure must either adopt an alternative strategy for these defendants or accept the absence of positive identification as a potential risk of the citation procedure.

Half of the agencies responding to Feeney's survey did not fingerprint or photograph persons cited in the field at any point in the criminal justice process, not even after conviction on the charge. Eighty percent of the responding agencies felt that the lack of positive identification was not a problem; others characterized it as only minor.<sup>2</sup> Of the five sites visited in the course of preparing this report, only Minneapolis and Boulder County do not require booking for defendants cited in the field. In Minneapolis, arrestees are simply instructed to report within seven days to the Violations Bureau of Hennepin County Court, Municipal Court Division. There, defendants are either given a court date (for most criminal misdemeanors) or allowed to pay a fine (for ordinance violations). In Boulder County, arrestees receive their court date on the summons (citation) form issued by the arresting officer. While officers interviewed in these departments expressed few reservations about the lack of booking for these arrestees, the Hennepin County (Minnesota) Sheriff's Department Annual Report for 1980 indicated that the jail experienced a 14 percent increase in misdemeanor bookings over 1979. The report attributes much of the increase to (1) a rise in the number of intoxicated persons brought to the jail instead of to detoxification centers, and (2) an increase in the number of misdemeanor offenses that could have been cited in the field but instead were held for booking (e.g., indecent conduct, +60% over 1979; drug law violations, +35%; liquor law violations, +23%). While there are several possible explanations for the apparent underutilization of field citation, the reluctance of officers to release individuals without the assurance of positive identification cannot be discounted.

Conversely, the Nassau County, Oakland, and San Francisco Police Departments all require defendants cited in the field to report to a specified location for fingerprints and photographs prior to their court appearance. In San Francisco, officers reported problems in enforcing this requirement. One officer estimated that as many as 50 percent of cited defendants are never processed, for various reasons: (1) the offense with which they are charged does not require processing; (2) sometimes, the identification officers are too busy processing defendants and send some arrestees directly to the courtroom, assuming that the prosecutor or court clerk would ensure

processing at another time. Apparently, however, many of these cases result in dropped charges at the first court appearance and the defendants never return for processing. More common, however, are simply failures to appear either for processing or arraignment.

## 2.3 Stationhouse Release

Of the departments visited, only Nassau County and San Francisco operate a stationhouse release program. Both departments also offer field release. The statutory review and telephone survey revealed that the field/stationhouse combination is available in most jurisdictions; only a few—most notably Washington, D.C.—operate stationhouse release exclusively. Thus, for most departments, stationhouse release serves as a "safety valve" for defendants who cannot, for various reasons, be released in the field.

### Eligibility Requirements

In a number of states the eligibility criteria for stationhouse release are set forth by statute. Most commonly these criteria include residence requirements, family status, employment, and prior record. In many departments, however, the eligibility requirements for stationhouse release do not differ significantly from those for field release; rather, the stationhouse option provides a means by which the department can clarify certain issues that precluded the arrestee's release in the field.

For example, in some cases, the drive to the stationhouse may provide a long enough "cooling off" period to quiet a person arrested for a simple assault. It may allow a person charged with driving under the influence enough time to "sober up," sign the release form, and arrange for a ride home. Another common reason for denying field release is the existence of outstanding warrants, revealed via the radio or computerized warrant check conducted by the arresting officer in the field. Often such an arrestee will be issued a field citation for the current offense but will be taken to the stationhouse to clear the outstanding warrant. Unless the warrant is for a noncit-able offense, such as a felony, the arrestee may be issued a citation from the stationhouse to appear on the charge on the warrant.

By far the most frequent obstacle to the arrestee's field release is lack of adequate identification. At the stationhouse, a person's identity can be verified through telephone contacts with family, friends, or employers. In some departments, as described below, certain arrestees can be booked at the stationhouse. Once the department has the arrestee's fingerprints and photograph, establishing identity is no longer a problem.

In Nassau County, the Police Department's legal advisor has construed the "earliest available point of release," as described in the New York statute, to be the stationhouse for most misdemeanor offenses. There, arrestees may be released

<sup>2</sup>Floyd Feeney, *The Police and Pretrial Release* (Lexington, MA: Lexington Books, 1982), p. 122.

on an appearance ticket if they are county residents, have adequate identification, and seem likely to appear in court. If, however, the arrestee resides outside the county, cannot identify himself, or gives the desk sergeant reason to believe he will not appear in court, the appearance ticket will only be issued in conjunction with "prearrestment bail," as will be described below.

The San Francisco Police Department's general order identifies certain offenses which are ineligible for stationhouse release. These include driving under the influence of alcohol or drugs, drunk in auto, and drunkenness. Persons arrested for the latter offense may be held until sober and released without an arrest or citation if they have not been arrested for the same offense within the previous 30 days. If they had been previously arrested for drunkenness, they are taken to jail and held for court the next day. Police can also divert public inebriates to various detoxification facilities.

The San Francisco Sheriff's Department's citation policy also lists several noncitable offenses, for example, solicitation of an act of prostitution, domestic violence cases if the arrestee must return to the same address, and certain charges involving the use of weapons.

## Screening and Booking Procedures

Screening for stationhouse release hinges largely on record and warrant checks and telephone contacts with family, friends, or employers. In many departments this verification process is performed by police officers, but some departments believe that their officers' time could be spent more productively on other duties (for example, at the Metropolitan Police Department of Washington, D.C., the interviewing and verification process is performed over the telephone by staff of the D.C. Pretrial Services Agency). Generally, the arrestee will be released from the stationhouse if the officer performing the verification is satisfied with the answers yielded by the telephone and record checks. Officers in one department reported, however, that several more sophisticated arrestees have eluded this system by developing pre-arranged agreements with friends to vouch for phony identification when asked to verify information supplied by the arrestee.

Police departments in Cincinnati, New York City, and Washington, D.C., utilize a citation release point scale for establishing the arrestee's eligibility. The point scales used in these cities were modeled after the scale developed by the Vera Foundation for the Bail and Summons Projects conducted in Manhattan in the mid-1960s. Briefly, the citation release point scale provides a numerical "score" for each arrestee which represents the strength of the information supplied and then verified on residence, employment, family ties, and prior record. The point scale used in Washington, D.C., is presented on the following page as Exhibit 2-1. Arrestees must score a minimum of four points on the scale in order to obtain citation release from the stationhouse.

The clear advantage of the point scale is that it standardizes the release decision. Officers in some departments believe that a point scale is so standardized as to be detrimental, that is, it removes the individual officer's discretion to weight some factors more heavily than others in the release decision, for example, or to take into account unique characteristics of the arrestee or the offense that may not be reflected in the point scale. A March 1979 report on the use of desk appearance tickets in New York City suggested that the point scale often was bypassed and officers tended to rely solely on a verifiable address as proof of community ties.<sup>3</sup>

A few departments take fingerprints and photographs of arrestees brought to the stationhouse. For example, New York law identifies certain offenses as "printable" offenses, and hence police cannot release persons charged with these crimes until they are fingerprinted. More commonly, arrestees cited from the stationhouse are subject to the same booking requirements as were described for field release.

## Other Stationhouse Release Alternatives

It should be recalled that arrestees who do not obtain stationhouse release are not automatically transported to jail. Many arrestees may obtain release by posting cash bail. In California, recent legislation provides for a ten percent bail procedure which allows misdemeanor defendants whose bail is set at \$150 or more (for each offense) to obtain release by posting ten percent cash bail. Oakland officers reported that this procedure is rarely used; it entails more paperwork and the department's policy was revised to encourage greater use of citations.

Police departments in New York offer an option of "prearrestment bail" in conjunction with an appearance ticket issued at the stationhouse. In Nassau County, this option applies to misdemeanor arrestees who either reside outside the county, cannot identify themselves, or give the desk sergeant reason to believe they will not appear in court. These arrestees may obtain stationhouse release by posting prearrestment bail to the desk officer in an amount commensurate with the severity of the offense, as established by statute, with a \$500 maximum. Bail deposits are returned to the defendants after their appearance in court for arraignment.

## 2.4 Jail Release

A final point of prearrestment release available in many jurisdictions is the jail, which typically is operated by the sheriff, not the police. One exception is the Oakland City Jail, which is managed by the Oakland Police Department. In Boulder County, the Sheriff's procedure is called "book and

<sup>3</sup>New York City Criminal Justice Agency, "DAT Policy Review: First Report on a CJA/NYPD Pilot Program in the Bronx," New York, March 1979, p. 2.

## Exhibit 2-1 Citation Point System, D.C. Pretrial Services Agency

### POINTS TIME IN WASHINGTON AREA

- 1 5 years or more.

#### **RESIDENCE** (In Washington area; NOT on and off)

- 3 Present address 1 year OR present and prior addresses 1-1/2 years.  
 2 Present address 6 months OR present and prior addresses 1 year.  
 1 Present address 4 months OR present and prior addresses 6 months.  
 \*Add 1 extra point if the arrestee is buying his home.  
 \*Add 1 extra point if the arrestee has a verified operable telephone listed in his own name.

#### **FAMILY TIES**

- 4 Lives with family AND has contact with other family member(s).  
 3 Lives with family.  
 2 Lives with non-family friend whom he gives as a reference AND has contact with family member(s).  
 1 Lives with non-family friend whom he gives as a reference OR lives alone and has contact with family member(s).

#### **EMPLOYMENT OR SUBSTITUTES**

- 4 Present job 1 year where employer will take back OR homemaker with children in elementary school.  
 3 Present job 1 year or more OR homemaker with children.  
 2 Present job 3 months OR present and prior jobs 6 months or full-time student other than secondary school student.  
 1 (a) Present job; OR  
 (b) Unemployed 3 months or less with 9 months or more single job from which not fired for disciplinary reasons; OR  
 (c) Receiving unemployment compensation, welfare, pension, disability, alimony, etc.; OR  
 (d) Full-time secondary student; OR  
 (e) In poor health (under a doctor's care, physically impaired, etc.)

#### **DEDUCTIONS**

- 5 On Bond on pending felony charge OR on probation or parole for a felony.  
 -2 On Bond on pending misdemeanor charge OR on probation or parole for a misdemeanor; OR knowledge of present drug use or alcoholism.  
 -1 Prior negligent no show while on Bond; OR knowledge of past drug use.

#### **PRIOR CONVICTIONS**

**NOTE:** Use the chart below for single offenses and for combination of offenses.

Code: One adult felony = 7 units

One adult misdemeanor = 2 units

Circle total record units

Units	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Points	0					-1					-2							-3				-4

**RECOMMENDATION CRITERIA FOR TRAFFIC CASES** (other than DWI, Negligent Homicides, Hit and Run) 10

#### **POINTS**

- 4 Present Address 1 month (No Deductions)  
**TRAFFIC CASES** (DWI, Negligent Homicide, Leaving the Scene of an Accident, Hit and Run)  
 - Complete Interview and Regular Point Tabulation  
 (Only Deduction: -2 for Probation, Parole or Bond on misdemeanor or felony)



release;" in Hennepin County (Minneapolis), it is known as "no bail required." The San Francisco Sheriff also operates a jail citation program.

## Eligibility Requirements

Often, the sheriff's citation eligibility requirements are perfectly consonant with those employed by the police department. In Hennepin and Boulder Counties, for example, the jail release policy is essentially the same as that used in the field; the major difference is that arrestees who cannot produce satisfactory identification in the field can be positively identified through fingerprints and photographs at the jail before they are released.

In Oakland, patrol officers who decline to make a field release bring arrestees to the jail where they are booked and reconsidered for citation release. There are only a few circumstances that preclude their release at that point: reasonable likelihood of failure to appear, potential for injury to persons or property, intoxication, and arrest on a warrant for failure to appear. By far the offense most frequently cited out of the jail (after a four-hour "sobering-up" period) is driving while intoxicated.

Sheriffs are faced with one major constraint that does not affect most police departments: overpopulated jails. Persistent overcrowding may prompt the sheriff to adopt a release policy more lenient than that of police in an attempt to relieve the situation. For example, the Hennepin County Jail tends to become crowded with inebriates brought in by Minneapolis police officers; often, these persons are released from the jail after they become sober and someone comes to the jail to assure their appearance in court. Similarly, the San Francisco Police Department cannot release drunk drivers in the field (unless there is a sober person to accompany them), but the Sheriff's Department can and does issue jail citations after they are sober.

In some instances, policy differences between the police and sheriff's department can lead to problems. In San Francisco, for example, officers who decline to release an arrestee at the stationhouse must specify on the arrest and incident reports the reason for their decision. The arrestee will be reconsidered for citation release by the Sheriff's Office at the jail. Occasionally, particularly for prostitution-related arrests, the Sheriff will release the arrestees despite the Police Department's policy to detain them. This practice has been a source of considerable friction between the Police Department and the Sheriff's Office. To reduce the friction, the Sheriff has agreed *not* to release arrestees charged with prostitution, but he continues to release those charged with related offenses such as obstruction or public nuisance.

## Screening and Booking Procedures

Screening at the jail focuses largely on an extensive record check. Sometimes staff of a pretrial services agency will conduct residence and community ties verification, particularly if such proceedings were not conducted at a police station. Because booking is routine at the jail, problems associated with inadequate identification—the most common reason for failing to release an otherwise qualified arrestee in the field or at the stationhouse—are removed. In Hennepin County, for example, when persons are brought to the jail solely for lack of identification, jail officers will book them, conduct an intensive record check, and release them if their records are clean. (Minneapolis police do not have a stationhouse release alternative.) The Boulder County Sheriff's Department has a similar "book and release" procedure. In San Francisco, persons charged with offenses that do not require fingerprints or photographs by state law (e.g., drunks) can be cited immediately from the jail. Otherwise, jail officers will contact the Identification Bureau of the San Francisco Police Department for a record check and to see if the arrestee's prints and photos are already on file; if so, the arrestee may be released immediately. If there is no file on the arrestee, prints and photographs are taken at the jail before the arrestee is released.

## Other Jail Release Alternatives

As with stationhouse procedures, it should be recalled that citation release by the detaining authority is not the only means of obtaining prearrestment release from the jail. Posting money bail or percentage bond is still a popular alternative. Defendants who cannot obtain release by any of these means will be detained until their arraignment (usually no more than 24 or 48 hours, depending on court schedules), where the judge may set bail or nonfinancial release conditions.

\* \* \*

As it is used today, the practice of citation release takes three forms: field release, stationhouse release, and jail release. Within an individual jurisdiction, law enforcement agencies may offer only a single type, a combination of two, all three variations, or none at all. Among those jurisdictions operating one or more of the citation release alternatives, there is considerable variation in the eligibility criteria, screening procedures, and booking requirements that are applied to the citation procedure. How an individual department implements its own citation program will depend on statutory requirements, local tradition, and what is acceptable to the community and the department's rank and file.

## CHAPTER 3

### ADVANTAGES AND DISADVANTAGES OF CITATION RELEASE

While there are several aspects of citation release which strongly favor its use, other aspects appear risky and detrimental to the law enforcement process. Both the positive and negative elements tend to have the greatest impact in the field release procedure and to diminish in magnitude with the stationhouse and jail variations, i.e., as the process approaches the traditional mode of apprehension and custody. These potential advantages and disadvantages are summarized in Table 3.1 and described more fully in the text which follows.

**Table 3.1 Summary of Advantages and Disadvantages with Citation Release**

Potential Advantages	RELEASE LOCATION		
	Field	Stationhouse	Jail
<b>Potential Advantages</b>			
Cost Savings			
Patrol Officer Time	High	Low	Low
Transportation Costs	High	Low	Low
Booking Fees	High	Medium	Low
Detention Costs	High	High	Medium
Reduced Jail Population	High	High	Medium
Reduced Police/Jail Complaints	High	Medium	Medium
<b>Potential Disadvantages</b>			
Increased Failure to Appear	High	High	High
Loss of Sanctioning Power	High	Medium	Medium
Widening Net	High	Medium	Low
Misuse of Officer Discretion	High	Medium	Medium

### 3.1 Potential Advantages

#### Cost Savings

High in the ranking of benefits commonly associated with citation release is the potential for cost savings. There are several components of the citation procedure that may contribute to an overall reduction in costs to the police department. These include patrol officer "street time," transportation, booking, detention, and overtime payments. (Further discussion of the costs and benefits of citation release is presented in Chapter 7.)

**Street Time.** Field citation is certainly the speediest of the three release alternatives. All of the departments visited for

this study reported that issuing a field citation can be accomplished in 30 minutes or less. Nearly half (48 percent) of the agencies responding to Feeney's survey reported that each field citation saved 30-60 minutes over a traditional custodial arrest; an additional 21 percent claimed to save from one to two hours per field citation.<sup>1</sup> A more recent study of four jurisdictions by Needle and Busher found that field release saved from 4 to 46 minutes over traditional arrests.<sup>2</sup> Moreover, the officer issuing a field citation remains in the patrol sector and, depending on the department's policy, may be available to respond to certain high priority calls for service. The "street time" saved in field release is even more marked in jurisdictions which use two-man cars; there, the man-hours incurred in transporting arrestees to the stationhouse or jail are doubled.

Much of this time saving evaporates when arrestees are transported to the stationhouse prior to release. The arresting officer either must transport the arrestee to the stationhouse himself or wait with the arrestee until a transportation wagon arrives at the scene. Of course, the amount of time incurred in transportation alone depends largely on the distance between the scene of the offense and the stationhouse; however, stationhouse release incurs additional officer time at the stationhouse for completing paperwork and, in some departments, conducting telephone calls to verify the arrestee's identification and community ties information.

Jail release incurs all the officer's time associated with stationhouse release, plus the time spent on jail-related paperwork such as booking forms. Officers interviewed in the site visits estimated that the time involved in transporting and booking arrestees into the local jail ranged from 45 minutes to 4-1/2 hours. This represents no savings over traditional custodial arrest for the arresting officer. However, jail citations do eliminate jail officer tasks such as housing assignments and storing the defendants' property.

**Transportation.** In addition to the time involved in transporting arrestees to the stationhouse or jail, the department incurs considerable transportation expenses, particularly if the arresting officer transports the arrestees in the patrol car rather

<sup>1</sup>Floyd Feeney, *The Police and Pretrial Release* (Lexington, MA: Lexington Books, 1982), p. 52.

<sup>2</sup>National Institute of Corrections, *Countywide Citation Release Programming*, by Jerome A. Needle and Walter H. Busher (Sacramento: American Justice Institute, 1982), pp. 26-27.

than using a transportation van or wagon to carry several arrestees at a time. Fuel costs alone can mount rapidly in geographically dispersed jurisdictions or in areas where the detention facility is located in a remote site. It might be noted, however, that many officers view the trip to the stationhouse as a welcome break to the routine of patrol and may be reluctant to relinquish the opportunity to "escape."

**Booking.** As was demonstrated in the preceding chapter, some jurisdictions do not require citation releasees to undergo the formal booking process. Other jurisdictions require the releasees to appear for booking at a specified location on or before their scheduled court dates. Some departments complete all or part of the booking process themselves at the stationhouse. Booking is generally routine for arrestees who are taken to the detention facility before they are released.

Both in practice and in theory, there exists some diversity of opinion regarding the necessity of booking persons obtaining release on citation. Booking can be both time-consuming and costly for police departments. In a report prepared shortly after California enacted its legislation authorizing the use of field citations, the Center on Administration of Criminal Justice noted that departments may want to require booking only for some classes of defendants, for example, all defendants who are ultimately convicted of the cited offense; in such cases, booking would occur after final disposition. However, arresting officers should retain discretion in requiring booking for other defendants.<sup>3</sup> Still, the report contends that because the principal purpose of booking is to obtain fingerprints and photographs in support of the issuance of a warrant in the event of nonappearance in court, and because nonappearance was thought to be relatively rare for cited defendants, booking "seems like a small benefit for such a large cost."<sup>4</sup>

The Nassau County Police Department provides a case in point. In 1976, the Department altered its booking requirements for persons released on appearance tickets. Fingerprinting and photographing would no longer occur at the stationhouse at the time of arrest, but at the Records Bureau on the day of arraignment. Although this change in procedure meant that persons who failed to appear for arraignment would not be booked, the Department estimated that it saved 13,000 man-hours.<sup>5</sup>

**Detention.** If a large proportion of defendants can be released on citation, the total savings in detention costs may be substantial. Care and custody at the Boulder County jail is estimated to cost approximately \$45 a day; the Minneapolis Police Department pays a booking fee of \$58 per misdemeanor plus, after the first 12 hours, a subsistence fee of \$7.50 for each six hours (\$35 per day). Similarly, the Sheriff of San Francisco reports that detention costs are \$42 per day.

**Police Officer Overtime.** In addition to the savings that may accrue from the efficiencies in processing persons obtaining citation release (as described above), another major cost element is the requirement, in some jurisdictions, that the arresting officer appear at the releasee's arraignment (and sometimes subsequent court appearances as well). These court appearances typically occur outside the officer's regular tour of duty and thus incur overtime costs for the department. Some jurisdictions, including New York City, have eliminated this requirement in the case of citation release.

## Estimates of Total Cost Savings

In the late 1960s and early 1970s, when citation release was first introduced in a number of departments, researchers attempted to place a dollar value on the total savings associated with the new procedure. In its second year of implementation in Manhattan, for example, the desk appearance ticket procedure (stationhouse release) was estimated to have saved the Department more than \$1.5 million;<sup>6</sup> over the first four years of the Manhattan Summons Project, total savings were estimated at \$6.7 million. These savings were attributed to police patrol hours and overtime payments reduced as a result of the issuance of desk appearance tickets and the elimination of the officer's need to appear at the arraignment of defendants released in the field.<sup>7</sup> By eliminating the time and transportation costs of taking arrestees into the police stationhouse prior to release, field release procedures might be expected to accrue even greater savings. For example, the Nassau County Police Department found that, by instituting a field release procedure for shoplifting arrestees, the Department saved 10,242 man-hours in 1976.<sup>8</sup>

Another cost analysis of the citation procedure was conducted in Oakland in 1971. This analysis compared the cost of field citation, jail citation, and traditional arrest and incarceration. (Oakland does not operate stationhouse release.) The results of this analysis are displayed on Table 3.2. The Oakland study estimated a total savings to the city of approximately \$76,000 over a 13-month period.

In contrast, a cost analysis of field release in New Haven, Connecticut, concluded that *no* savings in patrol resources could be attributed to the field citation procedure. The New Haven Police Department uses a prisoner conveyance to transport arrestees to the detention facility, and the vehicle's response time to a report from the field was estimated at ten minutes. Likewise, the time required to complete a citation release in the field was estimated at ten minutes. Thus, there was no saving in officer patrol time.<sup>9</sup> However, the use of citations did reduce the number of prisoners transported by

<sup>6</sup>Feeney, *The Police and Pretrial Release*, p. 50.

<sup>7</sup>*Ibid.*, p. 91.

<sup>8</sup>Wolf, "Criminal Justice for the Non-Criminal," pp. 9-10.

<sup>9</sup>This study did identify some economies when citations were issued during court hours because officers did not have to leave the field. However, this occurred in fewer than ten percent of all citation situations. Mark Berger, "Police Field Citations in New Haven," 2 *Wisconsin Law Review* 382, 409 (1972).

<sup>3</sup>"Citation in Lieu of Arrest for Misdemeanor Defendants: Implementing the New California Law," Center on Administration of Criminal Justice, University of California, Davis, p. 34 (undated).

<sup>4</sup>*Ibid.*, p. 31.

<sup>5</sup>Daniel L. Wolf, "Criminal Justice for the Non-Criminal," Nassau County Police Department, March 1977, pp. 9-10.

the conveyance vehicle (by an average of 23 per week), but the study does not report the resulting cash savings. The procedure also eliminated the time required to process arrestees, which included administration of a bail interview. The report estimates a total savings of .59 man-years over the course of the study period.

**Table 3.2 Expenses Saved by Misdemeanor Citation Program, Oakland Police Department, 1971**

1. Cost of arrest and incarceration*	
(a) two arresting officers	\$37.60
(b) one arresting officer	34.78
2. Cost of arrest followed by jail citation**	
(a) two arresting officers	25.91
(b) one arresting officer	23.06
3. Cost of arrest followed by field citation***	
(a) two arresting officers	17.47
(b) one arresting officer	14.41
Savings per field citation	
two arresting officers [1(a)-3(a)]	20.13
one arresting officer [1(b)-3(b)]	20.37
Savings per jail citation	
two arresting officers [1(a)-2(a)]	11.69
one arresting officer [1(b)-2(b)]	11.72

\*Includes cost of arresting officer's time (average 30 minutes), squad car (transporting defendant, mileage, and officer's pay), booking, incarceration for one day in jail (duration often is greater), routing and completion of documents, and follow-up investigation. Does not include prosecution costs (pretrial conference with the District Attorney and court time for officers).

\*\*Jail citation eliminates cost of incarceration.

\*\*\*Field citation eliminates costs of incarceration and transportation; it reduces booking costs (booking in the jail requires an average of one hour; booking of those who appear in the Identification Section of the Police Department requires 15-20 minutes).

Source: L. Moody, "Expenses Saved by Misdemeanor Citation Program," cited in "Pretrial Release Under California Penal Code Section 853.6—An Examination of Citation Release," 60 *California Law Review* 1339, 1361 (1972), fn. 120.

Yet another cost analysis was based on national cost estimates for the various steps involved in effecting an arrest versus field or stationhouse release. This study tied the extent of savings that could be realized to the utilization rate of the citation procedure. Specifically:

- a relatively *high* rate of *eligibility* coupled with a *low* rate of *release* produces arrest costs that exceed those of stationhouse citation by 8 percent and those of field citation by 57 percent;
- a relatively *low* rate of *eligibility* with a *low* rate of *release* produces arrest costs that exceed those of sta-

tionhouse citation by 11 percent and those of field citation by 70 percent; and

- with a relatively *high* rate of *eligibility* and a *high* rate of *release*, the cost of arrest exceeds that of stationhouse citation by 27 percent and that of field citation by 230 percent.<sup>10</sup>

More detail on the methodology of this analysis is provided in Chapter 7.

Feeney has suggested, too, that any potential savings associated with citation release must be weighed against the costs of apprehending and prosecuting arrestees who fail to appear in response to the citation.<sup>11</sup> As is discussed in detail below and in Chapter 6, however, there is no conclusive evidence that failure-to-appear rates increase significantly with the institution of citation release. Moreover, misdemeanor FTA warrants are rarely made the target of special apprehension efforts; rather, they tend to be served only if the arrestee is apprehended on a new offense and thus do not incur additional costs.

In sum, the amount of savings a department might expect to accrue from the institution of a citation release program depends largely on arrest procedures already in place and the kind of citation program implemented. There will be little savings in officer time and costs involved in transporting prisoners if patrol officers have never transported prisoners in the past, but relied on transportation wagons. There will be no savings in overtime if arresting officers have never been required to attend the arrestee's arraignment hearing. Cost-benefit analysis of citation release is treated more fully below in Chapter 7.

## Containment of Jail Populations

In several jurisdictions, citation release is viewed as one of several strategies for reducing the burgeoning jail population.<sup>12</sup> Although none of the jurisdictions participating in the Abt Associates site visits originally adopted citation release for the purpose of reducing jail populations, administrators in all departments but Oakland (where the City Jail has been underutilized) noted that the option of citation release has helped to relieve a growing problem in short-term detention. Indeed, the Hennepin County Sheriff has begun to

<sup>10</sup>U.S. Department of Justice, Law Enforcement Assistance Administration, National Institute of Law Enforcement and Criminal Justice, *Cost Analysis of Correctional Standards: Alternatives to Arrest, Vol. 1*, by Susan Weisberg (Washington, D.C.: Government Printing Office, October 1975), p. 9.

<sup>11</sup>Feeney, *The Police and Pretrial Release*, p. 50.

<sup>12</sup>Expanded use of citation release was one recommendation of the Jail Overcrowding and Pretrial Detainee Project funded by the Law Enforcement Assistance Administration in 1977. Sponsored by the National Institute of Corrections, the American Justice Institute is now providing technical assistance to selected police departments interested in adopting a citation procedure as an attempt to reduce jail overcrowding.

cite certain "gross misdemeanors" (e.g., prostitution, contributing to the delinquency of a minor, concealed weapons, and obstructing the legal process) from the jail as a direct response to the crowding problem. It should be noted, however, that citation release is only, at best, a partial solution to jail overcrowding. Increases in index crimes have accounted for much of the growth in detention populations; these offenses are invariably disqualified from citation release.

## **Reduction of Complaints Lodged Against Police and Jail**

Some police administrators and officers have suggested that the availability of citation release for minor offenders has reduced the number of complaints about police "brutality" and maltreatment in detention. While there is no written documentation to substantiate or refute this claim, it stands to reason that fewer problems would be generated by the quick and unfettered release of arrestees whose current charge and prior record indicate no cause to detain them. From this perspective, citation release may be viewed as a logical extension of the basic constitutional precept of "innocent until found guilty."

## **3.2 Potential Disadvantages**

### **Increased Failure to Appear**

The proclivity of arrestees to renege on a mere promise to appear is perhaps the most commonly noted risk associated with citation release. As is discussed in great detail in Chapter 6, the research on this issue is mixed. Interviews conducted with line officers and their superiors suggested that failure to appear is perceived as a more serious problem by line officers than by higher ranking officers. Many patrol officers were particularly concerned that arrestees may produce false identification and thus elude the criminal justice system entirely once they are released. Without some means of positively verifying the identification supplied by the arrestee, there is the possibility that offenders who are wanted on serious charges can be apprehended on a citable offense, produce seemingly valid (but false) identification documents, and obtain field release with no intention of appearing in court to answer for their crimes. Indeed, some officers cited willful failure to appear as a problem even for minor offenders who are wise to the system; FTA warrants for misdemeanor charges are rarely served unless the defendant is apprehended for a new offense.

### **Loss of Sanctioning Power**

The perceived potential for increased failure to appear, coupled with the absence of aggressive follow-up of FTA war-

rants, led several of the line officers interviewed to characterize field citations, in particular, as a "bankrupt policy," having diminished the clout of law enforcement agencies to see that justice is served. This perception apparently has been echoed by victims who observe arrestees undergo ten minutes of police questioning before they are released with only the inconvenience of an upcoming court appearance. This concern was raised both in Nassau County and San Francisco, where shoplifting is the offense most frequently cited in the field. While some merchants (especially in large department stores) welcome field citations as an efficient way to process shoplifting arrestees, the managers of smaller establishments (such as owner-operated stores) often demanded that the arrestee be taken into custody. Similar demands were reported from victims of minor assaults and property incidents.

The apparent loss of sanctioning power associated with citation release can be tested indirectly by examining rearrests of individuals released on citation. One such study in four jurisdictions found that cited defendants were far less likely than those released on bail or recognizance to be rearrested between the time of their release and final disposition of the initial charge. Of course, the authors recognize that these data may be "attributable to nothing more than the fact that those released are less criminally oriented to begin with, or they would not meet release criteria."<sup>13</sup>

A related problem occasionally mentioned regarding field release was the potential for friction with crowds that form when the officer remains at the crime scene even for the 15-30 minutes it takes to process a citation. Officers tend to prefer writing their reports and citation "tickets" in a more neutral location. That location does not have to be the police station, however; several officers reported that they eluded crowds simply by driving the arrestee a short distance away from the scene before writing the ticket.

### **Widening Net**

Another potential disadvantage associated with field release is tied to the ease with which the citation tickets can be issued. Some critics have suggested that officers will be prone to issue citations to persons who previously would have been released with a warning or reprimand, thereby bringing more people into the criminal justice system and "widening the net" of social control.<sup>14</sup> None of the officers interviewed believed that this phenomenon occurred in their department.

One published study specifically tested the "widening net" hypothesis.<sup>15</sup> Using the interrupted time series method, Horney examined total misdemeanor arrests and arrests for

<sup>13</sup>Needle and Busher, *Countywide Citation Release Programming*, p. 30.

<sup>14</sup>Norval Morris, *The Future of Imprisonment* (Chicago: University of Chicago Press, 1974).

<sup>15</sup>Julie Horney, "Citation Arrest: Extending the Reach of the Criminal Justice System?" *Criminology*, Vol. 17 (February 1980): 419-434.

specific charge categories for 31 months preceding and 24 months following implementation of citation release procedures in Omaha, Nebraska in August 1975. The study findings indicated that implementation of the citation procedure did not result in the anticipated increase in the total number of misdemeanor arrests. However, there was an increase in the number of arrests for larceny and assault. The increase in larceny arrests was attributed to several factors: an increase in the number of larcenies reported to the police, greater readiness of storeowners to report shoplifting incidents to police, and changes in the discretionary behavior of police officers as a result of the citation policy. The increase in assault arrests was attributed solely to the citation policy for two reasons: the relative ease of processing citation cases in the field, and the desire of the police to satisfy the victim in situations in which the police may have previously decided an arrest was not warranted. Departments can monitor the appropriateness of their officers' use of field citations by routinely reviewing offense reports and following up with additional training if necessary.

### **Officer's Misuse of Discretion**

A final risk associated with citation release is grounded in the extent to which the release decision relies on discretionary factors. There is always a risk that certain officers may apply the procedure in a discriminatory or arbitrary fashion: some arrestees may be cited when they should have been detained or released with only a warning. Conversely, others may be released with a warning or detained when they should have been cited.

In Nassau County, Minneapolis, and Boulder County, where the guidelines for field release allow considerable room for the officer's judgment, commanding officers perceived the exercise of discretion as squarely within the role and responsibilities of a "professional" police force. Patrol officers are considered to be "smart cops," and their superiors trust their decisions. Even in California, where the enabling legislation provides only nine stipulated exceptions to the issuance of a field citation, patrol officers can exercise considerable discretion in their interpretation of certain exceptions, for example, the potential for jeopardizing the prosecution if the arrestee is

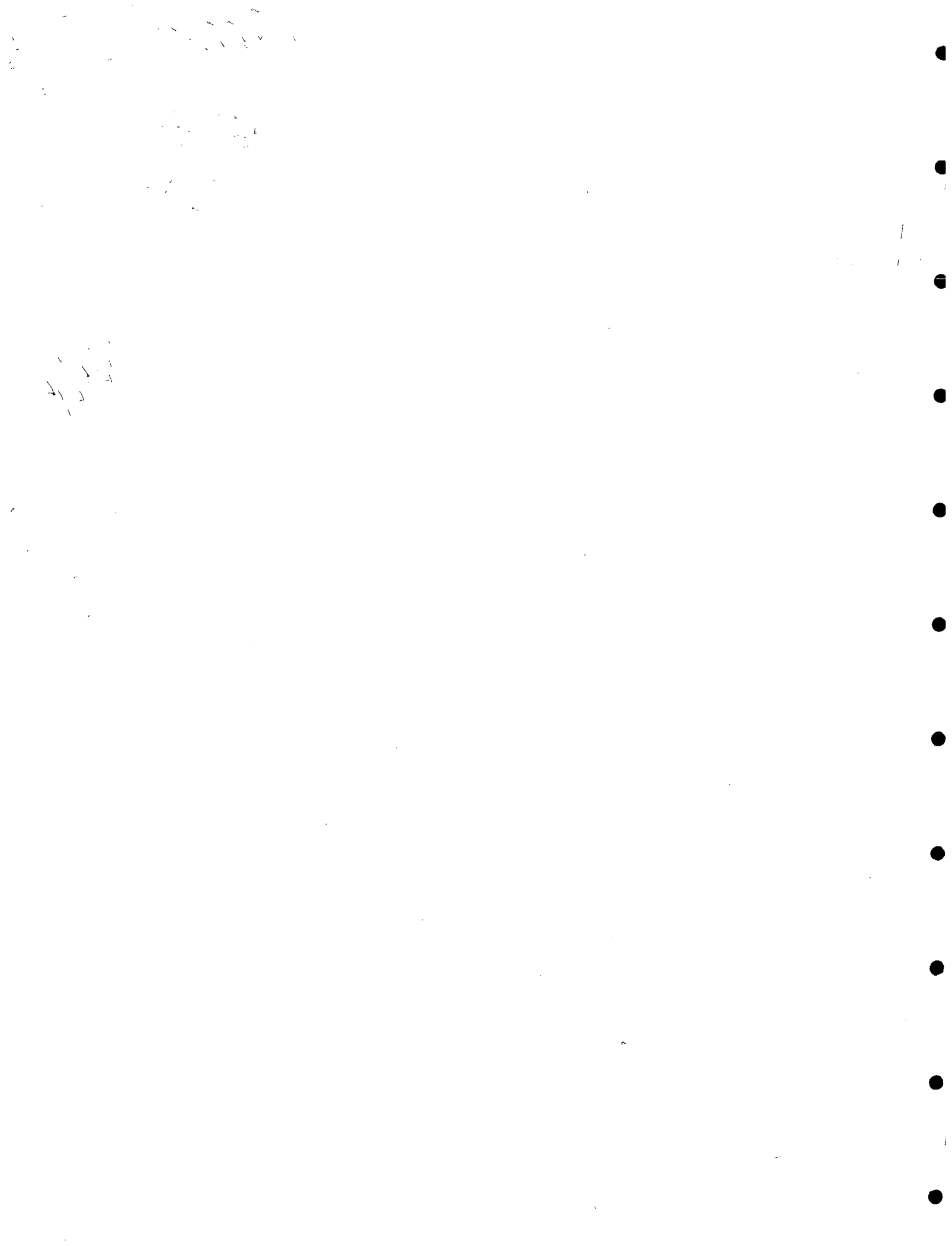
released, or the likelihood that the offense will continue. And, of course, the ninth exception is generally worded as "any other reason, specifically stated." Patrol officers interviewed in Oakland and San Francisco reported that they relied heavily on their own discretion in the field release decision, and viewed the exercise of discretion as a critical and necessary part of their jobs.

Officers at all levels in the departments visited pointed to the importance of training in ensuring that discretion is applied to citation release decisions in a consistent manner. Requiring officers to state, in writing, their reasons for denying field citations also serves as a check on misuse of the procedure. Periodic reviews of arrest and incident reports should flag any existing problems so that supervising officers can respond with additional training or simple reminders.

\* \* \*

There are certain advantages and disadvantages associated with the use of citation release. The most widely noted advantage is the potential for cost savings; the most commonly noted disadvantage is the risk of increasing failure-to-appear rates. Both the potential for cost savings and the risk of higher FTA rates are greatest when the field release option is employed. Stationhouse and jail release tend to approximate traditional arrest procedures in their costs, but all citation release alternatives share two common benefits: (1) they reduce the extent of reliance on money bail as a means of obtaining pretrial release, and (2) they reduce the need for prearrestment detention.

In several departments visited, line officers were skeptical of the citation release procedure, but department chiefs and deputies were extremely positive. Through inspired training and incentives, discussed in Section 5.3, the optimism of top administrators can be conveyed to the rank and file. Likewise, any concerns about potential abuse or misuse of the procedure or the possibility that it will be used inconsistently can be addressed through routine monitoring and supervisory practices. These activities are discussed in Section 7.1 below.



## CHAPTER 4

# THE LEGAL SETTING AND POLICY DEVELOPMENT

Before a law enforcement agency can begin to discuss the possibility of introducing citation release, planners must be fully cognizant of the existing legal environment. There are two components of the legal setting: (1) the broad legal issues that have been raised concerning the powers and constraints associated with a citation procedure, and (2) the specific statutes or court rules that may define the program's limits or describe aspects of its implementation. Only when the legal authority for citation release has been determined and interpreted for purposes of developing an operational program can planners turn to the next step of framing basic policies and guidelines. Even though many states are quite explicit in their statutes as to details of a citation program in operation, there is considerable latitude left to law enforcement agencies in implementing the procedure in their own communities. This chapter presents the general legal issues surrounding the use of citation release; a national overview of enabling legislation; a review of the design, content, and function of the citation form itself; and an examination of the departmental general order.

### 4.1 Legal Issues

Although there has been little litigation testing the validity of the citation release procedure, there are certain questions that may arise. Two fundamental questions that appear in the literature are (1) whether the issuance of a field citation constitutes an arrest, and (2) whether certain elements of the citation authority violate constitutional guarantees of equal protection under the law.

The first question, whether the field citation constitutes an arrest, is particularly germane in jurisdictions where the field procedure is referred to as "citation *in lieu of* arrest." (Because the stationhouse form of citation release necessarily involves taking the defendant into custody, the nature of that action as an arrest is clear.) Feeney points out five potential questions that may arise if the field citation is not interpreted as an arrest:

- (1) Does the officer have to establish probable cause before stopping the defendant?
- (2) Can a citation be issued for an offense committed unseen by a law enforcement officer?
- (3) Does the officer have the authority to detain the defendant while completing the citation report?

- (4) Does the officer have the authority to search the defendant incident to the citation? and
- (5) Is the officer required to give the *Miranda* warnings before questioning a defendant who may be eligible for field release?<sup>1</sup>

Existing statutes are quite variable in the way they describe the legal character of a citation in the field. Some, such as those of Arizona, Florida, and Idaho, explicitly state that the release decision is made *after* an arrest occurs. A few states, including New Mexico and Oregon, allow officers to issue citations in lieu of taking the arrestee into custody or continuing to detain him. In these states, the statutory language clearly denotes that an arrest has already been effected at the time the citation decision is made. In contrast, another common statutory construction is to allow citations *instead of* arrest whenever the officer is authorized to arrest without a warrant, typically for misdemeanors or other minor offenses. Such language implies that all the elements of arrest without a warrant must be present before a citation can be issued; however, it does not specify whether the field situation confers upon the issuing officer all the investigative powers that are incidental to an arrest (i.e., continued detention, search and seizure). The Arkansas statute does have language explicitly noting that, although the citation is issued "in lieu of arrest or continued custody," the citing officers retain their investigative authority. Provisions like these are rare, however, and it may be necessary for the law enforcement agency to obtain legal advice regarding the rights and restrictions attached to field release before implementing the procedure.

Feeney also raises some legal questions pertaining only to jurisdictions with a presumption in favor of citations, as in California.<sup>2</sup> For example, Feeney points out that citizens who are taken into custody, when the statute says they should have been cited, may have recourse to a suit for false arrest. Also, if it is held that the citizen should have been cited, the courts may then invalidate any search that was conducted incident to the arrest because the arrest itself would be considered illegal. Again, Feeney discusses these issues in greater detail and presents state court rulings where available; readers are referred both to Feeney and Berger (also cited above) for more thorough treatment.

<sup>1</sup>Floyd Feeney, *The Police and Pretrial Release* (Lexington, MA: Lexington Books, 1982), Chapter 6. See also, Mark Berger, "Police Field Citations in New Haven," 2 *Wisconsin Law Review* 382 (1972).

<sup>2</sup>Feeney, *The Police and Pretrial Release*, pp. 73-74.



The citation procedure also has been questioned on constitutional grounds. A 1974 article raised three questions pertaining to equal protection under the law:<sup>3</sup>

- (1) Does the delegation of extensive discretion to individual officers create the probability that the system will be applied discriminatorily?
- (2) Can eligibility for citation be limited to those individuals who possess adequate community roots?
- (3) Can felons be excluded from the operation of the system?

In discussing this article, Feeney acknowledges that, once proved, discriminatory application of the citation procedure would certainly be assailable on constitutional grounds. At the same time, however, Feeney argues that neither the existence of discretionary authority in itself nor the use of a community ties criterion for citation decisions would be unconstitutional as violations of the equal protection clause. Feeney also claims that statutory exclusion of felony cases from eligibility for citation release is likewise constitutionally sound.<sup>4</sup>

It is clearly beyond the scope of this document to explore the numerous legal arguments that could be raised in debating these issues. Most have never been tested in court. The interested reader is referred to the publications listed above, legal counsel, and, for a brief overview of existing statutory language regarding citation procedures, to the following section.

## 4.2 Statutory Provisions and Procedural Rules

The legal basis for citation release is found in state statutes and/or state rules of criminal procedure. While most states do authorize citation release, the content of the authorization varies quite widely. The disparity of provisions among states is somewhat surprising, given that at least three uniform models exist:

- (1) Pre-Trial Release Standards by the American Bar Association's Minimum Standards of Criminal Justice Project (1968);<sup>5</sup>
- (2) Model Code of Pre-arraignment Procedure by the American Law Institute (1972);<sup>6</sup> and

<sup>3</sup>Note, "An Analysis of the Citation System in Evanston, Illinois: Its Value, Constitutionality, and Viability," 65 *Journal of Criminal Law and Criminology* 75, 80 (1974).

<sup>4</sup>Feeney, *The Police and Pretrial Release*, pp. 74-76.

<sup>5</sup>ABA Project on Minimum Standards of Criminal Justice, Standards Relating to Pretrial Release 23 (1967).

<sup>6</sup>ALI Model Code of Pre-Arraignment Procedure Sec. 120.2 (Official Draft #1, 1972).

- (3) Uniform Rules of Criminal Procedure by the National Conference of Commissioners on Uniform State Laws (1974).<sup>7</sup>

Although state provisions differ and are sometimes ambiguous, a generalized comparative presentation is possible. The purpose of this section is to explain briefly those features which appear in most states, and to touch upon other features used in only a few states. The discussion in this section parallels the format of Exhibit 4-1 to facilitate cross-reference.

**Authority.** State statutes or rules can either mandate the use of citations, or they can leave the decision to cite a person to the individual officer's discretion by permissive authority. The Vermont statute offers an example of both types of authority. In Vermont, citations must be issued (with stated exceptions) for misdemeanors, but for felonies the officer is to consider several factors and then decide if citation is appropriate. While most state authorization is permissive, some commentators feel the trend is toward mandatory citation.<sup>8</sup>

**Offense Type.** Most states provide citation release for misdemeanors and violations of local ordinances. Only two states explicitly allow citations to be used for felonies, although a third state permits citation for those felonies which may be deemed misdemeanors upon sentencing. Two concerns which arise in using citation release for serious offenses are (1) that the person cited is more likely to present a danger to the community if released, and (2) where the penalty can be incarceration, the chance that the offender will not appear may increase. It is probably for these reasons that no state mandates citation for *any* felony.

Some officers, when interviewed, said they would consider the possibility of extending citation eligibility to those classes of offenses known as "wobblers," i.e., those which could be classified as either felonies or misdemeanors and frequently are prosecuted as misdemeanors. Other officers gave as an example the shoplifting offense, which in many jurisdictions becomes a felony if the value of the stolen item exceeds a certain amount. However, the most common reaction to the notion of citing felonies was one of doubt.

In Minneapolis, where the state statute authorizes citations for felonies when directed by the court or prosecutor's office, District Court judges ruled that the procedure should not be used. Three problems were foreseen: (1) current citation procedures do not allow for fingerprinting and photographing of cited defendants, considered essential for more serious offenders (recall that Minneapolis only utilizes field citations); (2) the citation form does not contain all the information required by the state judicial information system for felony arrestees; and (3) it was felt that citing felons would interfere with the charging process, which must be completed within 36 hours.

<sup>7</sup>National Conference of Commissioners on Uniform State Laws, Uniform Rules of Criminal Procedure 211 (1974).

<sup>8</sup>Feeney, *The Police and Pretrial Release*, p. 59.

# Exhibit 4.1 Statutory and Rule Requirements for Citation Release

STATE**	AUTHORITY		OFFENSE TYPE**					LOCATION		CONTENTS OF FORM					REASONS FOR DENIAL										STATED DUTY TO FILE WITH THE COURT BY:		ROUTING OF THE FORM***					DAYS UNTIL COURT APPEARANCE		NON-FIELD RELEASE: STATION INVESTIGATION REQUIRED					FAILURE TO APPEAR		WAIVER PROCEDURE
	Mandatory	Permissive	Misdemeanors	Specific Misdemeanors	Local Ordinances	Other (Specify)	Field	Station	Name and Address	Offense Charged	Time and Place	Defendant's Signature	Failure to Appear Warning	Unlikely to Appear	Continuing Offense	Danger	No Identification	Refusal to Sign	Outstanding Warrant	Prior No-Show	Police	Prosecutor	Defendant	Police	Court	Prosecutor	Minimum	Maximum	Residence	Family Status	Employment	Past Record	Other	Warrant	Separate Offense						
(ALABAMA)																																									
ALASKA W. CRIM. P. 4(a)(2)		x				A	x		x	x	x		x									x		x		x		5							x						
ARIZ. REV. STAT. § 13-3903		x	x				x	x	x	x	x	x										x			x										x	x					
ARK. R. CRIM. P. 5.2 - 5.5		x	x				x	x	x	x	x	x	x																						x	x					
CAL. PENAL CODE §§ 853.5-853.9		x	x				x	x	x	x	x	x			x	x	x	x	x			x	x	(1) x	(3)	(2)	10			x	x	x	x	x	x	x	x				
COLO. REV. STAT. § 16-3-105		x	x			B	x	x																																	
CONN. GEN. STAT. § 54-63c	x					C		x																																	
DEL. CODE tit. 11, §§1907-1908		x	x				x	x	x	x	x	x	x																							x	x				
D.C. CODE § 23-1110		x	x				x	x						x			x																				x				
FLA. STAT. § 901.27-901.32, FLA. R. CRIM. P. 3.125		x	x	x	x		x	x	x	x	x	x	x	x		x	x	x	x	x		x	x	x	x	x			x	x	x	x	x	x	x	x					
(GEORGIA)																																									
HAW. REV. STAT. § 803-6		x	x			D	x		x	x	x	x	x	x	x				x																	x	x				
IDAH. MISDEMEANOR CRIM. R. 1-18		x	x				x		x	x	x	x	x											x	x	x		5	14						x		x				
ILL. REV. STAT. §107-12		x				A	x		x	x	x																									x					
IND. CODE § 35-1-17-7, 18-5-12.5-1 to 18-5-12.5-6	x				x	E	x		x	x	x							x <sup>1</sup>									5								x	x	x				
IOWA CODE §§ 805.1-805.0		x	x		x	F	x		x	x	x	x	x								x		x	x	x											x	x				
KAN. STAT. § 22-2408		x	x				x		x	x	x	x									x		x	x				5													
KY. REV. STAT. § 431.015		x	x				x				x			x																							x				
LA. CODE CRIM. PRO. ANN. art 208, art. 211		x	x				x		x	x	x			x																											
ME. REV. STAT. tit. 14, § 5544		x				G		x																																	
MD. ANN. CODE art 27 § 594B-1, MD. R. CRIM. P. 702-711, 720(h)(i)		x				H			x	x	x	x		x							x		x																		
(MASSACHUSETTS)																																									
MICH. COMP. LAWS §§ 764.9(b)-764.9(g)		x				I	x														x		x	x	x											x					
MINN. R. CRIM. P. 6.01	x	x <sup>2</sup>	x			J	x	x			x		x	x	x	x		x																		x					
(MISSOURI)																																									
MISS. CODE ANN. § 99-3-18		x	x				x	x	x	x	x										x		x	(1) x	(2)		5			x	x	x	x	x	x						
MONT. REV. CODES ANN. § 95-614		x				A	x		x	x	x																										x				
NEB. REV. STAT. §§ 29-422 to 29-430	x <sup>3</sup>	x	x			B	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x		x	x	3										x				

\*States in parentheses have no statutory provision for citation release.

\*\*See Key for Offense Types, below.

\*\*\*Bracketed numbers indicate flow of a single copy.

<sup>1</sup>violation of statute to refuse to give written promise to appear.

<sup>2</sup>permits citations for felonies and gross misdemeanors *at stationhouse only*.

<sup>3</sup>mandatory citations for infractions only.

## KEY TO OFFENSE TYPES (as defined by statute)

A - When authorized to arrest without a warrant

B - Petty offense

C - Any bailable offense

D - Violation

E - Infraction

F - Scheduled violations

G - Class D and E crimes

M - Petty offense or offenses authorized by statute

I - Minor offense

J - Felonies/gross misdemeanors

K - Specified excluded offenses

L - Other than felony

M - Violations and felonies which may be deemed misdemeanors after sentencing

M - Summary Offenses

O - Felonies

# Exhibit 4.1 Statutory and Rule Requirements for Citation Release (continued)

STATE*	AUTHORITY		OFFENSE TYPE**				LOCATION		CONTENTS OF FORM				REASONS FOR DENIAL								STATED DUTY TO FILE WITH THE COURT BY:		ROUTING OF THE FORM***					DAYS UNTIL COURT APPEARANCE		NON-FIELD RELEASE: STATION INVESTIGATION REQUIRED					FAILURE TO APPEAR		WAIVER PROCEDURE
	Mandatory	Permissive	Misdemeanors	Specific Misdemeanors	Local Ordinances	Other (Specify)	Field	Station	Name and Address	Offense Charged	Time and Place	Defendant's Signature	Failure to Appear Warning	Unlikely to Appear	Continuing Offense	Danger	No Identification	Refusal to Sign	Outstanding Warrant	Prior No-Show	Police	Prosecutor	Defendant	Police	Court	Prosecutor	Minimum	Maximum	Residence	Family Status	Employment	Past Record	Other	Warrant	Separate Offense		
NEV. REV. STAT. §§ 171.177-171.1779		x	x				x		x	x	x			x				x			x			x			5									x	
N.M. REV. STAT. ANN. §§ 594:14		x	x				x		x	x	x		x								x		x	x	x										x		
N.J. R. CRIM. P. 3:4-1	x					K		x						x																				x	x		
N.M. STAT. ANN § 41-1-6.		x		x			x		x	x	x	x	x <sup>4</sup>								x						3								x		
N.Y. CRIM. PROC. LAW §§ 140.20, 150.10-150.75	x <sup>5</sup>	x				L	x	x								x	x				x			x	(1) x	(2)									x		
N.C. GEN. STAT. § 15A-302 (NORTH DAKOTA)		x	x				x		x	x	x	x					x				x													x		x	
OHIO REV. CODE ANN. § 2935.10, OHIO R. CRIM. P.4(i), 4.1		x		x			x	x	x	x	x		x								x		x		x												
OKLA. STAT. tit. 22, § 209		x	x		x		x		x	x	x										x																
OR. REV. STAT. § 133.045 - 133.100		x	x			M	x		x	x	x		x			x <sup>6</sup>					x																
PA. R. CRIM. P. 51 to 56	x				x	M	x		x	x	x	x	x								x				x			14						x	x		
R.I. GEN. LAWS §§ 12-7-11 to 12-7-12 (SOUTH CAROLINA)		x	x				x	x	x	x	x	x	x															10								x	
S.D. COMPILED LAWS ANN. § 9-29-19.1		x			x		x		x		x	x																									
TENN. R. CRIM. P. 3 and 3.5 (TEXAS)		x	x				x		x	x	x		x			x					x		x		x	x		5									
UTAH CODE ANN. § 77-7-18 to 77-7-22		x	x			K	x		x	x	x		x								x																
VT. R. CRIM. P. 3	x	x <sup>8</sup>	x			O	x		x	x	x			x	x	x	x				x				x		5	14						x	x	x	
VA. CODE § 19.2-74	x		x		x		x	x						x							x																
WASH. JUSTICE CT. CRIM. R. 2.01 and 2.04(b) (WEST VIRGINIA)		x	x				x		x	x	x	x		x		x	x	x																		x	
WIS. STAT. §§ 86.119, 800.01-800-03		x			x	D	x		x	x	x		x																								
(WYOMING)																																					x

\*States in parentheses have no statutory provision for citation release.

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A - When authorized to arrest without a warrant

B - Petty offense

C - Any bailable offense

D - Violation

E - Infraction

F - Scheduled violations

G - Class D and E crimes

M - Petty offense or offenses authorized by statute

I - Minor offense

J - Felonies/gross misdemeanors

K - Specified excluded offenses

L - Other than felony

M - Violations and felonies which may be deemed misdemeanors after sentencing

M - Summary Offenses

O - Felonies

The Boulder County Sheriff's Office had been utilizing a procedure whereby nonviolent, cooperative felony arrestees were released on a summons after booking at the jail. However, in 1980 the District Attorney's Office advised the department *not* to release these persons on a summons until express authorization is received from the court (in the form of a Personal Recognizance Bond) via the District Attorney's Office. This procedure shifts the release authority from the arresting agency to the court, so that it would no longer be classified as a form of citation release.

*Location.* Most states are fairly clear in stating that a citation may be issued in the field, by using phrases such as "in lieu of taking such person to the police station" or "a law enforcement officer in the field . . . may issue a citation." A lesser number of states expressly provide that a citation may be issued at the police station or at the place of detention.

*Contents of the Form.* In a number of states the statute or rules will list information which must be present on the face of the citation. Sometimes a mandated format or a prototype appears in the provision. Information typically required includes:

- Name and address of accused. (Montana is unusual in that this information is to be included "if known.")
- Offense charged. Some states require counts and statute citations, while others require the officer to state the nature of the offense.
- Time and place. Most states require designation of a time, place, and court for the appearance of the accused.
- Defendant signature. A space is usually provided for the signature of the accused acknowledging the promise to appear.
- Failure-to-appear warning. The citation may sometimes inform the accused of the consequences of failing to appear. A few states mandate the precise warning to be used.

Some less typical requirements include:

- Name, title, and/or signature of releasing officer;
- Waivers and associated information (see below);
- Place and time of the alleged offense; and
- Names of co-defendants.

More detailed discussion of the citation form appears in Section 4.3 below.

*Reasons for Denial.* It is particularly important to enumerate when an officer can refuse to issue a citation in states which

mandate the use of citations. Even where authorization is permissive, explicit reasons for denial assist an officer in making the decision, especially in those jurisdictions where vigorous use of citation is encouraged. Explicit provisions also render the denial less subject to attack from defense counsel. The reasons for denial frequently appearing are fairly common-sense provisions:

- Unlikely to Appear. The officer has a reasonable belief that the accused will fail to appear.
- Continuing Offense. There exists a reasonable likelihood the offense will continue or resume if the accused is released.
- Danger. The officer has reasons to believe the accused presents an imminent danger to others or property.
- No Identification. The accused fails or refuses to provide sufficient identification.
- Refusal to Sign. The accused refuses to sign the citation. (Note: In some jurisdictions, refusal to sign is construed as a demand to be taken before a magistrate.)
- Outstanding Warrant. Requirements on warrants range from knowledge that an outstanding warrant exists in that jurisdiction to a suspicion that the accused may be wanted in any jurisdiction.
- Prior No-Show. In some states, if the accused has previously failed to appear for a citation or other court date, the citation may be denied.

The California statute has some interesting additions to provisions for denial:

- Prosecution of the offense(s) would be jeopardized by the immediate release of the accused.
- The accused required medical care or was otherwise unable to care for own safety. (Note: Several states handle this problem by authorizing the officer to take the accused to a medical facility *after* issuing the citation.)

Also, the California statute stipulates that the citation form must specify reasons for nonrelease which the officer is required to complete and file with the arresting agency when citation release is denied. (Note: Similarly, in Minnesota an officer must file the reason for nonrelease with the court.)

*Stated Duty to File with the Court.* Some states specify whether the police or the prosecutor shall file the citation or a complaint with the court. Many, however, are silent as to how the case will be entered on the court docket or whether a prosecutor reviews the case prior to filing with the court.

*Routing of the Form.* It is sometimes specified that the form is to be completed in duplicate, triplicate, or quadruplicate, and to whom the copies shall be delivered. Again, further discussion is provided in Section 4.3.

*Days until Court Appearance.* Scheduling of the court appearance can be restricted by establishing a minimum and/or maximum time period between the date of the arrest and the scheduled appearance date.

*Non-Field Release—Station Investigation Required.* In some states, if the officer in the field decides not to cite the person, the officer in charge at the station or the booking officer may be required to conduct an independent investigation to determine whether or not to issue a citation. Such officer generally interviews the arrestee and verifies the information by telephone contacts and record checks. Typical topics for investigation include:

- place and length of residence;
- marital status and family relationships;
- present and past employment, including duration;
- past criminal or arrest record; and
- other relevant facts.

*Failure to Appear.* States will frequently specify the consequences if the accused fails to appear. Often an arrest warrant may be issued. The failure to appear may also constitute a separate offense which is independent of the outcome of the cited offense case. See Chapter 6 for a discussion of law enforcement actions to reduce nonappearance.

*Waiver.* A few states provide procedures by which the accused can avoid a court appearance. For example, in some states there exists a procedure whereby the accused can sign an affidavit waiving the rights to counsel, continuance, and trial, for certain scheduled offenses punishable by fines (typically local ordinance violations). Then, a box on the form for Guilty or Nolo Contendere is checked to indicate the plea, and the affidavit is signed. The provisions may allow mail-in along with a specified form of payment, or the defendant can go to the courthouse and pay the clerk.

*Rules and Regulations.* In Florida an unusual and interesting provision exists which states:

“Rules and regulations of procedure governing the exercise of authority to issue notices to appear shall be established by the chiefs of the respective law enforcement agencies having jurisdiction in order effectively to implement the provisions [for citation release].”

This type of provision has the potential of filling gaps in the statutes and rules while maintaining uniformity within the state. Even where a statute does not explicitly give such

authority to law enforcement agencies, many have assumed responsibility for supplying the specifics of citation release in their departmental general orders. Several examples are provided in Section 4.4 below.

## 4.3 The Citation Form

The citation form, or notice to appear, can play an important role in the smooth operation of a citation procedure. With careful planning and design, for example, the form can serve multiple functions, thereby helping to reduce the patrol officer's paperwork. Many states provide for such multi-purpose forms in their statutes; some states are concerned as well with the design and specific language of the form, viewing uniformity across departments as a critical goal. Even where state guidelines are quite prescriptive, however, individual departments often retain considerable latitude to add or substitute items that meet local needs.

Other considerations pertaining to the citation form are routing procedures (i.e., who sees it and when) and control over production and distribution. Again, there is great variability both in the amount of guidance provided by state statutes and in the actual procedures implemented by local departments. This section draws from the site experience to describe this variation and some of the rationale for the differences.

### Single- vs. Multi-Purpose Forms

In many law enforcement agencies, every new procedure tends to be accompanied by a new form. Most departments require several reports to be completed in the course of a routine arrest: incident and arrest reports; booking, housing, and property forms; a complaint or charging document. The citation release procedure itself eliminates the need for forms associated with custodial arrest (i.e., housing and property forms); however, in some departments, the introduction of the citation alternative has meant a new, single-purpose form in addition to existing reports. Other departments, concerned with increasing paperwork demands on patrol officers, have sought ways to consolidate the citation report with one or more existing forms, thereby creating a new, multi-purpose form. Both approaches were represented among the departments visited, and their experiences illustrate the respective advantages and disadvantages of single- and multi-purpose forms.

For example, the citation form used in Minneapolis is entirely independent of other forms used by the Department. Officers must submit arrest and incident reports in addition to the notice to appear. However, when a field citation is issued, this paperwork can be delayed until the end of the shift, in contrast to a custodial arrest which requires that these additional reports be completed immediately. Officers indicated that the ability to delay the additional paperwork for field citations was critical, because it would be time-consuming and possibly

dangerous to do it at the crime scene if a crowd begins to form.

The Nassau County Police Department encountered problems in attempting to consolidate forms. There, the field appearance tickets at one time eliminated the need for the officer to prepare an arrest report for the incident. The arrest report was later reinstituted when the Department experienced an apparent drop in petit larceny (shoplifting) arrests; the absence of arrest reports for these incidents had removed them from the arrest statistics, thereby leading to the false conclusion that shoplifting arrests had declined dramatically.

Although the Nassau County Department found that consolidated forms were not satisfactory, there is one major advantage of consolidation which other planners have sought to achieve: reduction of paperwork. Indeed, the burden of paperwork has been identified in the literature as a principal source of dissatisfaction among patrol officers.<sup>9</sup> Some departments have found that reporting procedures can be structured in such a way as to reduce the amount of paperwork an officer must complete. To return to the Nassau County example, the loss of shoplifting arrests from the Department's arrest statistics probably could be avoided simply by clearly identifying the field citation form as an alternate arrest report and routing a copy of the form to the data processing unit.

The citation form used in California serves as an example of successful consolidation of forms. California's State Judicial Council has final approval of all Notice to Appear forms and allows only minor adjustments by local departments (e.g., to specify the location of the scheduled appearance). The form used by the San Francisco Police Department (and by the Sheriff's Department as well) is reproduced as Exhibit 4-2. (Other sample forms are included in Appendix A.) This form can substitute for three additional documents:

- (1) It applies to traffic offenses and ordinance violations as well as criminal misdemeanors. The face side of the form clearly identifies the offense (i.e., traffic, nontraffic, infraction, or misdemeanor) and officers are instructed to fill out the appropriate combination that describes the offense, for example, a parking offense is "traffic infraction," while shoplifting is "nontraffic misdemeanor."
- (2) It substitutes for a formal arrest report unless the defendant is taken into custody and released from the stationhouse. There, the arresting officer must complete an arrest report which includes a space for the reason the person was not cited in the field. Incident reports are still required for all arrests except minor infractions (e.g., littering, animal violations, and certain vehicle violations).

<sup>9</sup>See, for example, U.S. Department of Justice, National Institute of Justice, "Police-Prosecutor Relations in the United States: Final Report," by William S. McDonald and Henry H. Rossman (Washington, D.C.: Government Printing Office, unpublished draft, 1981).

(3) According to statute, it can serve as a formal charging document or complaint for misdemeanors which are observed by the arresting officer. The Notice to Appear also serves to effect a citizen's arrest for misdemeanor offenses unobserved by a police officer (typically, shoplifting). On the back of the form is a space for the arresting citizen's signature. This person must report the day after the arrest to the District Attorney to file a complaint.

In sum, some departments have found that having a separate misdemeanor citation form simplifies certain aspects of the citation procedure, e.g., providing instructions to recipients or maintaining accurate arrest statistics. Other departments have found the need to streamline paperwork to be a high priority and have devised ways to consolidate their citation form with other existing reports.

It is important to note, however, that as a citation form expands to serve additional purposes (i.e., arrest report or court complaint), the amount of information the form must contain also increases. Conceivably, it may reach a point where the single form becomes as burdensome to complete as a multitude of simpler documents. The following section describes variations in content of the citation form.

## Content of the Citation Form

Feeney has recommended seven elements of a good citation form:<sup>10</sup>

- It should clearly notify the defendant of the required response.
- It should state the time and place of the required appearance.
- It should notify the defendant of the charge(s) against him.
- It should provide space for the defendant's signature.
- It should notify the defendant of the consequences of failure to appear.
- It should be written in understandable language.
- It should inform the defendant of his legal rights.

The citation forms currently in use vary in the extent to which they incorporate these suggested items.

The chart in Exhibit 4-1 above shows that many states are quite specific in their statutes as to the contents of the citation form. In designing the citation form to be used by a department, planners should first consult the statute to ensure that, at a minimum, these legal requirements are met. Typically, a

<sup>10</sup>Feeney, *The Police and Pretrial Release*, p. 128.

# Exhibit 4-2 Notice to Appear, City and County of San Francisco

## NOTICE TO APPEAR P-487306 1

☐ TRAFFIC ☐ NON TRAFFIC ☐ INFRACTION ☐ MISDEMEANOR

DATE MO /DAY /YEAR TIME CHECKED TIME ISSUED

NAME FIRST MIDDLE LAST

RESIDENCE ADDRESS HOME/RES PHONE

DRIVERS LICENSE STATE DOB MO /DAY /YEAR AGE

SEX ☐ M ☐ F HAIR EYES HEIGHT WEIGHT OTHER DESC.

VEHICLE LICENSE STATE REG NO. /YEAR

YEAR MAKE BODY STYLE COLOR

REGISTERED OWNER OR LESSEE

ADDRESS OF OWNER OR LESSEE

VIOLATION CODE:SECTION-DESCRIPTION CHECK BOX IF IN ACCORDANCE WITH 40610(b) VC

☐ CODE SECTION T 202 METER NUMBER: ☐ BOOKING REQUIRED

APPROXIMATE SPEED P.F./MAX. SPEED VEHICLE SPEED LIMIT

LOCATION OF VIOLATION(S)

INCIDENT NUMBER JUVENILE NUMBER SCHOOL NAME

☐ OFFENSE NOT COMMITTED IN MY PRESENCE, CERTIFIED ON INFORMATION AND BELIEF.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED AT SAN FRANCISCO, CALIFORNIA ON THE DATE SHOWN ABOVE

X OFFICER'S SIGNATURE STAR ISSUING UNIT

ISSUING AGENCY IF NOT SFPD:

NAME OF ARRESTING OFFICER: BADGE NUMBER

☐ WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AS CHECKED BELOW

X SIGNATURE

☐ APPEAR AT Hall of Justice 850 Bryant St. San Francisco

☐ WITHIN 21 DAYS ON MONTH /DAY /YEAR ☐ DEPT. 16 9:00 A.M. ☐ DEPT. 14 9:00 A.M. ☐ ROOM 475 8:00 A.M. TO ROOM 101 ALLOW 14 - 21 DAYS

☐ APPEAR AT Youth Guidance Center 375 Woodside Avenue San Francisco ALLOW 7 DAYS

MONTH /DAY /YEAR TIME BETWEEN 1:30 - 4:00 P.M.

☐ UNDER 18 YEARS TO BE NOTIFIED BY JUVENILE COURT ORIGINAL

## NOTICE TO APPEAR P-487306 1

☐ TRAFFIC ☐ NON TRAFFIC ☐ INFRACTION ☐ MISDEMEANOR

DATE MO /DAY /YEAR TIME CHECKED TIME ISSUED

NAME FIRST MIDDLE LAST

### CITIZENS ARREST NOTIFICATION

When the ARRESTED PERSON is an ADULT:

I will appear before the District Attorney of the City & County of San Francisco, 850 Bryant Street, Room 322, at 0900 hours ON THE NEXT BUSINESS DAY FOLLOWING THIS ARREST and sign a formal complaint charging the above named subject with the commission of the violations hereon indicated.

When the ARRESTED PERSON is a JUVENILE:

You will be notified if your appearance is required.

VIOLATION CODE:SECTION-DESCRIPTION CHECK BOX IF IN ACCORDANCE WITH 40610(b) VC

☐ CODE SECTION T 202 METER NUMBER: ☐ BOOKING REQUIRED

APPROXIMATE SPEED P.F./MAX. SPEED VEHICLE SPEED LIMIT

LOCATION OF VIOLATION(S)

INCIDENT NUMBER JUVENILE NUMBER SCHOOL NAME

☐ OFFENSE NOT COMMITTED IN MY PRESENCE, CERTIFIED ON INFORMATION AND BELIEF.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED AT SAN FRANCISCO, CALIFORNIA ON THE DATE SHOWN ABOVE

X OFFICER'S SIGNATURE STAR ISSUING UNIT

ISSUING AGENCY IF NOT SFPD:

NAME OF ARRESTING OFFICER: BADGE NUMBER

☐ WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AS CHECKED BELOW

X SIGNATURE

☐ APPEAR AT Hall of Justice 850 Bryant St. San Francisco

☐ WITHIN 21 DAYS ON MONTH /DAY /YEAR ☐ DEPT. 16 9:00 A.M. ☐ DEPT. 14 9:00 A.M. ☐ ROOM 475 8:00 A.M. TO ROOM 101 ALLOW 14 - 21 DAYS

☐ APPEAR AT Youth Guidance Center 375 Woodside Avenue San Francisco ALLOW 7 DAYS

MONTH /DAY /YEAR TIME BETWEEN 1:30 - 4:00 P.M.

☐ UNDER 18 YEARS TO BE NOTIFIED BY JUVENILE COURT CITIZEN'S COPY

Form approved by the Judicial Council of California (S) 2-20-80 V.C. 40500(b), 40513(b), 40522, P.C. 853.9

Form approved by the Judicial Council of California (S) 2-20-80 V.C. 40500(b), 40513(b), 40522, P.C. 853.9

**WARNING: APPEARANCE IN PERSON IS REQUIRED WITHIN 21 DAYS UNLESS GIVEN A SPECIFIC DATE TO APPEAR.**

Willful failure to appear as promised is a separate violation for which you may be arrested and punished by 6 MONTHS IN JAIL AND, OR \$500.00 FINE, regardless of the disposition of the original charge. VC 4050B, PC 853.7, WIC 2141. In addition, the Department of Motor Vehicles is REQUIRED TO WITHHOLD the issuance or renewal of your driver's license, and may revoke or suspend your driving privilege, if you violate your written promise to appear when a traffic offense has been charged.

If Misdemeanor Box on front of citation is checked, personal appearance is required as directed.

TRAFFIC INFRACTIONS: If traffic and infraction boxes on reverse side are checked, you may, in lieu of appearance, plead not guilty by writing to the Municipal Court. Correct bail amount must accompany your letter sent by certified or registered mail postmarked not later than five (5) days prior to the indicated appearance date. Use of this procedure waives statutory limits on time for trial and failure to appear at the time scheduled for trial is a misdemeanor. VC 40519.

NIGHT COURT SESSIONS are available for most traffic offenses, except parking citations.

FOR DRIVER'S LICENSE VIOLATIONS you must present license valid on date of violation

FOR REGISTRATION VIOLATIONS you must present proof from DMV that registration fees have been paid.

FOR MECHANICAL VIOLATIONS you are directed to make the proper corrections and have corrections certified below

V C 40610(b): If issued pursuant to and if proof of correction is presented by mail or in person on or before the date of promise to appear, the checked violation will be dismissed by the court.

**PARKING VIOLATIONS:** Failure to remit bail or appear as directed will result in bail increase, a hold being placed against the vehicle registration with added penalty, or issuance of a warrant for arrest IV C 476C

Instant Hearings are available for parking violations.

**TRAFFIC BILL INFORMATION:** For some offenses the court may accept bail by mail, which may be forfeited, thereby relieving you of your duty to appear. For bail information not listed below, call 553-3313. Make remittance payable to "Clerk, Municipal Court". Please copy citation number on the check and mail with this notice to Municipal Court, 850 Bryant St., Room 101, San Francisco, CA 94103.

**DO NOT MAIL CASH**  
**BAIL SCHEDULE — CERTAIN VIOLATIONS**

Amount — subject to change without notice.

Traffic Code : T - Park Code : P; Vehicle Code : V - Harbor Code : H:

[illegible]

T	202	\$10	Parking meter
T	32A	40	No Stopping - certain streets
T	32B	20	No Parking
T	32C	10	Overtime Parking
T	33.3	25	Special Truck Loading Zone
T	37A	10	Parking More than 72 Hours
T	37C	10	Parking Prohibited - street clearing
T	38A	20	Red Zone
T	38B	20	Yellow Zone
T	38B	20	Yellow Zone - Outdoor Meritobahn Zone
T	315A	20	Residential Permit Parking
D	19	\$10	Parking on Grati. etc.
V	22503	\$10	Unauthorized Parking - public grounds
V	22505F	20	Parking on Airport Freeway
V	22506F	20	Parking on Sidewalk
V	22506H	20	Double Parking - all vehicles
V	225001	20	Parking in Bus Zone
V	22514	15	Parking within 15 ft. of Fire Hydrant
H	81	\$10	Parking Meter

## CITIZEN'S ARREST STATEMENT

ON THIS DATE \_\_\_\_\_ MO \_\_\_\_\_ DAY \_\_\_\_\_ 19\_\_\_\_ - ARRESTED

FOR THE PUBLIC DEFENSE OF

COMMITTED IN MY PRESENCE IN SAN FRANCISCO CALIFORNIA AND FURNISHED SAID PERSON TO THE SAN FRANCISCO POLICE DEPARTMENT. WILL SIGN A WRITTEN COMPLAINT CHARGING SAID PERSON WITH COMMISSION OF SAID PUBLIC OFFENSES:

Page 25

Right thumb print of arrested adult person must be obtained prior to issuing Notice to Appear

S.F.P.D. No.

Identify finger if Rt. Thumb is NOT used

Field Print

I.D. Print



statute will require the form to include entries for the arrestee's name and address, the charge(s) against him, the time and place of the scheduled appearance, the arrestee's signature, and a warning about the consequences of failure to appear. Nine states require all these items; 14 require four of the five (the items most frequently omitted are the failure to appear warning and the arrestee's signature); and nine require only three, usually the first three listed (one requires the arrestee's signature but not the charge). Conversely, six statutes offer no guidance as to the nature of the form, two require only the defendant's signature, and one stipulates only the time and place of the arrestee's scheduled appearance.

Seven states<sup>11</sup> go beyond a mere listing of required contents to prescribe the entire design of the citation form. These statutes literally contain a blueprint for the form to be used. Some statutes choose to identify a state agency responsible for designing the forms to be used. For example, the California statute assigns this responsibility to the State Judicial Council and the Nebraska legislation assigns it to the State Supreme Court. Statutes that control the design and content of the citation form ensure uniformity among the forms used by the multitude of individual departments operating citation release within the state.

Where a statute is silent or permissive regarding certain items of a notice to appear, individual departments have improvised to ensure that the form they use will serve local needs. For example, in Nassau County (New York), which has a relatively large Spanish-speaking population, defendants are given two forms: one is the notice to appear in court and the other, written in English and Spanish, provides instructions for reporting to the Department's Detention Desk for fingerprints and photographs prior to the court appearance. This supplemental form helps to ensure that defendants understand the need to undergo booking procedures before they appear in court. Even in California, where the State Judicial Council must approve the format and most of the content of the citation form for all departments in the state, certain items are considered optional, and other items are required but may be adapted to local requirements. Examples of optional items include the day of the week on which the citation is issued, and certain information pertaining to traffic violations (e.g., model and color of car, weather and road conditions). Items which are left to local adaptation but which must be included on the form are the time and place of appearance and the means of obtaining bail information (for traffic offenses and infractions). Departments also may replace optional items with substitute items, subject to the Council's approval.

The Oakland and San Francisco citation forms demonstrate the kinds of changes that can be made within the Judicial Council's guidelines. The San Francisco Police Department instructs cited defendants to appear at the Hall of Justice for processing; from there, they are directed to the appropriate courtroom for arraignment. In Oakland, however, the form

gives the defendants their court date and tells them to report to the Police Department's Identification Bureau for booking on or before that date. San Francisco also has exercised its option to require additional items on the form: officers are required to obtain the right thumbprint of every defendant cited on an offense for which booking is required. The thumbprint is taken directly on the citation form and may be taken in the field or at the stationhouse; the Sheriff's Department does not perform this procedure at the jail.

In other instances the statute provides specific language for certain items. For example, the Maryland legislation specifies that the citation document contain several instructions to the person charged, including a statement that the person has been charged with a crime, the person's right to go directly before a judicial officer, the available sanctions if found guilty, and the person's right to secure counsel or the assistance of a public defender. The Oregon statute stipulates language for a warning of the consequences of failure to appear, as follows:

#### READ CAREFULLY

This citation is not a complaint or an information. One may be filed and you will be provided a copy thereof at the time of your first appearance. You **MUST** appear in court at the time set in the citation. **IF YOU FAIL TO APPEAR AND A COMPLAINT OR INFORMATION HAS BEEN FILED, THE COURT WILL IMMEDIATELY ISSUE A WARRANT FOR YOUR ARREST.**

Some researchers have suggested that citation forms be structured in such a way as to give special prominence to the time and place of the required appearance or the failure-to-appear warning.<sup>12</sup> This could be accomplished by the use of bold lettering or a contrasting color for these items. Both the Nassau County Police Department and the San Francisco Sheriff's Department issue a separate notice emphasizing the appearance requirements, printed in English and Spanish, and, in San Francisco, Chinese. Officers in many departments are instructed to repeat verbally to defendants the nature of the citation, the appearance requirements, and the consequences of failure to appear.

Thus, while the design and content of a citation form may be guided by statute or a state agency, individual departments often retain considerable freedom to adapt the form to local needs or preferences. Some options to consider would include:

- the need to provide bilingual instructions;
- the defendants' appearance requirements (i.e., whether they report somewhere for booking or directly to the court for arraignment);

<sup>11</sup>Delaware, Florida, Idaho, New Hampshire, Pennsylvania, Rhode Island, and Washington.

<sup>12</sup>"Citation in Lieu of Arrest for Misdemeanor Defendants: Implementing the New California Law," Center on Administration of Justice, University of California, Davis, p. 29 (undated).

- the perceived need to impress upon the defendant the consequences of failure to appear; and
- whether the form is serving multiple purposes (as in San Francisco) or may duplicate information contained in other reports.

Also, planners may have latitude to emphasize certain items on the form through the use of color or bold type. Finally, where other agencies or departments within a jurisdiction are already using a citation procedure, it may be productive to borrow from their forms to achieve some uniformity in the information collected.

## Routing Procedures

Most citation forms are printed in multiple copies, each marked for a specific destination. The San Francisco form, shown in Exhibit 4-2, has copies for the violator, the Department's Identification and Statistics Bureau, and the citizen effecting a citizens' arrest, where applicable. The issuing officer keeps the original, to be submitted with a completed incident report at the end of his shift.

Routing procedures for completed citation forms are usually set forth in the department's general order or report writing manual. A few states address the routing process in their authorizing legislation. Which agencies (or individuals) receive copies of the citation form has important implications both for the issuing agency and the court process. Typically, the department's concerns focus on accurate recordkeeping and monitoring of the citation process, while a statutory mandate generally relates to the complaint-filing process, as will be explained below.

The Oakland Police Department's General Order (contained in Appendix B) contains a highly detailed section on "Document Routing Procedures." Officers are instructed to deposit the originals of the citation and offense reports in a special "receptacle," where they are retrieved and reproduced by the Report Reproducing Unit. The original is forwarded to the appropriate unit of the Investigative Division, and a copy goes to the Data Processing Department for recordkeeping. The investigative unit reviews the case to determine whether there is sufficient information to support prosecution. If so, the investigator forwards the citation to the District Attorney for preparation of a complaint. If either the investigator or the District Attorney decides not to prosecute the case, California statute requires that the Police Department issue the arrestee a "certificate of detention," which alters the police action on the arrestee's record from an arrest to "detention only." Approximately 50 percent of misdemeanor citations are not prosecuted.

San Francisco's procedure of routing one copy of the form to the Identification and Statistics Bureau offers several particularly valuable advantages. Between the time the citation is issued and the defendant's scheduled appearance date, the

Bureau receives its copy of the form and enters the information into a computer, which generates a daily printout of defendants scheduled to appear. Copies of the incident reports for cases in which defendants failed to appear are forwarded to the District Attorney and then to the judge, who may in turn issue a bench warrant if the prosecutor intends to pursue the case. (See Chapter 6 for a discussion of the response to failures to appear.) Thus, the intermediate stop at the Identification Bureau is a critical point for recordkeeping before the case is turned over for prosecution.

It was noted above that some statutes specify directly who is to receive copies of the executed citation form, or the order in which copies are supposed to flow. For example, the Florida statute stipulates that separate copies be given to the defendant, the issuing police department, the court, and the prosecutor. In contrast, the California statute requires that the defendant receive a copy, and that the copy retained by the issuing officer be routed first to the prosecutor and then to the court. Generally, however, the jurisdiction's procedure for filing complaints resulting from cited offenses determines whether or not the prosecutor receives a copy of the citation form: in both Mississippi and New Mexico, for example, police are authorized to file these complaints directly with the court, and there is no mandate to route forms to the prosecutor.

In reviewing these options for routing the citation form from the issuing agency through the various court personnel, it appears that a flow from issuing agency to prosecutor to court clerk offers certain advantages over either (1) providing separate copies to each of these parties or (2) allowing the arresting agency to file the citation directly with the court. Routing the form through the prosecutor allows him to review and possibly dismiss the case before it is entered on the court docket, as occurs in approximately 50 percent of the cases in Oakland. The procedure thus provides a more realistic view of scheduled appearances. Also, a structured flow from one agency to another can provide for automatic feedback cycles whereby, for example, prosecutors could routinely inform the issuing agencies of their decision to drop or pursue citation cases. Such feedback could provide valuable information to enforcement agencies regarding the quality of the officers' citation decisions or report writing skills. Also, in jurisdictions where police may file directly with the court, with no provision for routing forms through the prosecutor, cases may come before the court with little or no advance preparation on the part of the prosecutor. This procedure not only clogs the courts' schedule unnecessarily with cases that might have been dropped, but also places the prosecutor at a distinct disadvantage when the charges are being contested.

## Procedures for Maintaining Control

Some jurisdictions have instituted procedures for monitoring the issuance of citation forms. These procedures are intended to control instances of "ticket fixing" or other corrupt practices by officers authorized to issue citations. Such control

procedures are familiar to most departments in the context of traffic citations and need only be adapted in a minor way to apply to misdemeanor citations.

In Hennepin County, Minnesota, the court maintains complete control over citation forms. The forms are designed by the court's Violations Bureau and sold to police departments at a cost (in 1981) of \$133 per 1000 tickets. The departments, in turn, issue sets of pre-numbered tickets to each police officer who must sign for the ticket book upon receipt. Officers are not allowed to destroy tickets or transfer books. The court believes that such strict control over the citation forms is necessary, both to reduce the probability of officer corruption and to ensure that standardized information is collected by the various agencies using the form (which include housing inspectors and dog-catchers as well as police).

Procedures for disposing of erroneously completed citation forms are set forth in the Oakland Police Department's General Order regarding citations for adult misdemeanors. The officer is instructed to write or stamp the word "VOID" on each copy of the form before depositing it in the Department's report receptacle along with a written explanation of the reason for voiding the form. A supervisory officer is assigned to review all voided nontraffic violations "for control purposes."

## 4.4 The General Order

General orders define policy and direct procedures for a police department as a whole or for subordinate units within the department. The purpose of this section is to review the characteristics of general orders as they relate to citation release and to compare the orders' contents to those of the state statutes and rules of criminal procedure.

General orders must stay within the limits set by their enabling legislation; however, beyond this requirement, there are no stipulations as to their content or format. Some are brief but comprehensive, others are detailed and in-depth. Provisions vary as widely as do the legal prescriptions which they interpret. Two sample general orders are provided in Appendix B.

In general, departmental orders go one step beyond the statutes by offering guidance and instruction on how to carry out the law's requirements. Some general orders, for example, in Nassau County and Minneapolis, are more restrictive than the statutes. The Minnesota law gives permissive authority to issue citations for gross misdemeanors and felonies; while the Minneapolis Police Department's general order states that citations for these types of offenses may only be issued at the direction of the court or prosecutor's office or upon reevaluation by a superior officer. The Nassau County general order states that an individual arrested without a warrant must be a resident of the county before he can be issued an appearance ticket. If he is not a resident, then he must post prearrestment bail before being cited or the Commanding

Officer must approve his release. The New York criminal procedure law does not contain this residency requirement.

General orders developed from the same state penal code will not necessarily be identical. For example, the general order of the San Francisco Police Department almost exactly reiterates the contents of the law, while that of the Oakland Police Department expounds on the law by giving examples of possible on-the-street situations and documenting in detail the paperwork routing procedures to be followed.

Exhibit 4-3 provides a basis for comparing the general orders of 13 law enforcement agencies. It may also be studied in light of Exhibit 4-1 (Statutory Provisions) to determine if there are significant discrepancies between the statutes and general orders.

To summarize the table briefly, all departments specify the offense types for which citations may be issued; as noted above, the Minneapolis Police Department general order departs from state law in its restrictions on citing felony arrestees. Many departments specify whether persons arrested on a warrant may be released on citation. All specify whether citations may be issued in the field or at the stationhouse. Although not shown on the table, most general orders also reflect the statutory language pertaining to the officers' discretion in issuing citations (i.e., mandatory or permissive).

Perhaps the most explicit guidance provided in the general orders is in the acceptable reasons for denying release on citation. Among the most common reasons are lack of identification and the potential for harm to the defendant or community. Several departments exclude certain offense types from citation eligibility. In addition to the reasons shown on the table, the San Jose Police Department general order also identifies a poor employment record and a prior criminal record as reasons for denial; the Oakland and San Francisco Police Departments may deny citation in cases where further prosecution would be jeopardized, or to persons who demand to see a magistrate (as stipulated in the California statute). Also, there may be exceptions to the reasons for denial. For example, in Tucson, persons arrested for driving while intoxicated may be cited and either released to a third party or transported home. Interestingly, the San Francisco general order includes the statutory requirement that officers note, in writing, their reasons for denying a citation, while the Oakland general order is silent on this issue.

Other features frequently appearing in the general order are instructions for filling out and routing the citation forms, and information regarding the defendant's court appearance. The final column on the table identifies special features of each department's general order.

\* \* \*

This chapter has presented some legal issues surrounding the use of citation release and an overview of existing legislation

# Exhibit 4-3 Features of Selected Departmental General Orders

Police Department	Offense Type								Reasons for Denial										Non-release Justification Required						Instructions for Completing & Routing				Court Appearance Information		Special Features																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																															
	Felony	Misdemeanor	Traffic	Local ordinance	Gross misdemeanor	With	Without	Does not specify	Field	Station	Specific offenses*	Refusal to sign citation	Outstanding warrants	Continuing offense	Potential harm to self or community	Unlikely to appear	Current conditional release status	Inadequate identification	Non-resident (state/local)	Requires medical care	Prior FTA	Yes	No	Yes	No	Yes	No																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																			
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\*Key to specific offenses: A = drunkenness, DWI, under influence of narcotics  
 B = domestic violence  
 C = possession or use of weapon  
 D = sex-related offense  
 E = possession of burglar's tools or attempted burglary

defining its implementation in each state. Every department should obtain legal counsel to interpret statutory prescriptions and proscriptions before embarking on a citation program.

Statutes often provide direction both in the procedures to be followed and the design and functions of the citation form itself. Again, departments should consult the governing

legislation before attempting to develop either a form or a general order. Even where statutes are highly detailed or prescriptive, however, individual departments usually retain considerable latitude to elaborate upon the legal requirements to meet perceived local needs. Sample citation forms and general orders are contained in Appendices A and B, respectively.

## CHAPTER 5

### IMPLEMENTATION ISSUES

Once law enforcement planners are fully aware of the existing statutes governing the application of citation release and understand the legal questions surrounding the use of the procedure, they can begin to formulate ways of implementing the citation program within their departments. This chapter presents several considerations which planners may wish to address early in the course of designing and instituting a citation release program.

First, the potential benefits to be derived from a citation program extend beyond law enforcement agencies to the courts, jails, pretrial services programs, and the community at large. Planners need to identify the objectives of the citation program and to rank them according to the jurisdiction's needs and timely priorities. Once the objectives have been established, the importance of obtaining input from other criminal justice agencies will become evident. Patrol officer acceptance of the citation procedure is particularly critical if the program is to be fully implemented. Thus, the chapter includes a discussion of approaches to police officer training as the principal means of encouraging greater utilization of the citation procedure. Finally, planners should also be prepared for the reactions of other groups affected by a citation program—merchants, the bail bonding industry, and crime victims.

#### 5.1 Program Objectives

A community may have any of several reasons for instituting a citation release program. Busher has identified ten common objectives:<sup>1</sup>

- to reduce the amount of time that police and equipment are removed from service in the course of making a physical arrest;
- to reduce arrestee and community ill-will generated by physical arrests for minor offenses;
- to reduce the amount of time spent on booking and releasing persons ultimately approved for pretrial release;
- to reduce the average daily population of the jail and associated costs;

- to reduce the size of the pretrial population;
- to reduce the number of low-risk people interviewed by a pretrial release agency;
- to reduce uneven distribution of the arraignment workload;
- to reduce judges' involvement in bail and release on recognizance;
- to reduce the time required to screen and prosecute misdemeanor arrestees; and
- to reduce the volume of police overcharging cases.

Of course, each community should rank-order these objectives to suit local priorities. For example, a jurisdiction suffering a serious jail overcrowding problem may be most interested in reducing jail population; a jurisdiction facing cutbacks in the police force may be looking for ways to maximize street time. The way in which a community prioritizes its objectives for citation release will have a direct impact on the way the program is ultimately implemented. To continue the above examples, the jurisdiction seeking to reduce its jail population may consider various points of releasing defendants prior to booking and detaining them until arraignment; thus, such a jurisdiction may focus on implementing a combination of field, stationhouse, and jail release options. Alternatively, the jurisdiction facing a reduction in police manpower may focus more heavily on field release to keep officers on the street as much as possible.

It is important to recognize, too, that the governing objectives for citation release may change over time. The experiences of law enforcement agencies in Nassau County, Oakland, and San Francisco are instructive, for all have altered the underlying objectives of their citation programs in response to shifts in local needs.

The Nassau County Police Department initially identified three objectives of the appearance ticket program, which began in 1971: (1) to provide more equitable handling of arrestees, thereby improving community relations; (2) to reduce the amount of patrol officer time spent in transporting and processing arrestees and to reduce overtime costs; and (3) to increase resources for patrol. Since 1973, the Department has reduced its patrol force, while at the same time witnessing a surge in the number of calls for service. Consequently, in

<sup>1</sup>Walter H. Busher, *Citation Release: An Alternative to Pretrial Detention, Concepts and Guidelines* (Sacramento: American Justice Institute, March 1978), pp. 86-87.

1974, eligibility for appearance tickets was extended to persons arrested on traffic warrants and on shoplifting charges at stores participating in the Department's store security program. More recently, the Department has come to view appearance tickets as an important means of containing a growing jail population.

In Oakland, police adopted the citation procedure in response to California's law mandating its use. Today, more than ten years later, a new development has transpired to encourage even greater utilization: imposition of a ten percent cash bail option for certain misdemeanor defendants, a procedure which police claim involves considerable paperwork on their part.

San Francisco offers a final example of changing patterns of citation release in response to shifts in priorities and objectives. Like other law enforcement agencies in California, the San Francisco Police and Sheriff's Departments adopted citation release to comply with state law. Although both departments had been utilizing the procedure as required, the Sheriff's Department dramatically increased its reliance on jail citations in 1978 under the recommendation of a Jail Overcrowding Committee established pursuant to a grant received by the Mayor's Criminal Justice Council. (The work of this committee is described in the following section.) In turn, the Sheriff's liberalized use of citations has prompted the Police Department to reconsider its own citation policies in view of the likelihood of the defendant's subsequent release from the jail.

Setting and ranking objectives for a citation release program not only helps to structure the actual implementation of the program, but it also identifies the important data to be collected in order to demonstrate that the objectives are being met. (This concept is delineated more fully in Chapter 7.) The objectives will also identify other personnel in the criminal justice system who will need to become involved in the planning and implementation effort. The need for interagency coordination in establishing citation release is addressed in the following section.

## **5.2 Coordination with Other Criminal Justice Agencies**

Although the day-to-day operations of a citation release program are administered wholly within a law enforcement agency, implementation of the procedure affects several additional components of the criminal justice system. The courts (court clerks or administrators and judges) and prosecutors may be concerned with the potential impact on daily calendars and failure-to-appear rates. Existing pretrial services agencies may find that their activities will be directed only toward offenders who are ineligible for citation release, and their resources may be re-allocated accordingly. In addition, a citation release program operated by one law enforcement agency in a jurisdiction will have implications for other law enforcement agencies in that community.

Because the use of citations does have impacts beyond the operating law enforcement agency, Busher has argued that citation release is only the preliminary point of focus for pretrial release, requiring broad community sponsorship, comprehensive planning, and county-wide application.<sup>2</sup> In planning a citation release program for a given jurisdiction, then, it is imperative to involve key personnel from all criminal justice agencies. This conclusion is buttressed both in the literature and in the experiences of the five site visit jurisdictions.

In New York, for example, the enactment of a new state criminal procedures act led the Nassau County Police Department to establish a Court Liaison Office in 1970. The newly created office was charged with four objectives: (1) to reduce the total number of man-hours spent in court by police officers; (2) to improve processing of arrests and court-related police tasks; (3) to reduce unnecessary burdens placed upon victims, complainants and witnesses during initial case investigation and court processing; and (4) to reduce the number of arrested persons placed in overnight detention pending initial court appearance.<sup>3</sup> Among the actions taken to meet these objectives was the institution of several new procedures regarding appearance tickets, described in the preceding section. In developing recommendations and carrying them through to fruition, the Court Liaison Office credits the cooperative working relationship forged among presiding judges of the Supreme, County, and District Courts, the Office of the District Attorney, and the Nassau County Police Department. In a memorandum supporting the nomination of the Court Liaison Office for the 1977 New York State County Achievement Award, the Deputy Chief Inspector of the Nassau County Police Department heavily emphasized the need for close interaction among criminal justice personnel in developing new procedures:

The task cannot be undertaken unilaterally by police, prosecutors, courts or corrections but must be developed mutually with full consideration for each element's legal responsibilities, understanding of the role that each plays in relation to the other, and then, in concert, developing procedures which can resolve mutual problems, achieve common goals and provide justice for all who become involved in its processes.<sup>4</sup>

The Oakland Police Department was among the first to develop a citation program in response to California's state law requiring use of the procedure; as such, there was little precedent to draw on in the early stages of program design. When preparing the general order pertaining to citation release, the Police Department solicited the involvement of the District Attorney and Municipal Court judges. Certain issues were of particular concern to these individuals. For example, the prosecutor was concerned that, because the statute

<sup>2</sup>Ibid., p. iv.

<sup>3</sup>Daniel L. Wolf, "Criminal Justice for the Non-Criminal," Nassau County Police Department, March 1977, p. 3.

<sup>4</sup>Ibid., p. 13.

allowed officers to file citation complaints directly with the court, the prosecutorial function of case review and screening would be bypassed. The planners decided to route citation forms through the District Attorney's Office prior to filing, despite the statutory authorization to forego this step.

Judges in Oakland had two principal concerns. The first was how to coordinate citation scheduling with the court calendar, since police would be assigning appearance dates in the field or at the jail. In response to this concern, the routing procedure was structured so that the court clerk receives a copy of the form to enter the defendant's name on the calendar. Also, judges were reluctant to permit police officers to cite persons arrested on warrants, even though the law allows for citations in these cases. A compromise solution was reached whereby only defendants who surrendered themselves voluntarily in response to a warrant would be eligible for citation.<sup>5</sup>

In sum, those involved in planning the Oakland Police Department's citation program agreed that "... the operation of a citation release system requires a considerable amount of planning, cooperation and organization between the Police, District Attorney, and the Municipal Court Bench."<sup>6</sup>

Another issue which may require input from various criminal justice agencies is the content and design of the citation form itself. As was discussed in greater detail in Chapter 4, the Hennepin County (Minnesota) Court maintains close control over the distribution of citation forms among the several enforcement agencies within its jurisdiction. Still, in designing the initial form (which has since been revised), the Court met with Chiefs of Police from Minneapolis and several suburban communities, the city's Department of Safety, and the Sheriff to ensure that the new form would satisfy every agency's individual requirements.

The experience of San Francisco offers perhaps the most compelling example of the value of interagency coordination in shaping a citation release program. As was mentioned above, the Sheriff's jail citation program was expanded considerably based on a recommendation of a Jail Overcrowding Committee created under an LEAA grant. Over the first eleven months of the grant (October 1978-August 1979), the membership of this Committee multiplied from ten to 21, 24 and ultimately 70 people representing not only the entire range of criminal justice agencies, but social service and mental health organizations as well. The Committee was comprised of five subcommittees, a planning group, and three caucuses, all of which met at least once a month throughout the duration of the LEAA grant, which terminated in March 1981. The Denver Research Institute (DRI), national evaluator of LEAA's Jail Overcrowding/Pretrial Detention

Program, named the Committee itself as a "major accomplishment."<sup>7</sup>

Expansion of the jail citation program was not the only focus of the Committee. Rather, their work spanned broader interests relative to the entire criminal justice system. One such special interest was the problem of public inebriates, who were heavily represented among the jail population. The Committee was instrumental in developing several detoxification and treatment centers to which police could divert these persons. Another group that was consuming considerable jail space was prostitutes; however, the use of citations for prostitutes was vigorously opposed by the business community and the Police Department. The Committee helped to forge a compromise whereby the Sheriff would not cite for the offense of prostitution, but would cite for obstructing the sidewalk, a related offense. (See Section 5.4 for further discussion.) Thus, in December 1980, the Committee approved a new citation policy for the Sheriff's Department which extended eligibility for jail citations to local residents with local traffic warrants, chronic public inebriates (when sober), and persons charged with obstructing the sidewalk. In calendar year 1981, the Sheriff's Department issued 6,559 more citations than it had in 1978, an increase of 218 percent.<sup>8</sup>

The DRI Report notes that "... at no other (jail overcrowding) site did a project develop so much criminal justice community involvement in studying the overcrowding problem and the general problems of the system."<sup>9</sup> According to the DRI evaluators, two additional factors contributing to San Francisco's success were (1) the fact that the Committee members all held authoritative positions within their respective agencies and (2) the progressiveness of the Sheriff and the support of the judges.<sup>10</sup>

### 5.3 Patrol Officer Training

In their Executive Summary for the national Jail Overcrowding Project, the DRI evaluators heavily emphasized the need for police support in implementing citation release:<sup>11</sup>

... it became evident that there was little the (overcrowding) project staff felt they could do to implement a citation policy ... the decision to issue a citation lies with the arresting officer and with police policy.

Any new project considering this option (citation release) should look long and hard at the existing citation policy, at the political feasibility and acceptability

<sup>5</sup>Jeffrey M. Allen, "Pretrial Release Under California Penal Code Section 853.6: An Examination of Citation Release," 60 *California Law Review* 1339, 1354 (1972).

<sup>6</sup>*Ibid.*, p. 1362.

<sup>7</sup>Anita S. West et al., *Jail Overcrowding and Pretrial Detention: A Program Evaluation* (Denver: Denver Research Institute, 1980), p. 73.

<sup>8</sup>Data provided by Donald Leonard, Mayor's Criminal Justice Council, letter dated August 23, 1982.

<sup>9</sup>Anita S. West et al., *Jail Overcrowding*, p. 80.

<sup>10</sup>*Ibid.*

<sup>11</sup>Anita S. West et al., *Jail Overcrowding and Pretrial Detention: A Program Evaluation—Executive Summary* (Denver: Denver Research Institute, 1980), pp. 21 and 45.



of citation release, and at the willingness of law enforcement agencies to cooperate.

Citations do not appear to be a popular alternative among law enforcement personnel.

Interviews conducted with patrol officers during the course of site visits tended to echo these conclusions, i.e., that the "rank and file" generally are skeptical of the citation release procedure. Specifically, patrol officers interviewed for a study conducted in Evanston, Illinois, named five potential problems associated with citation release:

- (1) citations would increase the potential for failure to appear;
- (2) anything less than full custodial arrest would not be taken seriously by the defendant;
- (3) citations are not sufficient to deter offenders from resuming criminal conduct;
- (4) the potential for incipient violence may be overlooked; and
- (5) citations would be merely a warning device, unlikely to result in convictions.<sup>12</sup>

In departments that are considering eliminating the requirement for arresting officers to appear at arraignments for defendants released on citation, officers also may object to the potential loss of overtime income.

Patrol officers who doubt the value of citations may be less likely to utilize the procedure, particularly in departments where the issuance of a citation is left entirely to the arresting officer's discretion with no means of accountability. Even in San Francisco, where officers are required to stipulate, in writing, their reasons for taking an apparently eligible offender into custody, officers can find a justifiable reason for custodial arrest in virtually any situation (e.g., by interpreting a defendant's hostile behavior as evidence of a strong likelihood of failure to appear). Regardless of whether the officers in a department actually give voice to their doubts and fears about citations, department officials must address their concerns if the citation program is to realize its full potential.

In many law enforcement agencies, it may be sufficient for the sheriff or police chief to decree that citations *will be issued* as specified in the general order. Other departments may prefer to include a representative of the patrol officers or police union in the planning process so that the officers can participate in implementation decisions. Clearly, the path chosen by a given department will depend on its tradition and

the expectations of the officers. However, given the importance attached to the need for patrol officers to comprehend the value of citation release to their department and the community, the degree of emphasis placed on training officers to use the procedure seems generally inadequate. Nowhere does the literature offer approaches to training, nor are there suggestions for content or technique. Similarly, the departments visited placed relatively little emphasis on citations in their routine training programs. Rather, the use of citation tends to be addressed as part of two larger subjects: arrest procedures and report writing. In departments which offer a field training component, the recruit might be expected to issue at least two or three citations during the course of his instruction, under the direct supervision of the training officer.

The Oakland Police Department offers a good example of the extent of guidance that can be provided to patrol officers through written instructions for completing the citation form. In Appendix C is the section of the Department's *Report Writing Manual* entitled, "Notice to Appear, Misdemeanor Citation." Each of the five parts of this section offers detailed instructions for the officer. Part 1 explains when to issue misdemeanor citations, which, given the state's mandatory citation statute, is actually presented in the context of when *not* to issue a citation. In addition to delineating the several exceptions allowed by statute, the manual offers examples of potentially confusing situations, as follows:

The manager of a filling station, twice robbed in recent months, has been arrested for carrying a concealed weapon. He is known to the arresting officer as a businessman of good repute who has managed the station for several years. Under these circumstances, a citation shall be issued. The weapon shall be seized incidental to the citation and placed in evidence.<sup>13</sup>

Part 2 lists the forms to be completed in effecting a citation release. Part 3 explains how to complete the Arrest Report when a misdemeanor defendant will *not* be released on citation. Part 4 describes how to void a citation form in the event of error or damage. Finally, Part 5 provides detailed instructions for completing every item on the citation form. Thus, the *Report Writing Manual* offers not only the information needed to fill out the required forms, but also instructions on when to issue the citation. Most of this information also appears in the Department's general order pertaining to misdemeanor citations.

The San Francisco Police Department relies heavily on its structured field training program to familiarize new officers with the citation process. Upon completion of the 19-week Academy training, the recruit is assigned to a specially selected Field Training Officer (FTO) for a 14-week period in which he accompanies the FTO on patrol. The FTO is responsible for leading the recruit through a 12-week course of study (following the Department's written training guide) and for

<sup>12</sup>Note, "An Analysis of the Citation System in Evanston, Illinois: Its Value, Constitutionality and Viability," *Journal of Criminal Law and Criminology*, Vol. 65 (March 1974), pp. 75-86.

<sup>13</sup>Oakland Police Department, "Notice to Appear, Misdemeanor Citation," *Report Writing Manual*, 16 February 1976, Section N-1, p. 1.

assessing the recruit's progress through daily evaluation and weekly summary forms.

The Department's citation policy is covered in the fifth week of the field training program, along with the laws pertaining to arrests in general, other forms of release (i.e., insufficient grounds for arrest or intoxication only), and arrest procedures for juveniles and diplomatic personnel. The InService Training Guide issued to the recruit contains the full text of the Department's general order pertaining to misdemeanor citations. In addition, the misdemeanor citation appears on a checklist of numerous common reports and forms which the recruit must complete by the end of the 14-week period. When the recruit completes an incident report for a misdemeanor citation, the FTO must submit a "Report Evaluation Cover Sheet" on which he records his assessment of the report's quality along several dimensions: accuracy of facts, format and organization, conciseness, clarity, completeness, legibility of writing, accuracy of grammar, and timeliness.

The Boulder County Sheriff's Department utilizes a similar field training procedure. Officers there pointed to the "role model" function of the FTO in training the recruit in the proper use of discretion in issuing citations. When the citation procedure was first implemented in Boulder County, officers were required to attend seminars led by judges and attorneys in which the legal issues surrounding citation release were addressed. Officers who resisted using the new procedure were given additional training and, in a few cases, were terminated from the Department.

However, none of the departments visited indicated any attempts to address specifically in formal training the officers' concerns or doubts about the use of citations. Where department officials are committed to maximizing the use of citations, it may be appropriate to incorporate more focused discussions of the advantages and disadvantages of citation release (from the patrol officer's perspective) and to offer specific guidance as to ways of mitigating the disadvantages. For example, officers concerned about crowds forming at the crime scene could be instructed to drive the defendant to a nearby, yet neutral, location while completing the necessary reports; officers who doubt that cited defendants will appear in court could be instructed to review verbally with the defendant the purpose of the citation and to attempt to impress upon the defendant the consequences of failure to appear. These issues may be presented in the context of an open question-and-answer session or an informal group setting to encourage candid reactions to the citation release procedure. While such advice may resemble common sense to many experienced officers, it may be valuable to the new recruit or, at the other extreme, for the seasoned officer who knows only the techniques of custodial arrest and resists the use of citations.

## 5.4 The Community Response

There are a number of special interest groups whose lives or

work would be affected by the implementation of a citation release program. Some groups may be quite vocal, and in order to effect a smooth transition to the new procedure, police department officials may wish to consider proactively taking steps to address their concerns.

One special interest group that may become involved in decisions regarding citation release is the local merchants. Shoplifting is among the offenses most frequently subject to citation release, and the affected businesses may have mixed reactions to its use. In Nassau County, the Police Department sought to involve merchants directly in the application of field release procedures for shoplifters in their stores. Security personnel employed by the major retail outlets were encouraged to attend police-sponsored training at a local community college, where they learned techniques of evidence collection and preservation and the requirements of the Department's reporting forms. There, as elsewhere, security guards from larger stores generally welcome the use of field citations; the ultimate disposition of the case is not an issue to them because they believe that apprehension alone will suffice to deter a defendant from future attempts in their store. This level of acceptance tends not to characterize personnel of smaller establishments, particularly owner-operated stores, who have proportionately more to lose to petty theft and often press strongly for custodial arrests.

In San Francisco, citation procedures were markedly influenced by the active opposition of a merchants' group in a popular tourist area to the use of citations for prostitution offenders. These merchants believed that the heavy prostitution trade in their vicinity was adversely affecting legitimate business from tourists. Under California law, prostitution may be viewed as a continuing offense, and therefore ineligible for field citations. The San Francisco Police Department's policy regarding streetwalkers had been to *warn* on the first observation, *cite* on the second, and *book* on the third (having established that the offense is likely to continue within a certain time frame). However, the Sheriff, faced with a growing jail population and a liberalized citation recommendation from the Jail Overcrowding Committee (see preceding section), often cited these defendants after booking. In concert with the Chief of Police and the Mayor, the business community vigorously opposed the application of jail citations to prostitution arrestees, and succeeded in effecting a compromise whereby the Sheriff would detain persons charged with soliciting for prostitution, but could cite persons charged with obstructing the sidewalk or other prostitution-related offenses.

Although unreported by any of the departments visited, a third interest group that may pose an obstacle to the implementation of citation release is the bail bonding industry. Where the use of citations is limited to misdemeanors or ordinance violations, this may not be a problem since commercial bondsmen may not be involved in obtaining the defendant's release anyway. In some jurisdictions, however, the bail bonding industry may be well-organized and likely to

lobby against any measure that proposes to increase the proportion of defendants obtaining pretrial release on nonfinancial conditions.

Finally, law enforcement agencies should be aware of the reactions of the general public. While the adoption of citation release by a department rarely makes headlines, and the details of the procedure may not be understood by many lay persons, patrol officers may confront angry citizens who observe offenders being released on the street with little inconvenience and a notice to appear in court. Such reactions may arise in the context of a domestic or neighborhood dispute or a bar-room altercation. Some departments instruct their officers not to bend to the demands of citizens who are dissatisfied with the citation sanction, but train them to avoid or defuse such situations.

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Citation release is a practice that affects not only law enforcement agencies, but other criminal justice agencies and groups outside the criminal justice system as well. For this reason, the planning process should extend beyond the needs and concerns of police. This chapter presented four aspects of planning and implementation which should be considered in order to effect a smooth transition to the new procedure: setting and ranking objectives for the citation program, involving other criminal justice personnel in decisionmaking, developing a more targeted approach to patrol officer training, and preparing for the reactions of community groups.

These preliminary measures can help to enlist wide support for the citation program among criminal justice agencies, key community groups, and particularly patrol officers. A high level of support, in turn, should encourage maximum utilization of the procedure. Finally, a fully implemented program has the strongest likelihood of achieving its original objectives. Chapter 7 presents approaches to evaluating the extent to which an operational citation program is meeting the needs and goals set forth in the initial planning process.

## CHAPTER 6

# CONTROLLING THE LEVEL OF FAILURE TO APPEAR

A potential disadvantage of the citation release procedure is its inability to ensure the appearance of a defendant on the prescribed court date. Pretrial incarceration does provide this assurance, but at a considerable cost. A critical measure of the effectiveness of any citation alternative, therefore, is the failure-to-appear rate, that is, the proportion of defendants released on citation who miss their scheduled court appearance date.

Respondents to Feeney's survey revealed that police planners assign varying levels of importance to appearance rates in assessing the viability of citation release. Police departments tended to choose one of three responses to a high rate of failure to appear among defendants released on citation: (1) a few departments terminated the program, reverting to traditional methods of custodial arrest; (2) others viewed failure to appear as a management problem, believing that rates could be reduced by tightening procedures or reducing the number of defendants obtaining release on citation; (3) still other departments simply accepted high failure-to-appear rates as the price society must pay for increasing the level of pretrial release.<sup>1</sup>

Underlying this discussion is an assumption that failure-to-appear (FTA) rates for defendants released on citation are, in fact, a problem. The available research appears to suggest that FTA rates are quite variable, both across jurisdictions utilizing citation release and across the types of offenses for which citations are issued. This chapter summarizes the available research on the incidence of failure to appear among cited defendants. It then examines the research testing several factors thought to influence FTA rates, and concludes with suggestions for ways to reduce the level of failure to appear.

### 6.1 Incidence of Failure to Appear

Empirical documentation on failure-to-appear rates among citation releasees is scarce. Feeney's survey of law enforcement agencies indicates that, while almost half reported that they kept regular statistics on the number of citations issued, very few kept any data at all concerning the number of defendants failing to appear. This problem stems in part from the need to use court records to retrieve information on FTA rates.<sup>2</sup> Police and court management information systems often are not coordinated in a way that allows matching of

defendants or cases, and police personnel rarely have access to court records. Generally, collecting FTA data for particular offense categories or for cited defendants requires a special initiative instigated either by the local criminal justice system or by independent researchers.

Even where several jurisdictions may have data on failure to appear, it may be difficult to compare their findings because different definitions and methods of computing FTA rates are often used. There are three definitions of failure to appear: the *aggregate* rate, which refers to all defendants who fail to appear for whatever reason; the *technical* rate, which refers to those cases where the defendant missed a court appearance because of accidental reasons such as not knowing the court date, going to the wrong courtroom, or being ill; and the *deliberate* rate, which refers to those defendants who consciously miss their court dates. Three different methods of calculating failure to appear are also reported. The *defendant-based* method, used most often in calculating failure to appear, employs only the first failure to appear in the calculation but does not reflect multiple missed court appearances. The *appearance-based* measure uses a ratio of the total number of missed court appearances divided by the total number of scheduled court appearances. Finally, the *exposure time* calculation computes the failure-to-appear rate based on the number of days in pretrial release status, such as the number of failures to appear per 100 days of pretrial release.<sup>3</sup> Most jurisdictions for which data are available have used an aggregate, defendant-based rate in computing failure to appear.

The limited empirical documentation on failure-to-appear rates indicates considerable variation across jurisdictions. Table 6.1 displays failure-to-appear rates from eleven jurisdictions. The rates range from a low of 4.8 percent in Washington, D.C., to a high of 44.7 percent in Manhattan. While most of the jurisdictions reported in Table 6.1 have failure-to-appear rates which exceed 20 percent, Feeney's survey findings suggest that failure-to-appear rates continue to be low in other jurisdictions. Of the 125 agencies responding to the survey, over half (54 percent) estimated that the FTA rate in their jurisdiction was less than six percent; 27 percent reported an estimated FTA rate between six and ten percent; 11 percent reported an estimated FTA rate between 11 and 20 percent; and seven percent of the agencies reported

<sup>1</sup>Floyd Feeney, *The Police and Pretrial Release* (Lexington, MA: Lexington Books, 1982), p. 48.

<sup>2</sup>*Ibid.*, p. 46.

<sup>3</sup>Michael Kirby, "Failure to Appear: What Does It Mean? How Can It Be Measured?" (Washington, D.C.: Pretrial Services Resource Center, June 1979), pp. 9-15.

**Table 6.1 Failure-to-Appear Rates, Seven Jurisdictions**

Jurisdiction	Type of Program	Failure-to-Appear Rate	Definition of Failure-to-Appear Rate*	Period of Data Collection	Source
Cincinnati, OH	Field	10.7%	Percent who failed to appear at first court appearance	1980	Cincinnati Police Division
Minneapolis, MN	Field	28.5%	Percent who failed to appear at Violations Bureau	May, 1980 - December, 1980	Minneapolis City Attorney's Office
Nassau County, Long Island	Field and Stationhouse	18.7%	Percent who failed to appear at first court appearance for District Court and Traffic Court	1980	Nassau County Police Department
Washington, D.C.	Stationhouse	4.7%	Percent who failed to appear at first court appearance	1980	D.C. Pretrial Services Agency
New York City	Stationhouse				
1. Citywide		35.5%	Percent who failed to appear for first court appearance (arraignment)	May 5, 1980-June 29, 1980	New York City Criminal Justice Agency
- Brooklyn		26.7%			
- Bronx		23.4%			
- Manhattan		44.7%			
- Queens		19.0%			
- Richmond		29.9%			
2. Citywide		31%	Percentage of scheduled arraignments in which bench warrants were issued	June, 1979	
- Brooklyn		31%			
- Bronx		18%			
- Manhattan		42%			
- Queens		11%			
- Staten Island		11%			
3. Citywide		33%	Percentage of scheduled arraignments in which bench warrants were issued	January, 1979	
- Brooklyn		40%			
- Bronx		27%			
- Manhattan		36.4%			
- Queens		12.8%			
4. Citywide		5.2%	Percent who failed to appear for first court appearance	July, 1968-June 30, 1969	New York City Police Department
New Haven, CT	Field	20.5%	Percent who failed to appear for first court appearance	October, 1970-Sept. 30, 1971	Mark Berger, "Police Field Citations in New Haven," <i>Wisconsin Law Review</i> 2 (1972), pp. 382-417.
Evanston, IL	Field	22%	Percent who failed to appear for adjudication	Sept. 22, 1971-October 22, 1972	Anonymous, "Analysis of the Citation System in Evanston, Illinois — Its Value, Constitutionality, and Viability," <i>Journal of Criminal Law and Criminology</i> 65 (March, 1974), pp. 75-86.

\*All are aggregate rates; all use defendant-based measures except New York City studies #2 and #3, which use appearance-based measures.

FTA rates of 20 percent or more.<sup>4</sup> Finally, two studies of persons released on citation from the San Francisco jail found FTA rates of less than nine percent.<sup>5</sup>

Comparisons of failure-to-appear rates of defendants released on citation with defendants released through other methods are difficult to make since no studies have been undertaken which control for differences in the characteristics of the defendant population. However, data from New York City indicate that in the first quarter of 1979, 7.4 percent of the scheduled court appearances for defendants released on their own recognizance resulted in the issuance of a bench warrant; in June 1979, the comparable rate for defendants released on citation was 31 percent.<sup>6</sup> While the New York City data indicate that defendants released on citation have a higher failure-to-appear rate than defendants released on their own recognizance, data from Washington, D.C. for 1980 show the opposite—defendants released on citation had a lower failure-to-appear rate (4.7 percent) than defendants released on their own recognizance (13 percent).<sup>7</sup> Finally, a study of citation release in four jurisdictions (Alexandria, Virginia; Kansas City, Missouri; Salt Lake City, Utah; and Suffolk County, New York) found that defendants released in the field appeared more frequently than those released on bail or on recognizance. Citation FTA rates ranged from 9.1 to 22.8 percent, compared to FTA rates for bail release ranging from 12.5 to 45 percent, and for release on recognizance, from 17 to 40 percent.<sup>8</sup>

In many states, failure to appear in response to a citation is itself a criminal offense, and thus may affect future proceedings on the case when the defendant does appear to answer on the original charge. Generally, when a defendant fails to appear on the initial court date, the judge will issue a warrant for the defendant's arrest which, as noted in Chapter 2, will normally exclude the defendant from citation eligibility when the warrant is served.

Many jurisdictions, however, are experiencing ever-increasing backlogs of unserved arrest warrants, although the proportion of warrants for cited defendants is generally unknown. In Hennepin County, Minnesota, for example, the Sheriff's Department possessed 94,171 warrants at the end of December 1980, of which 9.6 percent were for misdemeanors, 88.3 percent were for petty misdemeanor traffic offenses, .1 percent for gross misdemeanors, and two percent were for felonies. The data do not indicate the proportion of misdemeanor warrants that were issued for cited defendants. The sheer size of the warrant backlog precludes the Sheriff from

following up until there are multiple warrants on an individual defendant. This backlog of unserved warrants is perceived as a problem in Minneapolis and, although the Sheriff's Department has proposed ways of clearing the traffic warrants (which comprise by far the bulk of the backlog), it is not certain whether these changes will allow the Department to devote more resources to serving misdemeanor (and citation) warrants.

The San Francisco Police Department also maintains a large backlog of unserved warrants—71,446 as of June 1981. There, too, warrants are rarely served due to lack of resources. Oakland Police likewise reported that misdemeanor warrants especially are likely to remain unserved unless the defendant is apprehended on another offense. In sum, although failure to appear is perceived to be a problem for cited defendants, limited resources preclude many departments from enforcing the requirement to appear. Efforts to encourage voluntary surrender are discussed in the following section.

## 6.2 Factors that Influence Appearance Rates

An agency's failure-to-appear rate for citation releasees may be influenced by a variety of factors. These include characteristics of the arrestee population, such as *community ties* and the *nature of the charge*; and system characteristics, such as *form of citation release*, the *level of screening and verification* of information undertaken by an agency in determining whether a defendant is eligible for release, the *time interval* between arrest and first court appearance, and the *type of notification efforts* employed to remind defendants of their court date.

### Characteristics of the Defendant Population

One of the central assumptions underlying citation release is that community ties could be considered in addition to the nature of the charge and prior criminal record in assessing a defendant's risk of flight. However, there is a paucity of research which examines these criteria for citation releasees. A study undertaken in the Bronx by the New York City Criminal Justice Agency provides some support for the importance of community ties criteria in the release decision-making process. Defendants who were recommended by the Agency for citation release based on having a verified address, no outstanding warrants, and receiving at least two of the five points assigned to community ties criteria (employment or school status; residence at current address a year and a half or more; working telephone at current address; resides with parent, spouse, grandparent, or legal guardian, or expects someone at arraignment) had a failure-to-appear rate of 21 percent, whereas defendants who were issued citations despite insufficient community ties had a failure-to-appear rate of 38

<sup>4</sup>Feeney, *The Police and Pretrial Release*, pp. 45-46.

<sup>5</sup>Data provided by Donald Leonard, Mayor's Criminal Justice Council, letter dated August 23, 1982.

<sup>6</sup>New York City Criminal Justice Agency, Quarterly Report, First Quarter, 1979, January through March, p. 19.

<sup>7</sup>D.C. Pretrial Services Agency, unpublished data, 1980.

<sup>8</sup>National Institute of Corrections, *Countywide Citation Release Programming*, by Jerome A. Needle and Walter H. Busher (Sacramento: American Justice Institute, 1982), pp. 33-34.

percent.<sup>9</sup> Research on other types of pretrial release presents contradictory findings on community ties as a predictor of flight. While earlier research on community ties did suggest that such factors as age, length of residence, marital status, and employment status were significant predictors of flight, some of the contemporary research sheds doubt on this relationship.<sup>10</sup>

The research on the relationship between the defendant's criminal justice background and risk of flight is less equivocal. Specifically, failure to appear does tend to be correlated with the nature and extent of the defendant's criminal record, prior history of nonappearance, and the nature and seriousness of the current offense.<sup>11</sup> These variables have not yet been tested for defendants released on citations, however. Table 6.2 displays failure-to-appear rates for selected offenses among citation releasees from five agencies and for the five New York City boroughs. The table shows considerable variation within each agency and across agencies. In general, however, defendants charged with shoplifting/theft and traffic offenses show higher failure-to-appear rates than defendants charged with assault. High FTA rates for certain offenses may reflect a lax attitude toward full adjudication on these charges. For example, store security personnel often tend to favor a failure to appear over prosecution since it reduces the number of court appearances required of them while still accomplishing the purpose of demonstrating a "tough" attitude toward shoplifting. Police officers in Manhattan tend to view prostitution offenses from a similar perspective: offenders are apprehended on conduct charges and issued appearance tickets; prosecution is secondary to the perceived need to get them off the street.

While some of the studies on pretrial release found correlations between certain defendant characteristics and failure to appear, the research has not been able to identify a set of defendant characteristics which can be used to predict accurately defendants who will fail to appear. This inability to develop accurate predictions is a result of two problems. First, it is exceedingly difficult to predict an event that varies so markedly across jurisdictions and offense categories and is experienced by persons with diverse characteristics. Second, research on correlates of failure to appear is limited to defendants who obtain pretrial release. As such, it is still not known whether the characteristics related to flight for defendants on release would pertain to defendants who are detained pending trial. As noted by Goldkamp, the fact that defendants who are recommended for release on recognizance generally show acceptably low failure-to-appear rates does not necessarily prove that defendants who remain in detention because they scored poorly on the pretrial release screening criteria would

demonstrate failure-to-appear rates that are unacceptably high.<sup>12</sup>

## System Characteristics

The limitations in the research on the relationship between defendant characteristics and flight have led many to question the utility of formal selection criteria based on defendant factors and to suggest that other factors may be equally influential in minimizing failure to appear. These factors include: utilization rate of citation release, form of citation release, the time interval between arrest and first court appearance, and the type of notification activities employed by an agency.

### Utilization Rate

Little research has been undertaken on the effect of increased usage of citation release on FTA rates. It has been suggested, however, that when an agency restricts citation release to a select group of defendants, the failure-to-appear rate will tend to be lower than if a wider group of defendants is released.<sup>13</sup> As the citation procedure is used with more and more defendants, it potentially will include more poor risk defendants who have a higher probability of failing to appear. This effect was evidenced in the New York City citation project. In the early years, the failure-to-appear rate remained fairly constant at approximately five percent. By 1975, when the rate of defendants released on citations had doubled from the 1969 rate, the failure-to-appear rate increased to 20 percent. The most recent data from New York City indicate a failure-to-appear rate for citation releasees of 35.5 percent citywide (see Table 6.1). During this period, the utilization of desk appearance tickets was greatly expanded in response to budgetary pressures and manpower layoffs. Control over the desk appearance ticket procedure was decentralized to the individual boroughs, each of which set its own eligibility criteria, usually at a much lower standard, to achieve greater utilization of the reduced manpower available. In contrast, three studies of defendants released on recognizance found no significant relationships between release rates and failure-to-appear rates.<sup>14</sup>

### Form of Citation Release

Experimental studies on the effect of different forms of citation release on failure-to-appear rates have not been undertaken. As was indicated in Table 6.1, however, except for New York City, the failure-to-appear rate is lower in the programs which use stationhouse release than in programs which use field release. Release criteria at the stationhouse tend to be stricter than those in the field since they rely on telephone and record verification of information supplied by the defendant.

<sup>9</sup>New York City Criminal Justice Agency, "DAT Policy Review: First Report on a CJA/NYPD Pilot Program in the Bronx," New York, March 1979, p. 17.

<sup>10</sup>See Chris W. Eskridge, "Predicting and Protecting Against Failure in Pretrial Release: The State of the Art," *Pretrial Services Annual Journal*, Vol. IV (Washington D.C.: Pretrial Services Resource Center, 1981), pp. 34-54.

<sup>11</sup>Ibid., p. 54.

<sup>12</sup>John Goldkamp, *Two Classes of Accused: A Study of Bail and Detention in American Justice* (Cambridge, MA: Ballinger Publishing Company, 1979), p. 93.

<sup>13</sup>Feeney, *The Police and Pretrial Release*, p. 47.

<sup>14</sup>Eskridge, "Failures in Pretrial Release," p. 47.

**Table 6.2 Failure-to-Appear Rates for Specific Charges**

JURISDICTION		OFFENSE CATEGORIES <sup>7</sup>				
		Shoplifting	Assault	Drugs	Conduct	Traffic
Cincinnati, Ohio <sup>1</sup>	% FTA # cited	7.6% (330)	11.1% (90)	12.5% (80)	23.1% (65)	0 (10)
Manhattan, NY <sup>2</sup>	% of arraignments in which warrants issued	62.5%	14.3%	21.4%	51.0%	48.4%
	# of arraignments	(51)	(147)	(65)	(96)	(64)
Brooklyn, NY <sup>3</sup>	% of arraignments in which warrants issued	48.1%	7.7%	22.4%	26.8%	16.2%
	# of arraignments	(281)	(169)	(259)	(265)	(228)
NY Citywide <sup>4</sup>	% FTA # cited	- -	18.4% (1712)	40.1% (1175)	34.9% (2811)	26.6% (1654)
Nassau County, NY <sup>5</sup>	% FTA # cited	6.5% (1057) <sup>8</sup>	- -	7.0% (688)	- -	44.5% (1321)
New Haven, CT <sup>6</sup>	% FTA # cited	- -	- -	- -	16.5% (363)	30.5% (312)

<sup>1</sup>1980. Source: Cincinnati Police Department.

<sup>2</sup>Fall 1977, Selected Precincts, New York City Criminal Justice Agency

<sup>3</sup>Fall 1977, Selected Precincts, New York City Criminal Justice Agency

<sup>4</sup>May 5, 1980-June 29, 1980, New York City Criminal Justice Agency

<sup>5</sup>1980, Nassau County Police Department

<sup>6</sup>October 1, 1970 through September 30, 1971. Source: Mark Berger, "Police Field Citations in New Haven," *Wisconsin Law Review* 2, 1972.

<sup>7</sup>Only offenses for which several departments had comparable data are shown.

<sup>8</sup>Data available only for stores participating in the Department's shoplifting field citation program.

Moreover, defendants who are brought to the stationhouse before being released may have gained greater respect for (or fear of) the criminal justice system than defendants who are released in the field.

### Time Interval Between Arrest and First Court Appearance

There is considerable variation across agencies in the time interval between arrest and first court appearance. In Minneapolis, defendants are scheduled to appear within seven days after arrest; in Washington, D.C., within ten days after arrest; in Nassau County, within ten to fourteen days; and in Oakland, within 30 days. In New York City, the police department procedures indicate that citation releasees are to be scheduled for arraignment between ten and 35 days from the date of issuance. However, the New York City Criminal Justice Agency reports that in September 1978, the median time interval was 24 days in Brooklyn, 32 days in Manhattan, and 45 days in the Bronx.

Research on pretrial release has shown that time on release is an important factor in explaining failure to appear. This issue was twice examined specifically for citation releasees in New

York City by the New York Criminal Justice Agency. Both studies found a marked trend of increasing failure-to-appear rates as the time between arrest and arraignment increased. In the first study, the Criminal Justice Agency found that in January 1979, the failure-to-appear rate for arraignments held more than 18 days after arrest was 33 percent, compared to 20 percent for arraignments held within 18 days.<sup>15</sup> The second study, conducted over a one-month period from December 29, 1980 - February 1, 1981, found a particularly striking contrast between the relatively low failure-to-appear rates at arraignments held less than two weeks after arrest and the much higher rates for arraignments two weeks and more after arrest. The citywide failure-to-appear rate for arraignments scheduled seven to 13 days after arrest was almost twice the rate for arraignments scheduled within a week of arrest (21.8 percent vs. 11.6 percent), and the failure-to-appear rate 14-20 days after arrest was three times the one-week rate. Defendants scheduled for arraignment more than eight weeks after arrest were more than four times more likely to fail to appear than those scheduled for arraignment within a week of arrest (48.1

<sup>15</sup>New York City Criminal Justice Agency, "DAT Policy Review: First Report on a CJA/NYPD Pilot Program in the Bronx," New York, March 1979, pp. 2-3.



percent vs. 11.6 percent). While the findings strongly suggest that delay in arraignments is a major cause of high failure-to-appear rates, the study notes that other contributing factors were not examined, such as different arraignment scheduling patterns for various categories of defendants who may characteristically have higher or lower failure-to-appear rates.

### Notification Prior to Scheduled Appearance

The principal way in which most departments notify defendants of their scheduled appearance dates is on the citation form itself. Generally, arresting officers are instructed to review verbally with the defendant the time and place of the scheduled appearance to ensure that all is understood before obtaining the defendant's signature and releasing him. None of the departments in the sites visited took additional steps to remind defendants of their upcoming court dates.

Where there is a long time interval between arrest and first court appearance, however, it has been posited that reminding the defendants of their court dates might increase the likelihood of court appearance. The New York City Criminal Justice Agency undertook a pilot program in selected precincts in Brooklyn and Manhattan in the fall of 1977 to test this hypothesis.<sup>16</sup> Defendants in the experimental group were mailed a computer-generated letter six days before the scheduled arraignment date while defendants in the control group received no notification. The results of the study indicated that full implementation of notification efforts would have a measurable impact. Within the Manhattan precincts, the failure-to-appear rate was 45.6 percent among defendants who were not notified and 34.1 percent among the notified defendants, a warrant reduction rate of 25 percent. In Brooklyn, the failure-to-appear rate was 33.1 percent among defendants who were not notified and 31.6 percent among the notified defendants, a warrant reduction rate of five percent. Similarly, the failure-to-appear rates of defendants whose notification letters were returned by the post office for insufficient address were much higher than the failure-to-appear rates of defendants whose letters were not returned. The most consistent impact of letter notification was on the failure-to-appear rates of non-department store theft cases and disorderly conduct cases. Letter notification had no impact on the failure-to-appear rates for defendants released by department stores for shoplifting.

## 6.3 Actions to Apprehend Defendants Who Fail to Appear

In some jurisdictions, police and courts have instituted procedures whereby defendants who fail to appear as scheduled are encouraged to appear in court voluntarily, in hopes of

preventing the execution of a warrant. Secondly, these procedures attempt to reinforce respect for the criminal justice system among the community so that, theoretically, fewer defendants will deliberately miss their appearances.

In San Francisco, for example, cited defendants are not given a court date on the citation form; rather, they are instructed to report to the Police Department's Identification Bureau for booking by a specified date. At that time, they will learn their court date, which is usually one week later. The names of defendants who do not appear for booking by the date of their scheduled appearance are forwarded to the District Attorney. If the District Attorney decides to pursue the case, he notifies the judge of the defendant's failure to appear so the judge can issue a bench warrant. Meanwhile, before the warrant is entered into the police computer, a letter notification is mailed to the defendant. The defendant can have the warrant withdrawn by appearing in court voluntarily. At one time, the Department's Warrant Bureau sponsored a "walk in" program, encouraging defendants to turn themselves in to clear their warrants; while the program was reportedly successful, it was terminated for lack of resources. The Department does not keep statistics on the number of defendants who return to court voluntarily after being notified that a warrant has been issued.

In Minneapolis, cited misdemeanor defendants are not given a court date at the time of arrest. Instead, they are given a date by which they must report to the Violations Bureau where they are assigned a court date. The Violations Bureau sends lists of defendants who fail to appear at the Bureau within seven days of their scheduled date to the City Attorney, who is responsible for handling misdemeanors. The City Attorney then obtains a copy of the citation and screens the case for probable cause and strength of the evidence. If the case will be pursued, a complaint is drawn up, to be signed by a police representative (or, in shoplifting cases, by a store security officer), and by the judge. The City Attorney then obtains a court date from the Clerk of the Court and issues a summons, which is an "invitation" (as opposed to an order) to appear in court on the given date. This procedure usually takes from six to eight weeks. If a defendant reports voluntarily to the Violations Bureau within this interval, the summons will be cancelled. Arrest warrants are issued for defendants who fail to respond to the summons. The Sheriff's Department mails computerized letters of notification at this time, a final effort to persuade defendants to surrender voluntarily.

The City Attorney's Office does not maintain statistics on the number of summonses issued for failure to respond to a citation, subsequent appearance rates, or the number of warrants ultimately issued for cited defendants. Nor are statistics available on the number of defendants who appear voluntarily in response to the summons or the letter of notification which is mailed when a warrant is issued.

Finally, although supportive data are not available, Nassau County Police report that many defendants voluntarily turn themselves in during the one-month lag between the time a

<sup>16</sup>Oded Ben-Ami, *The Use of Desk Appearance Tickets in New York City* (New York: New York City Criminal Justice Agency, April 1978).

warrant is issued for initial failure to appear and the time that warrant is displayed on the police computer.

Neither the San Francisco, Minneapolis, nor Nassau County Police Department has statistics to support the observations of police officers and court personnel that a certain proportion of cited defendants will, indeed, return to court voluntarily after having missed the initial appearance date, and that various forms of notification might increase that proportion. However, statistics on voluntary surrender are available from the New York City Police Department. In 1981, the Department's Warrant Division received 49,367 "Priority 2" warrants from the Criminal Court (a category which includes mostly warrants issued for nonappearance in response to desk appearance tickets, but also warrants issued for bail-jumping on misdemeanor or violation charges). Of these, 20,910 (42.4 percent) were vacated because the defendant surrendered after receiving a notification letter.<sup>17</sup>

Similarly, a study specifically addressing the value of notification was conducted in New Haven shortly after the Police Department instituted its field citation program. Defendants who missed their first appearance dates were sent a reminder notice and their cases were continued for one week. Over the one-year study period, more than half of the defendants who initially failed to appear did present themselves in court the following week. Letter notification reportedly reduced failure to appear for nontraffic offenses from 14.5 percent at the first court date to 5.3 percent one week later.<sup>18</sup>

\* \* \*

Although the available research is quite sparse, the literature does suggest that appearance rates for cited defendants vary markedly. Although far from conclusive, data appear to suggest that nonappearance among cited defendants may be comparable in degree to nonappearance among defendants released on recognizance. Even where nonappearance rates seem high, many departments accept them as a "trade-off" for the increased resources available to concentrate on more serious offenders.

Virtually no research has specifically tested various factors thought to affect the appearance rates of defendants released on citation. However, considerable research has addressed this question for defendants released on their own

recognizance. A recent review of this literature yielded mixed findings on nearly all of the eleven factors that had been examined. These findings are summarized in Table 6.3.

The extent to which these findings apply to citation release is unclear. Although many citation programs, particularly those offering stationhouse release, utilize criteria similar to those used by release on recognizance programs in reaching a release decision, they are assessing a different defendant population. Presumably, defendants being considered for citation release pose a lesser risk than defendants seeking release on recognizance; hence, one might expect that factors tending to decrease nonappearance rates for defendants released on recognizance would have a similar, if not greater, effect on cited defendants. Based on the findings presented in Table 6.3, then, it may be surmised that the following factors could reduce failures to appear among cited defendants:

- greater reliance on employment as a release criterion;
- restricting eligible offense categories to those associated with lower FTA;
- greater reliance on the defendant's past appearance record (which most departments do via the warrant check);
- reducing the interval between arrest and appearance;
- instituting pre-appearance notification procedures; and
- instilling a greater emphasis on the obligation to appear and the penalties for nonappearance.

Busher has characterized high rates of failure to appear as a consequence of the lack of any coordinated process among all criminal justice agencies involved in implementing a citation program.<sup>19</sup> For example, police often do not know the failure-to-appear rate for defendants they have cited because those statistics are usually maintained by the court (if they are kept at all). The sheriff's office may be more aware of trends in appearance rates because it is usually responsible for serving warrants. Without even a basic knowledge of the extent of failure to appear in response to citations, law enforcement agencies and criminal justice planners cannot take steps to contain any problems which may exist. Moreover, the level above which FTA rates are considered to be a "problem" is a matter of local definition, but cannot be determined without a sound data base. Chapter 7 offers a more detailed discussion of monitoring the appearance rates of cited defendants.

<sup>17</sup>New York City Police Department, Warrant Division, *Annual Report for the Year 1981*.

<sup>18</sup>Mark Berger, "Police Field Citations in New Haven," 2 *Wisconsin Law Review* 382, 407-408 (1972).

<sup>19</sup>Walter H. Busher, *Citation Release: An Alternative to Pretrial Detention, Concepts and Guidelines* (Sacramento: American Justice Institute, March 1978), p. 68.

**Table 6.3 Summary of 25 Studies of Factors Affecting Appearance Rates for Defendants Released on Recognizance**

Hypothesized Factor	NUMBER OF STUDIES TESTING RELATIONSHIP		
	Significant Relationship	Not Significant Relationship	Not Studied
Community Ties	4	10	11
Employment	4	1	20
Telephone	2	2	21
Current Offense	7	3	15
Prior Offense Record	5	4	16
Past Appearance Record	2	0	23
Organization and Operations <sup>1</sup>	4	0	21
Time Lag (between release and appearance date)	8	2	15
Rate of Release	0	3	22
Local Legal Culture <sup>2</sup>	4	0	21
Supervision/Notification	11	0	14

\*Adapted from Chris W. Eskridge, "Predicting and Protecting Against Failure in Pretrial Release: The State of the Art," *Pretrial Services Annual Journal*, Vol. IV (Washington, D.C.: Pretrial Services Resource Center, 1981), p. 47.

<sup>1</sup>Includes the following elements: enthusiasm of program staff, unclear or incorrect instructions given to defendants, level of follow-up to apprehend and prosecute defendants who fail to appear.

<sup>2</sup>Refers to efforts of the defense attorney to ensure the defendant's appearance, the depth of defendant's understanding of and respect for the criminal justice system, and the defendant's expectations of penalties for nonappearance.

## CHAPTER 7

# MONITORING AND EVALUATION

In a time of tightening budgets and expanding demands, many police administrators are seeking innovative strategies for providing effective services. Citation release has emerged as one means of reconciling limited resources with increased police responsibilities. However, like any other new initiative, the utility and success of citation release must be justified if it is to become a permanent police procedure. Police administrators, therefore, need information which enables them to make programmatic decisions based on solid, tangible data rather than solely on experience, judgment, and intuition.

Monitoring and evaluation should be integral components of any citation release program. These processes not only provide information which may be useful to other departments contemplating the establishment of citation release, but they can also determine whether the procedure has accomplished the goals and objectives it was intended to achieve. In addition, monitoring and evaluation data can identify needed improvements in the program and can supply the basis for comparing the utility of citation release with that of other pretrial release options. This chapter presents a framework to assist police administrators in assessing a citation release program.

### 7.1 Preliminary Considerations

Collecting data with no direction or purpose results in little more than stockpiling information which may prove to be of limited value. It is, therefore, crucial that administrators specify program objectives before an agency begins the data collection process. Objectives are specific, operational statements that describe the desired accomplishments of a program. These objectives may relate either to the *process* of operating a citation program or to the *impact* a program may have on the criminal justice system and the community. Examples of process and impact objectives that are relevant to citation release are provided in subsequent sections of this chapter.

Once the objectives have been set forth explicitly, planners should be able to identify the data needed to measure their achievement. These data can come from a variety of sources and can be collected by numerous techniques. Some possible sources of data include program documents, government statistics, institutional records, and questionnaires. Data may be compiled through either automated information systems or manual recordkeeping. The technique utilized will vary depending upon the needs and size of a jurisdiction; however,

it is not the mode of collection which is important but rather that the information required to perform a useful assessment is available. If information is collected as part of routine procedures, analyzing and summarizing it should follow with relative ease.

Efforts to evaluate citation release programs have at least two unusual characteristics. First, the process of operating citation release is relatively simple; hence, process objectives are straightforward and the data necessary to evaluate them can be obtained readily. Conversely, the citation procedure can be associated with numerous potential impacts; however, the data needed to measure impacts are far more difficult to capture. The second complication of evaluating citation release is the need to gather data from several agencies: law enforcement, the courts, prosecutors, and pretrial services agencies. In attempting to design a careful study of citation release, it may be difficult for a police planner to obtain data from other agencies in the system.<sup>1</sup>

Because of the difficulties inherent in evaluating a citation release program, planners should determine the extent to which such studies could be conducted by in-house staff. While program staff may be able to perform the actual data collection, independent researchers may be helpful in designing data collection instruments, organizing records to facilitate evaluation, performing analyses, and providing periodic guidance. Program managers must weigh several factors in deciding whether to use internal or external personnel or some combination of both. Among the points to be considered are: the competence and professional skills of in-house staff; safeguarding the study against bias; the evaluators' understanding and knowledge of the program; intended uses for the results of evaluation; and the need for and desirability of using evaluators who are autonomous and may approach the program with a broad perspective.<sup>2</sup> Of course, the cost of hiring consultants is also a critical factor.

The following sections present suggestions for assessing both the process and impact accomplishments of citation release. Each section offers a set of applicable objectives, the data needed to measure them, and sources where these data may be

<sup>1</sup>For a useful discussion on planning and coordinating monitoring and evaluation activities, see Walter H. Busher, *Citation Release: An Alternative to Pretrial Detention, Concepts and Guidelines* (Sacramento: American Justice Institute, March 1978), Chapter X, pp. 132-144.

<sup>2</sup>Carol H. Weiss, *Evaluation Research: Methods of Assessing Program Effectiveness* (Englewood Cliffs, N.J.: Prentice-Hall, 1972), pp. 19-21.

found. For guidance and techniques of performing evaluations, readers are referred to standard texts cited in the footnotes to this Chapter.

## 7.2 Monitoring and Process Evaluation

*Monitoring* is an ongoing process that requires collecting specific information on activities associated with the operation of a program. In general, a monitoring system obtains data on both the program and its activities, allows for the analysis necessary to determine whether activities are appropriate, and provides for feedback of this information to management.<sup>3</sup>

Monitoring tells managers how well the processes of a program are working. In other words, it identifies whether the intended services are being provided in accordance with program specifications, whether the program is reaching its target population, and whether the level of effort is adequate to produce the desired outcomes. At the individual level, shift commanders should routinely review all citation forms and arrest reports submitted at the end of each shift to determine whether patrol officers are using citations appropriately. The California state requirement for officers to stipulate, in writing, their reasons for denying field release helps to simplify this monitoring function. Officers who consistently make custodial arrests in situations which appear to merit citation release should be given additional training. At the department level, program managers must aggregate the data provided in citation forms and arrest reports to determine whether the citation procedure is being implemented as intended. Such data could then be broken out by patrol squad to ascertain whether there are variations in the use of citations; where significant differences are revealed, the need for additional training becomes apparent.

Like monitoring activities, *process evaluations* provide program managers with valuable information about the administration and delivery of services. They focus on the characteristics of the program itself. Process studies systematically track staff activities, program characteristics and the target population, and document any changes in these factors. They go one step beyond monitoring assessments in that they require judging the quality, adequacy, or appropriateness of a program's procedures to allow program operators to make necessary adjustments.<sup>4</sup> Process evaluations can provide a basis for shifting or changing the program as well as revising the goals and expected outcomes.<sup>5</sup>

<sup>3</sup>"Evaluation Issues," prepared for the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, by Arthur D. Little Inc. and Action Research Inc., June 1978. For further information on monitoring see Law Enforcement Assistance Administration, *Monitoring for Criminal Justice Planning Agencies* (Washington, D.C.: Government Printing Office, 1974), and John Waller et al., *Monitoring for Government Agencies* (Washington, D.C.: The Urban Institute, 1976).

<sup>4</sup>"Evaluation Issues," p. 5.

<sup>5</sup>Leonard Rutman, "Planning an Evaluation Study," in *Evaluation Research Methods: A Basic Guide*, ed. by Leonard Rutman (Beverly Hills: Sage Publications, 1977), p. 24.

Table 7.1 on the following page illustrates common process objectives for citation programs, the data elements that are necessary for evaluation, and sources where these data might be found. As noted above, the process goals for citation release are relatively straightforward and the data requirements can easily be met. Essentially, program managers should assess (1) whether the citation program is being utilized to its fullest potential, (2) whether the program is being administered fairly, and (3) whether arrests resulting in citation release maintain a quality sufficient to support prosecution. As the table illustrates, most of the data needed for these assessments are readily available on existing reports and records and would require only instructions for tabulation in order to prepare an analysis. Unfortunately, to date there have been relatively few attempts to assess citation release programs beyond simply compiling statistics on the number of citations issued. However, only minimal effort would be required to derive useful information from other available sources of data.

The interrelationship of program components is particularly important to a process evaluation. In assessing a citation release effort, for example, it is important to evaluate not only the law enforcement agency's management of the citation program, but also the disposition of citation cases by prosecutors and judges. A simple modification of one agency's procedures or guidelines may be all that is necessary to improve overall citation operations. Thus, a process evaluation should examine how the contributions of each program element affect the functioning of other elements in the process. To continue the example for citation release, if an analysis of cases proceeding to prosecution reveals that a disproportionate number of cited cases are being dismissed by the prosecutor or reduced to lesser charges, police managers should consider the need for additional training in the proper use of citations in various arrest situations. Closer analysis may identify particular patrol squads or individuals who appear to require additional monitoring or supervision.

As a word of caution, it must be mentioned that monitoring and process assessments focus only on the internal operations of the program, and not on external effects or outcomes. For example, measuring the number of citations issued may indicate that the program was successful in meeting its *process* objectives (to release on citation the maximum number of arrestees possible). However, knowing this will *not* indicate the program's success in affecting criminal justice system operations such as the costs of pretrial detention or the time officers spend making arrests. Monitoring and process information can and should be used only to identify implementation problems, staff training and supervision needs, procedural pitfalls, and funding and personnel requirements.

## 7.3 Impact Evaluation

The purpose of an impact evaluation study is to measure the external effects or outcomes of a program. The knowledge

**Table 7.1 Common Process Goals of Citation Release, Data Needed, and Sources of Data**

Objectives	Data Needed	Sources of Data
To release on citation the maximum number of arrestees possible.	<ul style="list-style-type: none"> <li>Percentage of all arrestees eligible for citation release.</li> <li>Percentage of all arrestees cited in the field, at the stationhouse, or at the jail.</li> <li>Percentage of all <i>eligible</i> arrestees cited in the field, at the stationhouse, or at the jail.</li> <li>Reasons for failing to cite arrestees apparently eligible for citation release.</li> </ul>	<ul style="list-style-type: none"> <li>Citation forms</li> <li>Arrest reports</li> <li>Jail records</li> </ul>
To administer the citation program in an equitable manner.	<ul style="list-style-type: none"> <li>Demographic characteristics (sex, residence, employment, occupation, age, race, court status) for cited arrestees, those who were eligible but not cited, and those who were not eligible.</li> </ul>	<ul style="list-style-type: none"> <li>Citation forms</li> <li>Arrest reports</li> <li>Criminal records</li> <li>Pretrial release agency records</li> </ul>
To maintain the quality of arrests resulting in citation release.	<ul style="list-style-type: none"> <li>Percentage of cited cases judged by the prosecutor to be unsuitable for prosecution.</li> <li>Percentage of cited cases prosecuted on a lesser charge.</li> </ul>	<ul style="list-style-type: none"> <li>Prosecutor records</li> </ul>

gleaned from an impact evaluation contributes to management decisions regarding the future of the program: Should the program be continued as is, modified, or terminated? Which program procedures are the most and least efficient and economical in achieving the desired effects? In sum, an evaluation using standard research methods can verify whether or not a certain effect occurred and suggest conclusions about the extent to which this effect can be directly attributed to the program rather than to outside forces.<sup>6</sup> An evaluation of this sort is appropriate only after it has been confirmed that a program is being implemented properly and appears to be achieving its short-term objectives, that is, after monitoring and process evaluations have shown that the program is sufficiently operational to warrant an in-depth examination.

Chapter 5 presented a list of potential objectives applicable to citation release and suggested that program planners prioritize these objectives (or add to the list) according to local needs. These objectives specify the various impacts that planners might expect the citation program to have on the criminal justice system and the community. Table 7.2 again lists the suggested impact objectives, identifies the types of data needed to measure achievement, and indicates sources where the data may be found.

There are, however, a few important characteristics of impact studies that should be kept in mind:

(1) Ideally, impact evaluations require random assignment of the target population either to a "treatment" group (e.g., arrestees released on citation) or to a "control" or comparison group. Random assignment ensures that any differences detected between the two groups can be attributed to the experimental treatment, rather than to existing differences between subjects in the groups. For the most rigorous evaluation design, the control group would be comprised of arrestees who were eligible for citation release, but who would not be so released; rather, they would be physically arrested and processed in a traditional fashion. Drawbacks to this approach are that it is difficult to implement in a field setting, it is costly to conduct, and it requires denial of program participation to people who would normally be acceptable. Alternatives to this design, while less costly and less difficult to implement, have drawbacks that detract from the level of confidence that evaluators can place in their findings.<sup>7</sup> A common alternative is to match the members of the two groups on certain predetermined variables (e.g., demographic characteristics, offense characteristics, and prior criminal record). The major flaw in this approach is that other variables, unanticipated and hence unaccounted for in the matching process, may have contributed to detected differences between the experimental and control groups.

<sup>6</sup>"Evaluation Issues," p. 2. For further information on program evaluation, see U.S. Department of Justice, Law Enforcement Assistance Administration, *Criminal Justice Research: Evaluation in Criminal Justice Programs, Guidelines, and Examples*, by Ellen Albright et al. (Washington, D.C.: Government Printing Office, 1973), and Edward Suchman, *Evaluative Research: Principles and Practice in Public Service and Social Action Programs* (New York: Russell Sage Foundation, 1967).

<sup>7</sup>For an in-depth discussion of evaluation designs, see Donald T. Campbell and Julian C. Stanley, *Experimental and Quasi-Experimental Designs for Research* (Chicago: Rand McNally Publishing, 1963) and Edward A. Suchman, *Evaluative Research: Principles and Practice in Public Service and Social Action Programs* (New York: Russell Sage Foundation, 1967).

**Table 7.2 Common Impact Goals of Citation Release, Data Needed, and Sources of Data**

Objectives*	Data Needed	Sources of Data
To reduce the amount of time that police and equipment are removed from service in the course of making an arrest	<ul style="list-style-type: none"> <li>• Time out of service per officer and car when effecting a full arrest (may include transportation to jail and booking time)</li> <li>• Time out of service per officer and car when effecting stationhouse release (may include transportation to stationhouse and time entailed in verifying defendant information)</li> <li>• Time involved per officer and car in effecting a field release</li> </ul>	<ul style="list-style-type: none"> <li>• Dispatch logs</li> <li>• Officers' daily activity sheets</li> </ul>
To reduce arrestee and community ill-will generated by physical arrests for minor offenses	<ul style="list-style-type: none"> <li>• Community attitudes toward physical arrests for minor offenses</li> <li>• Defendant attitudes toward physical arrests for minor offenses</li> </ul>	<ul style="list-style-type: none"> <li>• Public opinion surveys</li> <li>• Citizen complaints filed with the police department</li> <li>• Media accounts relative to physical arrests for minor offenses</li> <li>• Incidents of hostile or resistive behavior among defendants arrested for minor offenses, broken out by field, stationhouse, and jail release vs. full custody</li> </ul>
To reduce the amount of time spent on booking and releasing persons ultimately approved for pretrial release	<ul style="list-style-type: none"> <li>• Time incurred by jail officers in booking</li> <li>• Time incurred by pretrial services personnel in interviewing, verifying, and preparing release recommendations</li> <li>• Time incurred by prosecutors and judges in reviewing release recommendations</li> </ul>	<ul style="list-style-type: none"> <li>• Jail officer time logs</li> <li>• Pretrial services personnel time logs</li> <li>• Prosecutor and judge time logs</li> </ul>
To reduce the average daily population of the jail and associated costs	<ul style="list-style-type: none"> <li>• Average daily population of jail</li> <li>• Daily cost of housing a prisoner</li> </ul>	<ul style="list-style-type: none"> <li>• Daily jail intake and release records</li> <li>• Operating costs of jail per number of inmates housed, as expressed in the budget or annual report</li> </ul>
To reduce the size of the pretrial population in jail	<ul style="list-style-type: none"> <li>• Proportion of jail inmates on pretrial status</li> </ul>	<ul style="list-style-type: none"> <li>• Inmate records by criminal justice status (i.e., pretrial vs. sentenced)</li> </ul>
To reduce the number of low-risk people interviewed by a pretrial release agency	<ul style="list-style-type: none"> <li>• Number of persons interviewed by pretrial release agency staff, by defendant traits and offense characteristics.</li> </ul>	<ul style="list-style-type: none"> <li>• Pretrial release agency records</li> </ul>
To reduce uneven distribution of the arraignment workload	<ul style="list-style-type: none"> <li>• Average number of arraignments daily, by courtroom or court session, by offense category</li> </ul>	<ul style="list-style-type: none"> <li>• Court records</li> </ul>
To reduce judges' involvement in bail and release on recognizance	<ul style="list-style-type: none"> <li>• Number of cases referred to the court for bail and release on recognizance approval, by offense category</li> </ul>	<ul style="list-style-type: none"> <li>• Court records</li> </ul>
To reduce the time required to screen and prosecute misdemeanor arrestees	<ul style="list-style-type: none"> <li>• Prosecutor time incurred in screening misdemeanor cases</li> <li>• Average time elapsed between initial filing and disposition of misdemeanor cases</li> <li>• Number of misdemeanor cases prosecuted</li> </ul>	<ul style="list-style-type: none"> <li>• Prosecutor timesheets</li> <li>• Court records</li> </ul>
To reduce the volume of police overcharging cases	<ul style="list-style-type: none"> <li>• Initial charges at time of arrest</li> <li>• Number of cases filed by prosecutor on reduced charges</li> <li>• Number of cases dropped by prosecutor</li> <li>• Number of convictions on lesser charges</li> </ul>	<ul style="list-style-type: none"> <li>• Arrest reports</li> <li>• Complaints filed</li> <li>• Court records</li> <li>• Prosecutor records</li> </ul>

**Table 7.2 Common Impact Goals of Citation Release, Data Needed, and Sources of Data (continued)**

Objectives	Data Needed	Sources of Data
To implement the citation release program without exceeding a predetermined "acceptable" rate of failure to appear	<ul style="list-style-type: none"> <li>• Failure-to-appear rates, before and after the onset of a citation program, for the following groups: <ul style="list-style-type: none"> <li>—Arrestees released by or recommended for release on recognizance</li> <li>—Arrestees not recommended for release on recognizance</li> <li>—Arrestees released on bail</li> </ul> </li> <li>• Failure-to-appear rates for cited arrestees</li> <li>• Of all persons who fail to appear from each release category, the percentage deemed to have done so deliberately</li> <li>• Of all persons who fail to appear from each release category, the percentage who are subsequently prosecuted for this separate offense</li> </ul>	<ul style="list-style-type: none"> <li>• Court records</li> <li>• Prosecutor records</li> <li>• Pretrial services agency records</li> </ul>

\*Busher, *Citation Release*, pp. 86-87

(2) Impact evaluations typically require comparisons of conditions after the new procedure is implemented with pre-existing conditions. Indeed, most of the objectives presented in Table 7.2 call for a reduction in various measures (e.g., time expended by police, average daily population in the jail), which implies before-after comparisons. Unless the evaluation design is conceived and instituted before the citation program becomes operational, it is unlikely that comparable data will be either available or retrievable.

(3) A brief glance at the data requirements for evaluating the effects of citation release suggests that some types of data may be difficult to collect. For example, the average daily population of the jail and daily costs per inmate are probably available in virtually every detention facility; in contrast, it would be nearly impossible to obtain an accurate measure of the amount of community or defendant ill-will associated with physical arrests for minor offenses. Other measures would require the evaluators to develop new forms, e.g., to obtain the amount of time expended by prosecutors and judges in reviewing recommendations for pretrial release.

It should be noted that impact evaluations are not conducted on a yearly basis and are typically performed by outside research consultants rather than in-house staff. Program planners are advised to seek expert assistance before embarking on a full-scale impact study.

costs of implementing citation release, but special studies have been conducted in efforts to document the hypothesis that citation release offers potential cost savings over traditional arrest procedures.

Before a department can begin to compute the savings generated by citation release, it must compute the actual cost of operating the citation program. This task generally begins with a list of the procedures involved in effecting a traditional arrest, and deleting from that list those procedures that are eliminated when defendants are released on citation, both at the stationhouse and in the field. A national study of the costs of field and stationhouse citation as alternatives to arrest included the following procedures in its analysis:

- transportation to stationhouse;
- booking;
- justification for nonrelease of an accused (as is required in California);
- custody to arraignment;
- location of persons failing to appear in court (first failure); and
- location and prosecution of persons willfully failing to appear in court (second failure).<sup>8</sup>

## 7.4 Comparing Costs with Outcomes

One of the most important potential impacts of citation release which should be assessed is its impact on the budget. Few law enforcement agencies have attempted to monitor the

<sup>8</sup>U.S. Department of Justice, Law Enforcement Assistance Administration, National Institute of Law Enforcement and Criminal Justice, *Cost Analysis of Correctional Standards: Alternatives to Arrest, Vol. 1*, by Susan Weisberg (Washington, D.C.: Government Printing Office, October 1975), p. 13.



The list excludes activities which are common to all three alternatives, e.g., conducting warrant checks and preparing charging documents (although in jurisdictions where the citation form also serves as the charging document, this element would need to be included). The list also assumes that officers are required to justify, in writing, their reasons for denying field (or stationhouse) release. Finally, the list accounts for active location and prosecution of defendants who fail to appear for their scheduled court appearance. Many departments' resources are too tight to allow for such extensive follow-up activities.

A similar cost study prepared by the Oakland Police Department when its misdemeanor citation program was first implemented began with the following cost elements of a traditional arrest:

- arresting officer's time;
- squad car;
- booking;
- incarceration until arraignment;
- routing and completion of documents; and
- follow-up investigation.<sup>9</sup>

This study is described more fully in Section 7.4.1 below and in Chapter 3.

Once the activities involved in traditional arrest have been identified, the list can be modified for stationhouse and field release by eliminating first those activities associated only with traditional arrest (e.g., incarceration pending arraignment), and then those activities occurring only during stationhouse release (e.g., transportation and, in some locales, booking).

The second step in computing the cost of citation release is to estimate the cost of each procedure per arrest or defendant. This step requires, for example, estimating the amount of officer time expended in effecting an arrest vs. a citation at the stationhouse or in the field and then computing the cost of that time. Another important cost element would be the cost of incarcerating a defendant from arrest until arraignment.

The third and final step in establishing the cost base is to determine the number of defendants processed by each alternative, that is, the number of citation-eligible defendants processed traditionally, the number released at the stationhouse, and the number released in the field. Thus, for each element of the arrest procedure, the analyst would multiply

the estimated cost of processing a single defendant by the total number of defendants processed in that way. Summing the costs of all procedural elements would yield a total cost for the program.

Once the total program costs of citation release have been determined, the analyst can conduct one of three variations of a cost study: cost-savings analysis, cost-benefit analysis, or cost-effectiveness analysis.

## Cost Savings Analysis

Perhaps the simplest form of cost study is the cost-savings analysis. Both of the studies cited above fall into this category. The actual computations used for the Oakland study were presented in Chapter 3, Table 3.2. The evaluator merely calculated the difference in costs between citation release and traditional arrest to yield both an average savings per citation and, when multiplied by total defendants processed during the study period (February 23, 1970 - May 31, 1971), a total savings for citation release over traditional arrest of \$76,000.

To use this study as a hypothetical example, a cost-savings analysis would proceed as follows:

	Cost of Single Arrest	× No. of Defendants	= Cost of Program
Traditional arrest:	\$34.78	5,000	\$173,900
Jail citation:	23.06	5,000	115,300
Field citation:	14.41	5,000	72,050

Assuming an equal number of defendants (5,000) processed by each alternative, the field citation program would save \$43,250 over jail or stationhouse release, and \$101,850 over traditional arrest; the stationhouse/jail release program would save \$58,600 over traditional arrest. Obviously, the greater the proportion of eligible defendants who are released on citation, the greater the savings will be.

## Cost-Benefit Analysis

A cost-benefit analysis measures the economic efficiency of a program according to the relationship between costs and outcomes as expressed in monetary terms. The ratio of quantified benefits to costs is an indication of the return that society is getting from its investment in the program.<sup>10</sup> When alternative programs are compared, the size of the estimates of net benefits obtained for each program provides a criterion for choice.<sup>11</sup>

<sup>9</sup>L. Moody, "Expenses Saved by Misdemeanor Citation Program," cited in "Pre-Trial Release Under California Penal Code Section 853.6—An Examination of Citation Release," by Jeffrey M. Allen, 60 *California Law Review* 1339, 1361 (1972), fn. 120.

<sup>10</sup>Weiss, *Evaluation Research*, p. 85.

<sup>11</sup>M. Andrieu, "Benefit Cost Analysis," in *Evaluation Research Methods: A Basic Guide*, ed. by Leonard Rutman (Beverly Hills: Sage Publications, 1977), p. 220.

A cost-benefit analysis can be conducted either before the program is operationalized or after the program has been functioning for a period of time. The purpose of the pre-operational analysis is to provide information to policy and program developers so that they can make choices between alternative plans. The post-operational analysis is used to determine whether resources have been properly allocated and to identify areas needing modification. To continue the example based on the Oakland figures presented in Table 3.2, a cost-benefit ratio of field and stationhouse or jail citations over traditional arrest would be computed first by determining the total benefit accrued by the field and stationhouse/jail release alternatives:

	<b>Savings per Citation</b>	<b>×</b>	<b>No. of Defendants</b>	<b>=</b>	<b>Total Benefit</b>
Field:	\$20.37		5,000		\$101,850
Stationhouse/ jail:	11.72		5,000		58,600

The cost-benefit ratio, then, compares the total program cost to this calculated benefit:

	<b>Cost</b>	<b>Benefit</b>	<b>Cost-Benefit Ratio</b>
Field citation:	\$ 72,050	\$101,850	.7:1
Stationhouse/- jail citation:	115,800	58,600	2:1

Thus, for every 70 cents expended on field citation, the program would reap one dollar in benefits. However, the stationhouse/jail citation program would cost twice as much as it would save. This example clearly demonstrates that a simple cost-savings analysis (as shown above) can be misleading.

Cost-benefit analysis is frequently thought of as an alternative to evaluation research; however, it is only one part of the overall assessment process. Given adequate estimates, cost-benefit results provide a straightforward assessment of economic efficiency as well as information to guide resource allocation decisions with respect to economically desirable options. Unfortunately, however, the cost-benefit analysis cannot be used to weigh the "intangibles" associated with the options under consideration. For example, it is difficult to quantify the disruption imposed upon the defendant who is brought to the stationhouse before obtaining release on citation. It is equally impractical to place a monetary value on the amount of merchandise not stolen due to the effect of field citations in deterring apprehended shoplifters from returning to the stores where they were caught. Although obviously many other factors besides economic efficiency are brought to bear in policy-making, planning, and program implementa-

tion, considerations of economic efficiency are almost always critical given the universality of scarce resources.<sup>12</sup>

## Cost-Effectiveness Analysis

Cost-benefit analysis is best suited to technical and industrial work where a monetary value can be easily assigned to both costs and benefits. However, it is not always reasonable or possible to place a dollar value on the benefits or the outputs of social programs. A cost-effectiveness analysis measures the effectiveness of a program in attaining actual substantive outcomes in relation to the monetary value of the resources and costs put into the program.

For example, one hypothesized impact of a citation release program is a reduction in jail populations. Again, to continue the preceding example, releasing 5,000 defendants each in the field and at the stationhouse/jail reduces the jail's annual intake by 10,000. If one assumes an average stay of only one day per misdemeanor defendant, the citation program can be said to reduce the jail's population by 10,000 person/days.

A department may also wish to compare the cost-effectiveness of citation release against that of bail release, another means of keeping certain defendants out of jail. Assume, then, that administering a bail release program incurs a cost similar to that of stationhouse or jail release (since defendants still must be transported and some paperwork must be completed). Assume, further, that the number of saved person/days in jail will be fewer, because some proportion of the eligible defendants will not be able to make bail. Taking the total costs of the citation program (field and stationhouse/jail release) and bail release, and dividing by the number of person/days saved, a unit cost may be derived as follows:

	<b>Cost</b>	<b>÷</b>	<b>Effect</b>	<b>=</b>	<b>Unit Cost</b>
Field + stationhouse/ jail:	\$187,850	÷	10,000 person/days	=	\$18.78 per day
Bail release:	\$115,800	÷	7,500 person/days	=	\$15.44 per day

Thus, the unit cost of bail release would be \$3.34 less than the unit cost of citation release. However, bail release achieves a smaller effect in terms of reducing the jail population, a factor which must be considered in jurisdictions suffering a serious crowding problem. Planners might also consider the intangible yet important effect of bail programs in denying pretrial release to indigent defendants.

A second example of cost-effectiveness analysis would be to compare the cost-effectiveness of field release to that of

<sup>12</sup>Peter H. Rossi, Howard E. Freeman, and Sonia R. Wright, *Evaluation: A Systematic Approach* (Beverly Hills: Sage Publications, 1979), p. 247.

stationhouse or jail release in achieving "acceptable" appearance rates. If one monitors the number of appearances kept by 5,000 stationhouse releasees and 5,000 field releasees and computes the unit costs, one might find that field release costs nearly \$4.00 less per court appearance, as shown below:

	Cost	÷	Effect	=	Unit Cost
Field release:	\$ 72,050	÷	2,882 kept appearances (58% appearance rate)	=	\$25.00 per appearance
Stationhouse release:	\$115,800	÷	4,000 kept appearances (80% appearance rate)	=	\$28.95 per appearance

However, planners must weigh that cost differential against the perceived need to maintain appearance rates at a certain level. In this example, the police department had defined an "acceptable" appearance rate as 85 percent. Clearly, stationhouse release was far more effective than field release in achieving this goal. Moreover, jurisdictions that actively pursue defendants who miss court appearances would need to factor in the cost of tracking and prosecuting fugitive defendants.

In sum, the unit cost derived from a cost-effectiveness analysis should not control decisions regarding program implementation. As with cost-benefit analysis, there will be many intangibles factoring into these decisions. Ultimately,

cost will be but one of several issues to be negotiated in the development of a citation release program.<sup>13</sup>

\* \* \*

Perhaps the strongest conclusion to be drawn from the research conducted in support of this document is that there is little empirical evidence of the effectiveness of citation release as a viable alternative to traditional arrest. One possible reason for the paucity of data is that, once citation release is adopted by a law enforcement agency, it becomes a routine procedure, and special efforts to monitor its use are rarely undertaken. Indeed, the lack of empirical evidence of the risks and benefits purported to accompany the citation release procedure has been identified as a primary cause of the procedure's general underutilization.<sup>14</sup> Without solid information on which to base decisions regarding the effectiveness of citation release, law enforcement planners may be unwilling to adopt the procedure, or, if it is already operational in their departments, to consider expanding eligibility to additional offense types or defendant groups. This chapter has attempted to provide a framework to guide planners in their efforts to evaluate the effectiveness of citation release, both in achieving short- and long-term goals, and in attaining the cost savings that are widely supposed to accrue from the procedure.

<sup>13</sup>For more detailed guidance on cost analysis, see U.S. Department of Justice, National Institute of Justice, *Measuring the Costs of Police Services*, by Kent John Chabotar (Washington, D.C.: Government Printing Office, January 1982).

<sup>14</sup>Jerome Needle, "Maximizing the Use of Citations," paper presented to the 1981 Symposium on Pretrial Services Workshop, Toronto, Ontario, July 1981, p. 12.

## CHAPTER 8

# SUMMARY AND GUIDELINES FOR IMPLEMENTING CITATION RELEASE

The development of an empirical foundation is, in itself, necessary but not sufficient to encourage large-scale adoption and expansion of the citation release alternative. Three additional factors have been identified:<sup>1</sup>

(1) Many jurisdictions have not yet confronted the problems that have forced other jurisdictions to adopt alternatives to traditional arrest. One such problem, jail overcrowding, is increasing in intensity, however, and more communities may find themselves with little choice but to consider releasing certain defendants rather than holding them in custody.

(2) The fact that a citation program affects not only the operating law enforcement agency, but other criminal justice agencies as well, suggests that all these agencies should participate in the early stages of planning and decision-making. However, the fragmented nature of local government often inhibits a coordinated process, and thus there is no single entity which wields the authority to initiate the process, see it through to fruition, and monitor its implementation. The need for an interagency approach to planning was discussed above in Chapter 5 and is explored further in works published by the American Justice Institute in support of their research on responses to jail overcrowding.<sup>2</sup>

(3) Practitioners lack the technology to transfer a citation program to their own communities from jurisdictions where it is already operational. In essence, each law enforcement agency that has instituted citation release has "reinvented the wheel." Filling this need for technology transfer is the primary purpose of this report.

Preceding chapters have described variations of the procedures associated with the three forms of citation release and assessed the advantages and disadvantages of each from the law enforcement agency's perspective. The document has explored several aspects of planning for citation release and identified a number of activities that should be undertaken in the course of instituting a citation program. It has reviewed the available research on appearance rates for defendants obtaining various forms of pretrial release and described the attempts of several departments to encourage court appearances. Finally, the document has offered approaches to

monitoring and evaluating the success of a citation release program in meeting several common objectives, including suggestions for assessing cost-effectiveness.

Absent thus far from the report, however, are step-by-step guidelines for implementing a citation release program in a jurisdiction or department where none yet exists. This is a difficult task because there is little experience to tap for guidance: most departments that currently operate citation release adopted it as a new procedure, without the kind of planning activities that typically precede the institution of a new "program." Nevertheless, both the field research and literature review conducted in support of this study identified a number of steps that are typically associated with program development, as well as suggestions for their application to instituting citation release. The lessons learned from this research can be summarized as follows:

### Planning

(1) Needs assessment. This is perhaps the most frequently omitted step of program development. Planners commonly begin with a specific program in mind and do not question whether the program is, indeed, the best solution to the problem(s) it is intended to address. Suppose, for example, a jurisdiction suffers serious crowding in the jail. If the jail is heavily populated with minor offenders awaiting arraignment, then citation release will probably help to relieve the problem. If, instead, the jail's population consists primarily of sentenced offenders, planners may wish to place a higher priority on alternatives to incarceration than on a citation program. Using another example, departments facing severe budget cutbacks or manpower shortages may welcome a field release program as a means of maximizing patrol officers' time on the street. A stationhouse release program, however, would do little to address this problem.

(2) The statutory review. As was demonstrated above in Chapter 4, statutes authorizing the use of citation release vary markedly in their level of detail. Some departments may require considerable interpretation from legal counsel; others may find that the legislation provides a virtual blueprint for implementing the program. The amount of guidance provided in the enabling legislation will certainly affect subsequent steps of the planning process.

(3) Prioritization of objectives. Closely tied to the needs assessment, this step is critical in shaping the program. While

<sup>1</sup>Jerome Needle, "Maximizing the Use of Citations," paper presented to the 1981 Symposium on Pretrial Services Workshop, Toronto, Ontario, July 1981, pp. 12-13.

<sup>2</sup>See, for example, National Institute of Corrections, *Countywide Citation Release Programming*, by Jerome A. Needle and Walter H. Busher (Sacramento: American Justice Institute, 1982).

citation release may be capable of addressing several identified needs, the specific objectives of the program should be prioritized in order to ensure that resources are appropriately allocated to the most pressing needs. As was explained in Chapter 5, this stage of the planning process requires input from agencies other than the implementing department—especially other law enforcement agencies in the jurisdiction, prosecutors, judges and other court officials—for they may have competing objectives.

Planners also should not neglect the need for input from certain members of the community. Merchants, in particular, are likely to have a strong interest in enforcement procedures for shoplifting offenders. And, as officials learned in San Francisco, merchants may have a stake in the enforcement response to prostitution offenses. Finally, planners may wish to tap the general public. In some communities, residents may believe, for example, that citation release is more appropriate for open container violations than for domestic assault cases; elsewhere, people may prefer a greater emphasis on citing public inebriates. A special task force consisting of criminal justice officials, local government officials, and community representatives may be the most efficient way to obtain a broad spectrum of ideas and negotiate compromises where necessary.

(4) Formulation of policy. This step should follow naturally from the coordination of efforts undertaken in support of the prioritization of objectives. Among the many issues that should be resolved are eligibility criteria (if not specified by statute), response to failure to appear, assignment of responsibility for monitoring the program, etc. Policy development is another process that would benefit greatly from a task force approach. Because the citation release procedure affects not only the police department, but the sheriff's office, prosecutor, court and jail as well, every decision must be followed through the system to determine its potential impact. For example, adoption of field release for open container violators may result in a large number of warrants for failure to appear, which may have severe consequences for court calendars and the sheriff's office which is charged with serving those warrants. Similarly, a decision to take all public inebriates into custody before citing them may seriously overtax the capacities of the jail and local detoxification centers.

Ideally, a planning process that involved all affected agencies would be able to anticipate some of these ramifications and find ways to avert them. Outcomes of the policy development stage should include a framework for the police department's general order and policy statements for all affected agencies. As was discussed above in Chapter 4, care should be taken to ensure that the policy encouraging the use of citations is clearly articulated in order to achieve a coordinated response among all components of the criminal justice system.

## Implementation

(1) Design of the citation form. Depending on the specificity of enabling legislation or court rules, the amount of input

available to the individual department will vary. Many statutes are particularly explicit in describing the form's content and appearance. Some prescribe a particular routing procedure to ensure that the form is seen by all relevant parties. Some allow the form to be used for additional purposes, e.g., as a filing instrument. Such statutory guidance ensures a certain degree of uniformity across the many departments operating citation release within the state.

Even where statutes appear quite restrictive, however, individual departments are usually able to adapt their use of the form for local purposes. Specifically, the form can be designed to replace other forms such as arrest reports or formal complaints. Also, the routing procedure can be structured to allow for prosecutorial review *prior* to filing with the court, thereby enabling prosecutors to dismiss weak or unsubstantiated cases before they appear on the calendar. As with other aspects of planning for citation release, prosecutors and court personnel should be consulted in reaching decisions about the citation form. Chapter 4 provided considerable details on these issues, and sample citation forms are reproduced in Appendix A.

(2) Refinement of procedures. Much of the groundwork for this step should have been laid in the earlier process of policy development; many policy decisions will have distinct implications for procedures. This step may be approached chronologically, i.e., to follow the sequence of issuing a citation and continuing through arraignment or pursuit of fugitives. Procedures must be stipulated for assessing eligibility, justifying non-eligibility, issuing the form (e.g., providing verbal instructions as well), filing charges, monitoring appearance rates, investigating failures to appear, serving warrants, and completing the necessary paperwork. Most of these procedures should be documented in the departmental general order and circulated among various offices within the criminal justice system to ensure uniform understanding.

## Staffing

None of the departments visited for this study had assigned any agency or individual to oversee the citation program. There was no individual within the department who had sufficient direct involvement to comment on the overall operation of the procedure. Departments adopting citation release should consider assigning some person or unit to this supervisory role, and perhaps placing the position in a liaison capacity with the courts to ensure reciprocity of information and records.

## Training

Interviews and experience in several departments revealed that many patrol officers are reluctant to use citation release, for various reasons. One way to address this skepticism is through training. Chapter 5 discussed the apparent lack of training specific to the use of citations and suggested some

ways to enhance that training. Generally, the purposes of such training are to ensure that patrol officers understand both *why* citation release is being instituted and *how* it will be done. Two logical contexts for an introduction to the concept and practice of citation release are (1) routine training sessions on arrest procedures, and (2) instructions on report writing. Departments which incorporate a field training component should require the issuance of citations to be an integral part of that program. Some departments may wish to hold seminars to allow officers to air their doubts and get immediate answers from police or court officials. Developing and administering a training unit on citation release should be among the responsibilities of the person or unit assigned to supervise the citation program.

### Monitoring

Monitoring the utilization of citation release will entail the development of formats for collecting data and systems for tabulating and analyzing these data periodically. At a minimum, shift commanders should routinely review the arrest and citation reports submitted by patrol officers to ensure that the practice is applied appropriately. Arrest data for all shifts should be aggregated, tabulated monthly, and analyzed annually to ensure that the department is meeting its objectives (as described above) regarding the use of citations. More information on monitoring practices was provided in Chapter 7. Again, monitoring the department's performance should be a function of the citation program supervisor.

### Evaluation

As was discussed in Chapter 7, evaluation of the program's impact is a task that may exceed both the resources and capabilities of the department's staff, not only because such a study requires a certain technical expertise, but because a coordinated system must be established for collecting data from several sources within the criminal justice system. If the department should decide to support some form of impact evaluation, the program supervisor should work closely with the evaluators to develop procedures for data collection and analysis and to ensure that the evaluators fully understand the purpose, practices, and implications of citation release.

Perhaps the key to a smooth implementation process is coordination among the various agencies involved. Chapter 5 offered examples from Oakland and Nassau County which

demonstrated the benefits to be accrued from seeking the input of other agencies as early as possible in the planning phase. Effective planning should virtually guarantee smooth implementation.

For jurisdictions that are considering expanding their use of citation release, Needle and Busher recommend a seven-point strategy:

- (1) Establish objectives;
- (2) Broaden the list of citable offenses;
- (3) Reduce the number of eligibility criteria;
- (4) Treat conditions that cause exclusion (e.g., uncleared warrants, restrictive booking requirements);
- (5) Strengthen supervisory controls;
- (6) Reaffirm commitment to the procedure; and
- (7) Declare prosecution and charging policies.<sup>3</sup>

The authors suggest that various combinations of these strategies should greatly enhance utilization of citation release.

\* \* \*

In sum, while the practice of citation release initially arose as a viable option for releasing certain offenders prior to arraignment, it has recently gained in popularity as a means of conserving scarce patrol resources and of containing burgeoning jail populations. Even though the available empirical evidence testing the impacts of citation release—both positive and negative—is far from conclusive, it tends to favor the positive.

By documenting the experiences of others and providing concrete examples where possible, this report should answer many of the questions posed by interested practitioners. Those desiring additional information should consult Appendix D, a list of references and sources of technical assistance.

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<sup>3</sup>Ibid., pp. 50-51.

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**APPENDIX A  
SAMPLE CITATION FORMS**

**A-1 Nassau County Police Department,  
Appearance Ticket**

**A-2 Boulder County Sheriff's Department,  
Uniform Summons and Complaint**

**A-3 Oakland Police Department, Jail Citation  
Form**

**A-4 Hennepin County (Minnesota), Uniform  
Citation**



**A-1 Nassau County Police Department  
Appearance Ticket**

**AGREEMENT**

As a condition to my being promptly released from custody, I hereby consent to appear with this agreement, at 9:00 A.M. on the date indicated on the Appearance Ticket, to the

**DETENTION DESK OF THE NASSAU COUNTY POLICE DEPARTMENT, LOCATED AT THE REAR OF POLICE HEADQUARTERS, 1490 FRANKLIN AVENUE, MINEOLA NEW YORK.**

(One block south of Old Country Road. See map on reverse side) for the purpose of photographing and fingerprinting.

**PRIOR TO APPEARANCE IN COURT**

\_\_\_\_\_  
Signature of Defendant

**CONVENIO**

Como condición para ser temporalmente libertado de detención me comprometo a presentarme, con este convenio, a las 9:00 A. M. en la fecha indicada en la Boleta de Cita al

**ESCRITORIO DE DETENCIÓN DEL DEPARTAMENTO DE POLICIA DEL CONDADO DE NASSAU, LOCALIZADO DETRAS DE EL CUARTEL GENERAL DE POLICIA, 1490 FRANKLIN AVENUE, MINEOLA, NEW YORK.**

(Una cuadra a sur de Old Country Road. Vease mapa en el otro lado).

Para el proposito de fotografías y huellas digitales.

**ANTES DE IR A LA CORTE**

\_\_\_\_\_  
Firma del Acusado

**PDCN 8B**

**POLICE DEPARTMENT  
COUNTY OF NASSAU  
NEW YORK**

**APPEARANCE  
TICKET**

Serial No. **64803**  
Arrest No. \_\_\_\_\_  
Date \_\_\_\_\_

**THE PEOPLE OF THE STATE OF NEW YORK vs.**

Address: \_\_\_\_\_

You are hereby directed to appear in the First District Court of the County of Nassau, Arraignment Part, located at 400 County Seat Drive, Mineola, New York on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at 9:30 o'clock in the forenoon, to answer a criminal charge made against you for violation of Section \_\_\_\_\_ specific offense being \_\_\_\_\_

Upon your failure to appear at the time and place herein mentioned, any money posted for pre-arraignment bail shall be forfeited to the People of the State of New York and a warrant shall be issued for your arrest and you may be charged with an additional violation of the Penal Law which upon conviction may subject you to a fine, imprisonment or both.

The serving of this Appearance Ticket is conditioned upon the posting of \$\_\_\_\_\_. Dollars, receipt of which is acknowledged by the undersigned.

Rank	Name	Shield Number	Command
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**ACKNOWLEDGEMENT OF DEFENDANT:**

I, the undersigned, do hereby acknowledge receipt of the above Appearance Ticket and do agree to appear as indicated above.

Signature of Defendant \_\_\_\_\_

Time \_\_\_\_\_ Date \_\_\_\_\_

White Copy, File - Canary Copy to Defendant - Pink Copy to Court  
PDCN 8A - 5/71

# A-2 Boulder County Sheriff's Department Uniform Summons and Complaint

THE PEOPLE OF THE STATE OF COLORADO VS.: DEFENDANT										OCCURRENCE DATE		OCCURRENCE TIME		No. <b>13755</b>			
ADDRESS										APPROXIMATE LOCATION:							
CITY & STATE								PHONE				Boulder County, State of Colorado					
WEIGHT	HEIGHT	HAIR	EYES	DATE OF BIRTH	AGE	MALE	1	2	3	4	5	MARKS / SCARS / TATTOOS / GLASSES					
OCCUPATION		EMPLOYER				EMPLOYER'S ADDRESS						TELEPHONE					
DRIVER'S LICENSE NUMBER & STATE					VEHICLE YEAR / MAKE / MODEL / COLOR					VEHICLE LICENSE / STATE / YEAR							
YOU ARE HEREBY NOTIFIED TO APPEAR IN BOULDER COUNTY COURT AT:														IN:		COLORADO	
DATE OF APPEARANCE:										TIME:		TO ANSWER TO CHARGES OF VIOLATION OF					
18 — — 1973 CRS AS AMENDED, TO WIT:																	
18 — — 1973 CRS AS AMENDED, TO WIT:																	
I hereby promise to appear at the time and place indicated above. The law requires an immediate appearance upon refusal to sign.																	
DEFENDANT'S SIGNATURE: X																	
The undersigned states that he has reasonable grounds for believing that the aforementioned offense(s) was/were committed by the defendant against the peace and dignity of the People of the State of Colorado.																	
Dated this _____ Day of _____, 19_____										OFFICER		BADGE					
DEPARTMENT:										CASE NUMBER							
COMPLAINING WITNESS:										ADDRESS:				Phone:			
WITNESS:										ADDRESS:				Phone:			
WITNESS:										ADDRESS:				Phone:			

UNIFORM SUMMONS &amp; COMPLAINT, BOULDER COUNTY COLORADO

White—Court copy; Pink—Dist. Att.; Blue—Defendant's copy; Yellow—Agency copy; Goldenrod—Duplicate

# A-3 Oakland Police Department Jail Citation Form

CITATION RELEASE UNDER AUTHORITY 853.6PC  
Oakland Police Department

NAME		Last	First	M.I.
ADDRESS	No.	Street	Apt. No.	City
CEN NO.			PFN NO.	
CHARGES:	Code	Section(s)	Title(s)	
1.	_____	_____	_____	
2.	_____	_____	_____	
3.	_____	_____	_____	
COURT DATE	TIME	DEPT. NO.	600 Washington Street, Oakland, California	
<p><i>As a condition of release from custody, I promise to appear as directed above. I understand that failure to appear as promised is a crime and will result in additional charges against me.</i></p> <p>_____</p> <p style="text-align: center;">SIGNATURE OF RELEASEE</p>				
Pre-Trial Services Recommendation for Release by _____				
Release Authorized by _____ Serial No. _____ Date _____				

TF-721 (11/77)

# A-4 Hennepin County (Minnesota), Uniform Citation

STATE OF MINNESOTA  
COUNTY OF HENNEPIN  
MUNICIPAL COURT

UNIFORM  
CITATION NO. 19-9722624

The issuing officer states that the person named below committed the offense described in violation of the section indicated and against the peace and dignity of the State of Minnesota.

DRIVER'S LICENSE NUMBER		STATE	
NAME - LAST, FIRST, MIDDLE/MAIDEN			
ADDRESS & CITY			
STATE		ZIP CODE	
DATE OF BIRTH	EYES	HEIGHT	WEIGHT
MO. DAY YEAR			SEX
VIOLATION INFORMATION			
DATE	TIME	METER NUMBER	
VEHICLE LICENSE PLATE		STATE	YEAR
COLOR		VEHICLE IDENTIFICATION NUMBER	MODEL
LOCATION & CITY			
STATUTE OR ORDINANCE NO.		DESCRIPTION	
CDP CODE		CT DIV	ACTIVITY
<input type="checkbox"/> ENDANGER LIFE OR PROPERTY		<input type="checkbox"/> ACCIDENT	
		<input type="checkbox"/> UNSAFE CONDITIONS	
BADGE NUMBER	ORI NUMBER		
	M N		

I agree to respond to this citation and understand that if I fail to do so within 7 days, increased penalties will be assessed and a warrant will be issued for my arrest. If a warrant is issued, a penalty of \$30 will be added to the fine.

DEFENDANT'S SIGNATURE \_\_\_\_\_

For a court appearance or information, contact the Violations Bureau on the front of the envelope unless another address is listed above.

SEE INSTRUCTIONS AND FINE SCHEDULE ON BACK OF THIS SHEET

**DEFENDANT COPY**

## INSTRUCTIONS

The fines below may be paid at the Violations Bureau in person or by mail. Payment of a fine is deemed to be a plea of guilty. If you wish to plead guilty, mail or deliver the amount of fine in this envelope. Make remittances payable to the Hennepin County Municipal Court. DO NOT MAIL CASH. Please insert this instruction sheet in the envelope with your fine. If a fine is not listed, call the Violations Bureau listed on the front of this envelope. State law requires a fee in addition to any fine (excluding parking violations) which will be used for victims, witnesses and police training. This fee is already included in the fines listed below.

### PARKING VIOLATIONS

Overtime or meter	\$ 6.00	Block driveway	\$ 10.00
(Report defective meters by noon of next business day to number on front of envelope.)		Parked in alley	10.00
No Parking Zone	10.00	Snow Emergency (Mpls only)	25.00
Truck Zone	10.00	Handicap Zone	15.00
Bus or Taxi Zone	10.00	Park Over 72 Hours	25.00
Block/Obstruct Traffic	20.00	Fire Hydrant	25.00
Park Stop, Stand Rush Hours	20.00	Fire Lane	15.00
Improper Expired Plates or Tabs	11.00	Other Parking Offenses	10.00
		(Temporary signs, Street Cleaning, etc.)	

### DRIVING VIOLATIONS

(Only if court appearance is not mandatory)

- If the box marked "Unsafe Conditions" is checked, the fine listed in number 2 or 3 below is increased by \$11.00
- If this is your first driving violation within the past six months, the fine is 33.00
- If this is your second violation within the past six months, the fine is 44.00  
Your Driving Record Will Be Checked

### EQUIPMENT & PEDESTRIAN VIOLATIONS

Muffler, Horn, Lights		Jaywalking	\$11.00
(Except Brakes)	\$11.00	Fail to obey intersection signal	11.00
Overweight Vehicles (Call the Violations Bureau)		Pedestrian or Bicycle on Freeway	22.00

### A COURT APPEARANCE IS MANDATORY IF:

- You plead not guilty.
- You plead guilty and wish to offer an explanation.
- You are involved in an accident.
- You are charged with any of the following violations:
 

a. Driving under the influence of alcohol or drugs.	e. Open bottle.
b. Careless/Reckless driving.	f. Brakes
c. No drivers license.	g. Endangering life or property
d. Fail to stop after accident.	
- This is your third moving violation (other than # 4a-g above) within the past 12 months.

To arrange a court appearance, you must appear in person at the Violations Bureau listed on the front of this envelope unless otherwise indicated.

IF YOU PLEAD GUILTY BY PAYING A FINE, you waive your rights to:

- A trial
- Representation by counsel.
- Be presumed innocent until proven guilty beyond a reasonable doubt.
- Confront and cross examine all witnesses against you, and
- Either remain silent or to testify on your own behalf.

I plead guilty to the offense and waive my right as described above.

\_\_\_\_\_  
Defendant's Signature

**APPENDIX B**  
**SAMPLE GENERAL ORDERS**

**B-1 Oakland Police Department**

**B-2 Minneapolis Police Department**



## DEPARTMENTAL GENERAL ORDER OAKLAND POLICE DEPARTMENT

Index as:

Citations for Adult Misdemeanors  
Field Citations for Adult Misdemeanors  
Jail Citations for Adult Misdemeanors  
Marijuana Citations  
Misdemeanor Citations for Adults

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### CITATIONS FOR ADULT MISDEMEANORS

The purpose of this order is to set forth procedures implementing Penal Code Section 853.6, which states the circumstances under which arresting and booking officers may issue citations (Notice to Appear, form 836-001) for adult misdemeanor offenses.

#### I. DEFINITIONS

- A. *Misdemeanor*, as used in this order, shall mean any offense punishable by fine or imprisonment in a county jail for not more than one year. Those offenses that are punishable as either a misdemeanor or a felony shall be handled as felonies.
- B. *Arrest*, as used in this order, shall mean taking a person into temporary custody in the field either by actual restraint or by the person's submission to detention.
- C. *Physical arrest*, as used in this order, shall mean taking a person into custody *and* transporting him/her to the jail.
- D. A *citation* is a Notice to Appear (836-001) which releases an arrested person and directs him/her to appear in court on a particular day to respond to the arrest charge. Citations may be issued after either an arrest or a physical arrest; that is, they may be issued in the field or at the jail.
- E. An *adult* is a person 18 years of age or older.

#### II. POLICY

- A. It shall be Departmental policy to issue citations for misdemeanor offenses or following a citizen's arrest for a misdemeanor offense whenever it is possible to do so under the provisions of this order.
- B. Persons arrested for infractions shall be cited pursuant to Penal Code Section 853.5 unless they refuse to sign the citation or fail to present satisfactory personal identification, except as specified in Vehicle Code Sections 40302 and 40303.
- C. Field and jail citation standards differ. An offender's ineligibility for citation release in the field shall not be taken into account by Jail Division personnel in evaluating his/her eligibility for citation release from the jail.
- D. Misdemeanor offenders shall not be detained in the jail merely upon the request of an arresting officer. Rather, Jail Division supervisory personnel shall base a decision to detain an offender upon the Departmental criteria set forth in this order.

- E. Field officers shall not use citations as a substitute for oral admonishment and release in appropriate situations.
- F. A warrant check shall be made before any citation is issued.

### III. CRITERIA FOR PHYSICAL ARREST/GROUNDS FOR DENYING FIELD CITATION

Field officers shall not issue citations to adults if one or more of the criteria set forth in subsections A-H, below, are present:

- A. The person is so intoxicated that he/she may be a danger to himself/herself or to others (PC 853.6j1).
  - 1. If the intoxicated person is conscious, he/she shall be physically arrested pursuant to Penal Code Section 647f and taken to the jail.
  - 2. If the intoxicated person is unconscious, he/she shall be taken to the hospital. The member shall complete an Assignment Report (236-253) regarding the incident, provided that the person has committed no other crime(s).
- B. The person requires medical examination or medical care or is otherwise unable to care for his/her own safety (PC 853.6j2).
  - 1. Such persons shall be physically arrested and, if medical attention is required, taken to the hospital.
  - 2. In the event that an offender is taken to the hospital, a citation may be issued there if he/she is otherwise eligible to receive one under the provisions of this order.
  - 3. Offenders may be physically arrested for violations of Health and Safety Code Section 11550 (under the influence of an opiate) or Penal Code Section 647f, drugs.
- C. The person is arrested pursuant to Vehicle Code Section 40302 (PC 853.6j3). VC Sec. 40302 requires a physical arrest if:
  - 1. The person fails to present his/her driver's license or other satisfactory evidence of identification (VC 40302a). Other satisfactory evidence for purposes of VC 40302a is defined in Training Bulletin III-E.2, TRAFFIC CITATIONS.
  - 2. The person is arrested for VC Section 23102 or 23105 (VC 40302d).
  - 3. The person refuses to sign the citation (VC 40302b) or demands to be taken before a magistrate (VC 40302c). Such persons cannot be booked until they have been given the opportunity to post bail. Those eligible may post conditional release 10% bail pursuant to Penal Code Section 1269d. Transporting officers shall ask the jailers in the receiving area what the bail is, determine if the arrested persons have enough money to post bail immediately and, if they do, escort them to the jail front office. Those who cannot post bail will be booked.
- D. There are one or more outstanding arrest warrants for the person (PC 853.6j4). However, there shall be two exceptions to the rule that persons wanted on warrants be physically arrested.
  - 1. Exception—certain warrants: Some warrants received from foreign jurisdictions direct that the misdemeanor be cited rather than incarcerated.
    - a. If a member detains an offender pursuant to such a warrant, he/she shall neither cite nor physically arrest the person.
    - b. The member shall instead direct the person to report to the Warrants Section on the next business day.
    - c. The member shall complete a Field Contact Report (836-314) regarding the incident and route it to the Warrants Section.



2. Exception—voluntary surrender on certain local warrants: Some Oakland-Piedmont Judicial District warrants contain the phrase “. . . unless defendant is eligible for citation release under Section 853.6 PC.”

a. If the person appears voluntarily at the Police Administration Building to accept service of a warrant which contains this phrase, he/she shall be issued a citation if otherwise eligible to receive one. The person shall not be taken into physical custody but shall be booked at the Central Identification Bureau.

b. If the person is arrested in the field pursuant to such a warrant, he/she shall be physically arrested.

3. In the case of failure-to-appear warrants, if the suspect states that he/she has filed a report of lost or stolen identification and is not the person who committed the original offense, the arresting officer shall *make a reasonable effort* to check the person's statement by contacting the Records Division or the outside jurisdiction which issued the warrant. If no report has been filed, the member may consult the Warrants Section or his/her supervisor as to whether a physical arrest should be made. In the event that a physical arrest is made, any assertion regarding mistaken identity shall be noted on the arrest report.

4. Persons arrested pursuant to warrants for traffic infractions or traffic misdemeanors must be offered an opportunity to post bail before being searched or booked. Such persons may be pat-searched for weapons, however, if they are to be transported.

E. The person cannot provide satisfactory evidence of personal identification (PC 853.6j5).

1. Satisfactory identification shall be defined as identification that bears the physical likeness or signature of the offender. The member shall compare the likeness or signature on the identification to the offender or his/her signature on the citation before releasing him/her.

2. The form of identification presented by the offender shall be documented on the citation or arrest report.

F. The prosecution of the offense(s) for which the person is arrested or the prosecution of any other offense(s) would be jeopardized by his/her immediate release on citation (PC 853.6j6).

1. A physical arrest may be made for legitimate investigative purposes, as illustrated by the following examples:

Example: The person is wanted for questioning about another offense. Physical arrest may be made to allow sufficient time for interrogation, but after a reasonable period, the person must be considered for citation release. The test of sufficient time and reasonable period shall be that the questioning take place and be completed as expeditiously as practicable.

Example: Physical arrest is proper if evidence of the crime for which the person has been arrested might otherwise be destroyed.

Example: The arresting officer wishes to interrogate the person about the offense for which he/she was arrested. The citation decision may be delayed until a reasonable opportunity to admonish and interrogate has occurred.

Example: The person shall be arrested if a breathalyzer or other chemical test is required.

2. A physical arrest shall be made if there is a reasonable likelihood that the offender will fail to appear in court if released on citation, as illustrated by the following examples:

Example: The person attempts to resist or evade arrest.

Example: The person has been arrested for failure to appear during the preceding 365 days.

Example: The person is transient. Persons who have been continuously employed for one year, although not necessarily with the same employer, or who have lived for one year at the same residence shall not be considered transient. Raising a family or having children who attend local schools may also constitute evidence that the offender has community ties.

G. There is reasonable likelihood that the offense(s) would continue or resume or that the safety of persons or property would be imminently endangered by releasing the offender on citation (PC 853.6j7).

1. Prostitution offenses (PC 647b) are likely to continue. For that reason, and to ensure similar, non-discriminatory treatment, all offenders shall be physically arrested.
2. Shoplifters shall be cited if they are otherwise eligible for citation release under the provisions of this order unless the member or the complainant has definite knowledge that the offender is an addict or habitual shoplifter. In either such case, the offense is likely to continue, and a physical arrest shall be made.
  - a. A citation shall be issued despite the objections of the complainant if the offender is eligible to receive one.
  - b. A citation shall be issued following a citizen's arrest if the offender is eligible to receive one.
3. A physical arrest shall be made in the case of certain domestic incidents.
  - a. A physical arrest shall be made if the offender commits misdemeanor acts of violence in a member's presence or if the offense is likely to continue. If the complainant has a Resource Card (TF-868) indicating that the offender has recently been arrested, cited, and released in connection with a domestic dispute, the offense shall be considered likely to continue. If the offender violates, in a member's presence, the terms of a verified temporary restraining order issued pursuant to Code of Civil Procedure Section 527b, the offense shall be considered likely to continue. Training Bulletin III-J sets forth the Department's policy regarding domestic violence.
  - b. Except as indicated above, offenders may be cited and released if otherwise eligible for release under the provisions of this order. An offender may be released following a citizen's arrest if eligible for release under the preceding subsection and the terms of this order.
  - c. Whenever an offender is cited and released in connection with a domestic dispute, a Resource Card (TF-868) shall be completed and given to the complainant.
4. Examples follow of circumstances under which a field officer may decide to cite for other offenses which could conceivably resume or threaten public safety.

Example: Citations may be issued for misdemeanor offenses involving deadly weapons, specifically for violations of Penal Code Sections 12025 (concealed weapon) and 12031 (loaded weapon), if the offender is otherwise eligible to be cited. For example, a citation should be issued to a filling station manager of good repute found to be carrying a concealed weapon in a public place after having recently been robbed. The weapon would be seized incidental to the citation and placed in evidence. However, a person concealing a weapon and fitting the description of a suspect who committed a felony offense using a firearm should be physically arrested.

Example: Unlawful assembly, assault and battery, and disturbing the peace are emotionally charged crimes that may continue unless an enforced cooling-off period is accomplished by means of a physical arrest. However, if an argument appears to have been settled and the misdemeanants seem cooperative, they may be released on citation.

Example: If a citizen orally obstructs an officer but later calms down, the officer shall issue him/her a citation if the offense seems unlikely to resume. Physical arrest, as an alternative to citation, shall not be used as a punishment simply because a person has been orally abusive to an arresting officer.

H. The person demands to be taken before a magistrate or refuses to sign the citation (PC 853.6j8).

If an offender refuses to sign a citation, a supervisor shall be called to the scene. The person shall be advised that signing the citation is not an admission of guilt, but only a promise to appear in court on the assigned date.

I. Additionally, an offender may be physically arrested for reasons not itemized above; however, the officer's actions must be justified and fully described in the narrative portion of the arrest report (PC 853.6j9).

#### IV. DETENTION CRITERIA/GROUNDS FOR DENYING JAIL CITATION

Jail Division personnel shall not issue citations to adults if one or more of the following detention criteria are present (subsections IV, A-C).

- A. Unlikely to appear in court: A citation shall not be issued if a reasonable likelihood exists that the person will fail to appear in court as promised.
- B. Threat to public safety: A citation shall not be issued if the arrest report, a Bail Recommendation Report (TF-858), or an order of the watch commander provides evidence indicating that the person, if released, would commit any offense causing or threatening injury to persons or property.

Example: In the event of civil disorder, the detention of persons arrested for serious misdemeanors would be appropriate for reasons of public safety unless the evidence indicates that an individual would be unlikely to return to the scene.

Example: A person arrested for assaulting his/her spouse or other persons shall be denied a citation release if prior records indicate a propensity for violence and present circumstances indicate that release would pose a further danger to the victim or to others.

- C. Citation inapplicable. Certain adult misdemeanants, because of the nature of their offense or the type of arrest, are automatically ineligible for citation release.
  - 1. Intoxication: Persons taken into physical custody under Penal Code Section 647f (intoxication) shall not be issued jail citations. They shall either be transferred to a certified detoxification ward under Penal Code Section 647ff, or released without criminal complaint under Penal Code Section 849b2, or brought to court under Penal Code Section 647f, depending on which disposition is most appropriate in each case.
  - 2. Bench Warrant: Persons who have been physically arrested pursuant to bench warrants for failure to appear shall be ineligible for citation release. Persons in custody on arrest warrants shall be eligible for citation release.

#### V. ISSUING FIELD CITATIONS

##### A. Offender's Eligibility to Receive Citation

- 1. Persons who meet any of the detention criteria set forth in Part III shall be ineligible to be cited.
- 2. In the event that a person is ineligible to be cited, the member shall state in the narrative portion of the arrest report the reason for the physical arrest. Notations such as the following shall be used:

Unlikely to Appear/Transient

Refuses to Sign Citation

Offense Likely to Continue

- 3. In the case of multiple offenses, the person must be eligible to be cited on each charge or else he/she shall be physically arrested. If the person is taken into custody, additional citable offenses, if any, shall be noted on the arrest report.
- 4. These instructions do not apply to juveniles or to diplomatic and consular officials. Departmental General Order 0-3, PROCESSING JUVENILE OFFENDERS, covers juvenile citations. Training Bulletin III-0 discusses Diplomatic Immunity.

##### B. Reports Related to Citations

- 1. Citation/Notice to Appear (836-001)

Whenever an offender is to be released on citation, the arresting officer shall complete a Notice to Appear. If multiple misdemeanor charges are involved, up to five may be listed on the same citation.

- a. If there are more than five, an additional citation or citations shall be issued.
- b. Traffic offenses shall always be listed on a separate citation or citations from other misdemeanor charges in order to facilitate document processing.
- c. Whenever two or more citations are issued, the member shall cross-reference citation numbers at the top of each document.
- d. The form of identification presented by the offender shall be listed on the citation.

## 2. Offense Report

- a. The arresting officer shall complete an offense report in addition to the citation if one is required by directives.
- b. The arresting officer shall write CITED in large block letters in the narrative section of the offense report, if any. The citation number or numbers shall be listed on the report, together with the time, date, and court where the offender must appear. If the individual has been cited to post bail at Room 1000 of the Municipal Court Building, 600 Washington Street, rather than to appear in court, this fact shall be noted on the offense report.
- c. If the arresting officer has independent knowledge that the offender is on probation or on parole, or if the warrant check reveals such information, it shall be included in the narrative portion of the offense report. The name and telephone number of the offender's probation officer shall be included if known.
- d. If the person is cited pursuant to a Penal Code Section 12025 violation, the fact that a review of his/her criminal history revealed no felony convictions shall be noted on the offense report.

## 3. Narcotics Evidence Envelope (336-331)

Marijuana shall be confiscated, placed in a Narcotics Evidence Envelope, and delivered to the Criminalistics Section.

4. An arrest report shall **not** be completed when a citation is issued.

## C. Citation Booking Information

1. The arresting officer shall check the "Booking Required" box on the citation unless:
  - a. The offense is a traffic violation.
  - b. The offense is merely regulatory in nature, for example: violations of the animal ordinance, littering, and washing or storing vehicles on the street.
  - c. The offense is a violation of Health and Safety Code Section 11357b (marijuana: possession of not more than one ounce) or 11360b (marijuana: giving away or transporting not more than one ounce).
  - d. If any charge on a multiple offense citation requires booking, the box shall be checked.
  - e. If two citations are issued, booking is not required on the traffic citation but may be on the other.
2. When booking pursuant to a field citation is required, the offender will be fingerprinted and photographed at the Central Identification Bureau (CIB). Instructions to this effect are set forth on the reverse side of the violator's copy of the citation. However, arresting officers shall not assume that violators will automatically read the instructions. They shall *inform violators orally of the booking procedures and point out the written instructions.*

3. If the arresting officer checks the "Booking Required" box, he/she shall complete section 24 of the citation, scheduling the offender to appear in the appropriate department on the date specified in the Stolen Vehicle and License Plate Listing (TF-261).
4. Persons cited for moving traffic violations and for Health and Safety Code Sections 11357b and 11360b offenses shall be instructed to report (without being booked) to Room 1000, 600 Washington Street, within 15 days to post bail. Persons cited for parking violations shall be instructed to post bail at Room 1030 within 15 days.

#### D. Multiple Offenders

Whenever more than one person is charged with the commission of a misdemeanor in connection with the same incident, those who are cited shall be assigned the same court date, if possible.

#### E. Citizens' Arrests

If a citation is issued after a citizen's arrest, the officer shall have the citizen sign on the back of the original copy of the citation and shall instruct him/her to appear at 9:00 A.M. on the next business day as follows:

- For Shoplifting Cases: At the Prosecuting Attorney's Office, 600 Washington Street, 6th floor.
- For all other cases: at the Information Desk, Criminal Investigation Division, 2nd floor, Police Administration Building.

### VI. ISSUING JAIL CITATIONS AND CONDITIONAL RELEASE AGREEMENTS

- A. Except for persons who post bail under Section III, C, of this order immediately following transportation to the jail, all misdemeanor offenders who are physically arrested shall be booked.
- B. If not released on their own recognizance, or if unable to post normal bail, misdemeanor offenders may be released, as eligible, on citation or pursuant to Penal Code Section 1269d. In the case of multiple misdemeanor and/or felony charges, each charge shall be evaluated separately, and the offender shall remain in custody unless eligible for release on all charges. An offender's inability to qualify for one form of release shall not preclude an evaluation of his/her eligibility for other types of release.

#### 1. Release on Citation

- a. The jail sergeant or assigned jailer shall review the eligibility of each misdemeanor offender and determine whether he/she shall be released on citation.
- b. Whenever several persons are charged with misdemeanors in connection with the same incident, the Jail Division shall attempt to schedule their court appearances on the same date. If some offenders are detained and others are eligible for citation release, those who are eligible to be cited must waive their rights under Penal Code Section 853.6b to a 10-day waiting period between the arrest and court dates.

#### 2. Conditional Release Bail (Penal Code Section 1269d)

- a. Bail for all misdemeanor offenders, including those eligible to post bail immediately following transportation, shall be computed in terms of PC Section 1269d, which authorizes release upon deposit of 10% of the normal misdemeanor bail, with certain exceptions.
- b. An offender's release on 10% misdemeanor bail shall be conditional upon his/her signing a release agreement pursuant to Penal Code Section 1318.
- c. Conditional release bail shall not apply to any misdemeanor charge for which the normal bail is \$150 or less.
- d. Persons arrested pursuant to bench warrants shall be ineligible for conditional release bail.

## VII. DOCUMENT ROUTING PROCEDURES

### A. Patrol and Traffic Divisions

1. Individuals who are cited and released in the field shall be given the defendant's (yellow) copy of the citation.
2. The arresting officer shall attach the original and white tissue copies of the citation to the offense report, if any, and deposit them in the basement report receptacle.
3. Erroneously completed field citations for nontraffic offenses shall be voided and deposited in the basement report receptacle with documentation explaining the reason for voiding the citation. The word "void" shall be stamped or written across the face of each copy of the citation. The commander of the Bureau of Field Operations shall designate a supervisory officer to review all voided nontraffic citations for control purposes.
4. All copies of erroneously completed traffic citations shall be attached to a written report or interoffice letter regarding the circumstances and deposited in the traffic compartment of the report receptacle. The word "void" shall be written across the face of each copy of the citation.
5. Traffic Division desk personnel shall be responsible for forwarding the original and white copies of adult moving traffic citations to the Traffic Violations Bureau of the Municipal Court, Room 1000, and for forwarding original parking citations to Room 1030.

### B. Jail Division

1. Individuals who are cited at the jail and released shall be given the defendant's (yellow) copy of the citation.
2. The citing officer shall write or stamp the word CITED in the narrative portion of the arrest report and fill in the citation number and the time, date, and court in which the offender is to appear.
3. The prisoner's CORPUS event number shall be written at the top of the original and white tissue copies of the citation.
4. The citation copies and the arrest report shall be forwarded to the Report Reproducing Unit.

### C. Report Reproducing Unit

Personnel assigned to the Report Reproducing Unit shall:

1. Reproduce the required number of copies of offense and arrest reports.
2. Enter the R.D. number on the top margin of both copies of the citation.
3. Attach the original copy of the citation to the corresponding offense or arrest report, if any, and detail them to the appropriate investigatory unit. Exception: In adult misdemeanor cases, the Crime Report (536-251) shall be detailed to the Vice Control Division, but the original copy of the citation shall be forwarded to the Traffic Violations Bureau of the Municipal Court, Room 1020.
4. Forward the second copy of the citation to the Information Services Section.

### D. Information Services Section

Personnel in the Information Services Section shall forward citations to the Data Processing Department.

### E. Criminal Investigation Division (CID)

1. The assigned CID officer shall forward the original copy of the citation and the required number of copies of the offense and/or arrest report to the District Attorney's Office.

2. If the investigation reveals that the offender has a prior record which, in effect, should have made him/her ineligible for citation release, the investigator may contact the District Attorney's Office to request that the citation be voided and a warrant issued.

F. Vice Control Division

Whenever the Criminalistics Section analysis shows that more than one ounce of marijuana was seized in connection with a Health and Safety Code Section 11357b or 11360b violation, the assigned vice officer may contact the District Attorney's Office to request that the citation be voided and a misdemeanor warrant issued.

VIII. PURGING MARIJUANA CHARGES FROM FILES

A list of misdemeanor marijuana offenses will be forwarded annually to the Records Section from the Data Processing Department, showing charges which must be purged from permanent files. A CORPUS purge list will also be forwarded to the Section. Upon receiving these purge lists, Section personnel shall complete the following procedures:

- A. When a 11357 or 11360 entry appears on the Data Processing Department list, examine the offense or arrest report to determine which subsection should have been included. Charges for Health and Safety Code Sections 11357a and 11360a violations (felonies) shall *not* be purged.
- B. When the Data Processing Department list has been proofread to eliminate actual 11357a and 11360a offenses, it shall be crosschecked against the CORPUS list to detect any adult misdemeanors which may not be listed on the Data Processing list.
- C. When the lists have been cross-checked, the arrest report shall be purged of all 11357b, 11357c, and 11360b charges.
  1. Records which pertain only to the above marijuana offenses shall be destroyed.
  2. Marijuana charges which appear amid other charges shall be obliterated on the arrest report. The report itself shall be returned to the files.
- D. The purge list shall be destroyed.

By order of

George T. Hart    Chief of Police

6-317 *Citations in Lieu of Custodial Arrest*

A citation is an accusation of an offense directing the accused person to appear at the Violations Bureau within a specified time. It is issued by the arresting officer on a standard form provided by the Hennepin County Court System. Adult arrestees shall be released with a citation unless detention is required as follows:

6-317.1 *Felony*

Arrestees will be taken to the concerned investigative division if requested by the investigator or to the Hennepin County jail for processing. At the jail, an "Authority to Hold and Release" form (#1016) must be completed. Release with citation shall not be made except at the direction of the court or the prosecutor's office or following reevaluation by a superior officer.

6-317.2 *Gross Misdemeanor*

The same detention procedures should be followed as in felonies. (See 6-317.1.)

6-317.3 *Misdemeanors*

Adult misdemeanor arrestees who meet the following criteria for detention shall not be released with a citation:

- Reasonable belief that the defendant may not appear as promised, i.e., he:
  - is unable to satisfactorily identify himself.
  - apparently has no permanent address.
  - has a past history of not responding to a criminal procedure.
  - is an out-of-state resident.
- The defendant may cause harm to himself or another or may, upon release, engage in further criminal conduct, i.e., he:
  - is under the influence of drugs or liquor and not accompanied by an otherwise responsible person.
  - exhibits assaultive behavior.
  - is charged with a crime which constitutes a violation of previous conditions of release (driving after suspension, cancellation, or revocation).
- Is driving or operating a vehicle while under the influence of alcohol or narcotics. (See 6-317.4.)

6-317.4 *Driving While Under the Influence*

When a suspect is arrested for DWI, he shall be taken to the chemical test facility for blood alcohol testing and video taping procedures. Subject may be released after testing and issued a citation if qualified under 6-317.3.

If subject is DWI and was involved in a personal injury accident in which death has occurred or is likely to occur, the subject may be released after testing and issued a citation if qualified under 6-317.3. The traffic control unit shall notify the traffic violations bureau in the event of death or where death is likely to occur. If citations are issued, the IBM copy shall be attached to the arrest/citation report (MPD 6006) and sent immediately



to the traffic control unit.

If subject is arrested for DWI and is currently under suspension, revocation, or cancellation for a previous DWI, open bottle, or violation of the implied consent law, gross misdemeanor procedures shall apply following the blood alcohol and video testing (see 6-317.2).

#### 6-317.5 *Citation Form*

The Hennepin County Municipal Court Violations Citation (Traffic Tag) shall be used. The statute or ordinance number and violation title must appear on the citation and on the arrest/citation report. Citation (Tag) number must also be on the arrest report.

#### 6-317.6 *Issuance of Complaints*

If an offender fails to respond to a citation, the issuing officer will not have to sign a formal complaint. The citation is, of itself, the complaint. (1975 Rules of Criminal Procedure, State of Minnesota, 4.02, Subdivision 5.)

#### 6-317.7 *Fee Schedule*

All fees are set by the court system. Information relative to amounts is available by having violators contact the Violations Bureau at the Hennepin County Government Center.

#### 6-317.8 *Fingerprint Identification on Citation*

A thumbprint shall be requested on the citation in all cases where multiple citations are issued or when a violator is unable to show any picture identification. The following procedure shall be used:

- The Citation Form shall be chemically treated by stamping the IBM copy with the yellow hand stamp from the Eversure System kit.
  - Place chemical stamping in the center back of the Citation Form hard copy.
  - Do not chemically treat more citations than will normally be used within a 30-day period.
- A small thumb pad is issued to all uniform officers and shall be used as follows:
  - The person from whom you desire a thumb print will place his right thumb firmly on the face of the pad. In the event the right thumb is missing, an alternate finger digit may be used; however, the digit used must be noted on the citation.
  - The thumb will then be placed on the chemically-treated Citation Form.

#### 6-317.9 *Arresting Officer's Responsibility—Field Release*

Prior to field releasing an arrestee, the arresting officer shall:

- Ascertain whether the arrestee has any outstanding warrants
- Ascertain personal identity of arrestee
- Complete Citation Form
- Give arrestee his copy of the Citation
- Obtain thumbprint (see 6-317.8).

**APPENDIX C**  
**OAKLAND POLICE DEPARTMENT, REPORT WRITING MANUAL,**  
**NOTICE TO APPEAR**

# REPORT WRITING MANUAL OAKLAND POLICE DEPARTMENT

## NOTICE TO APPEAR

### I. WHEN TO ISSUE

#### A. Traffic Offenses

1. Adults: For traffic offenses committed by an adult unless he is arrested for the offense under authority of the mandatory or optional provisions of the Vehicle Code.
2. Juveniles: For all traffic offenses (except bicycle or pedestrian violations) committed by a juvenile even though he is arrested for the offense.
3. Unattended Vehicles: For traffic offenses involving unattended vehicles.
4. Service of Certain Traffic Warrants: A Notice to Appear shall be issued in lieu of an arrest whenever the Traffic Warrant so directs. If the person named on the warrant refuses to sign the Notice to Appear, a physical arrest shall be made. Note the reason for the arrest in the narrative section of the arrest report. Enter the following endorsement on the Warrant: "Section 40604, Vehicle Code, complied with."

#### B. Misdemeanor Offenses

1. By field officers: Members SHALL issue citations to all adults (persons eighteen years and older) arrested for any misdemeanor offense or taken into custody after a citizen's arrest for a misdemeanor offense, UNLESS the attendant circumstances come within one or more of the physical arrest criteria which follow.
  - a. *A citation shall not be issued in the field if the person arrested requires medical examination or medical care, or if he is unable to care for his own safety.*
    - (1) Whenever physical force is employed in effecting an arrest (e.g., Penal Code section 148—resisting), a physical arrest shall be made.
    - (2) When it is necessary to transport the arrested person to a hospital, a citation may be issued at the hospital in accordance with the six criteria herein.
    - (3) A physical arrest shall be made for prostitution and related offenses which, by their nature, give rise to a reasonable belief that the offender might be infected with venereal disease.
    - (4) Persons too inebriated to make their way safely must be physically arrested. Because the law provides, in effect, that a person shall never be arrested for intoxication only unless his own safety or the safety of another is jeopardized, a person shall never be cited in the field for intoxication.
  - b. *A citation shall not be issued if there is a reasonable likelihood that the offense would continue or resume, or that persons or property would be endangered by the arrested person.*
    - (1) The following situations illustrate the flexibility provided by the citation-in-lieu-of-physical-arrest procedure:

- (a) Unlawful assembly, assault and battery, and disturbing the peace are examples of emotionally charged crimes that *may* be likely to continue or resume unless an enforced cooling-off period is accomplished by physical arrest. The same offenses, however, committed under some circumstances might be suitable for citation release; for example, if there is no apparent likelihood that the offense will continue or resume, a citation shall be issued.
  - (b) The manager of a filling station, twice robbed in recent months, has been arrested for carrying a concealed weapon. He is known to the arresting officer as a businessman of good repute who has managed the station for several years. Under these circumstances, a citation shall be issued. The weapon shall be seized incidental to the citation and placed in evidence.
  - (c) During the investigation of an incident, a citizen orally obstructs an officer. As a result, the person is placed under arrest. At the conclusion of the investigation, it is determined that the offender has calmed down and is rational. If the officer believes the offenses will not resume, he shall issue a citation. (Members must realize that a physical arrest, as an alternative to citation, *must not* be used as punishment simply because the person was abusive to the arresting officer.)
  - (d) Domestic disputes deserve special mention. If the complaining person is believed to be in danger, an arrest of the offending party shall be made under legally permissible circumstances. If no danger is perceived, however, a citation bearing the complainant's (arresting citizen) signature, shall be issued in order to bring the matter before the court, if the complainant desires that an arrest be made.
  - (e) A person arrested for shoplifting can offer satisfactory evidence of his identity, and the officer is satisfied that he will abide by his promise to appear in court. A citation shall be issued, even though the owner, manager or security officer insists upon physical arrest. (Note on citizen's arrest: The same physical arrest criteria apply whether the arrest is by a police officer or by a citizen. The release decision, accordingly, is to be made by the officer and his decision is not affected by an arresting citizen's insistence upon physical arrest. It is only when the person arrested refuses to sign the citation that a physical arrest after a citizen's arrest is sometimes mandatory.)
- c. *A citation shall not be issued if the person cannot or will not offer satisfactory evidence of identity.*
- (1) "Satisfactory evidence of identity" can be defined as that degree of evidence required to reasonably assure the officer that the person *is* who he claims to be, taking into consideration the nature of the identity presented and the circumstances of the misdemeanor offense involved.
  - (2) When the person cannot offer satisfactory evidence of his identity, members shall attempt to verify the person's identification by independent means, if it is practicable to do so.
- d. *A citation shall not be issued if the prosecution of the offense for which the person was arrested, or of another offense, would thereby be jeopardized.*
- (1) This criterion provides a practical device allowing physical arrest for legitimate investigative purposes, as illustrated by the following examples:
    - (a) The person is wanted for questioning about another offense. Physical arrest may be made to allow sufficient time for interrogation, but after a reasonable period the person must be considered for citation release. The test of "sufficient time" and "reasonable period" is that the questioning must take place and be completed as expeditiously as practicable.
    - (b) The arresting officer wishes to interrogate the person about the offense for which he was arrested. The citation decision may be delayed until a reasonable opportunity to admonish and interrogate has occurred.
    - (c) Physical arrest is proper if evidence of the crime for which the person was arrested might otherwise be destroyed.
    - (d) The person shall be physically arrested if a breathalyzer or other chemical test is required.

e. *A citation shall not be issued if a reasonable likelihood exists that the arrested person will fail to appear in court.*

- (1) A warrant check is mandatory before citation. (The member shall use a telephone, when practicable.) If the check indicates any outstanding warrants, the person shall be physically arrested. When a misdemeanor arrest warrant, however, has been issued from the Oakland-Piedmont Judicial District, and the person voluntarily appears at the Police Administration Building to accept service, a Jail citation shall be issued after booking if the person is otherwise eligible. (If the warrant directs that a citation be issued, a citation shall be issued.)
- (2) In all arrest situations, the officer will have to judge whether there is a reasonable likelihood the person arrested would fail to appear in court, if cited. Application of this criterion is difficult, as it may involve a prediction based on scant evidence. The officer's evaluation of the person's credibility will often be the sole factor influencing the choice of citation or arrest. Good judgment in assessing the relevance and reliability of the information available will profoundly affect the court-appearance rate.
- (3) The following circumstances are examples that could provide reason to believe the person arrested would be unlikely to appear:
  - (a) The person attempted to evade arrest;
  - (b) The person arrested lives in a rooming house for transients;
  - (c) The person is a resident of a distant jurisdiction;
  - (d) The person has failed to appear as required on a previous occasion.

f. *A citation shall not be issued if the person demands to be taken immediately before a magistrate or refuses to sign the citation.*

- (1) State law prohibits the citation release of any person who demands to be taken before a magistrate.
- (2) The signature of the person arrested is required for citation release. A supervisor shall be called to the scene whenever the person arrested refuses to sign. The citizen shall be advised that signing the citation is not an admission of guilt, but only a promise to appear on the assigned date.
- (3) Minor offenses are ordinarily best handled by the complaint-warrant process, even though the person refuses to give his promise to appear.
  - (a) The complaint-warrant process shall be followed when a person refuses to sign a citation for a minor violation (e.g., having an unlicensed or unleashed dog, possession of fireworks, washing or storing a vehicle on a public street, littering, or violation of theft or burglary prevention ordinances), *EXCEPT* that a physical arrest shall be made if:

the offense could be terminated and the person nevertheless continues it;

the arrest was a citizen's arrest; or

the person cannot or will not offer satisfactory evidence of identity.

2. By Animal Control Unit Personnel: For violations of the Animal Ordinance according to procedures stated in Animal Control Unit directives.

3. By Jail Division Sergeant or his superior: If the circumstances that prompted the field officer to make a physical misdemeanor arrest have changed so that the reason a field citation was not issued no longer exists and if the person is likely to appear in court. Jail Division personnel issuing citations shall follow procedures stated in Jail Division General Order C-9.

## II. FORMS TO BE COMPLETED

### A. Traffic Offenses

#### 1. Adults

- a. Notice to Appear. Give 3rd copy to violator. Deposit 1st and 2nd copies in basement Report Receptacle.

#### 2. Juveniles

- a. Notice to Appear. Give 3rd copy to violator. Deposit 1st and 2nd copies in basement Report Receptacle.

#### 3. Unattended Vehicles

- a. Notice to Appear. Leave 3rd copy on the vehicle. This includes vehicles being towed for violation of 152 OTC. Deposit 1st and 2nd copies in basement Report Receptacle.

### B. Misdemeanor Offenses

#### 1. Forms completed by field officer.

- a. Notice to Appear. Give 3rd copy to violator. Paperclip the 1st and 2nd copy to offense report and deposit them in the basement Report Receptacle.

- b. Offense Report. Required for misdemeanor offenses (nontraffic) except for violation of 374 PC (littering) and the OMC sections for illegal possession, sale or discharge of fireworks; dogs or animals at large, dog not licensed, registered and tagged; greasing or repairing vehicles on the street, and using the street for storage of vehicle.

(1) In Box 16, enter the number of persons arrested and cited.

(2) In Box 33, check the "In custody" box NO.

(3) In Box 34, ("Arr.# or Disp.") write the word "CITED." To the right of this box, enter the citation number, the time, date and court of appearance.

(4) Deposit offense report with citation copies attached in the basement Report Receptacle.

## III. ARREST PROCEDURES WHEN A NOTICE TO APPEAR IS NOT ISSUED

### A. Traffic Offenses

#### 1. Adults

- a. If an arrest is made for a traffic offense, list the traffic offense in the "Charge" box of the arrest report and explain the authority for the arrest in the narrative section.
- b. If an arrest is made for multiple traffic offenses, state "Traffic violations listed below" in the "Charge" box. List all violations at the beginning of the narrative section and explain the authority for the arrest.
- c. No offense report is needed for traffic arrests.
- d. If a citation has already been completed prior to the offender being placed under arrest, it should be forwarded to the Traffic Division for voiding. Follow instructions in Section IV for voiding citations.

#### 2. Juveniles

- a. If a juvenile arrest is made for a traffic offense, enter in the "Charge" box: 602 W & I, followed by parentheses containing the common name of the offense (or the words: "traffic offenses listed below"). Add the

words: "En Rte Juvenile Court."

EX: 602 W&I (no driver's lic.) En Rte Juv. Ct.

EX: 602 W&I (traff. vio. listed below) En Rte Juv. Ct.

Explain the authority for the arrest in the narrative section and list all multiple traffic offenses.

- b. A Crime Report is required for all juvenile traffic arrests.
- c. The violator's copy of the citation will be attached to the Arrest Report Face Sheet for forwarding to the Probation Department.
- d. Voiding procedures for juvenile traffic citations are the same as for adults and are explained in Section IV.

#### B. Misdemeanor Offenses

##### 1. By Field Officers

- a. Whenever a citation is *not* issued, a description of the reason or reasons shall be noted in Box 49 ("Instructions") of the Arrest Report, unless such reason is self-evident (e.g., intoxication). This information is for the benefit of the Jail Division, which is required to reconsider the question of citation release when the arrested person is received in the Jail. The following notations, for example, should appear:

(1) When the person attempted to evade arrest: "attempted to evade arrest."

(2) When a warrant was outstanding: "warrant."

(3) When the person was arrested for prostitution: "VD check."

(4) When the person's identification was insufficient: "insuf ID."

(5) When the circumstances led the officer to believe the person would be unlikely to appear: "unlikely to appear—transient," or "unlikely to appear— L.A. resident," and so on.

#### IV. VOIDING CITATIONS

##### A. Traffic Citations

- 1. Whenever a traffic citation has been damaged, written in error, or completed with incorrect information, it shall be voided as follows:

- a. Do not write "void" or any other wording on the face of the citation.
- b. Complete an Inter-Office Letter (typed or handwritten) explaining the reason(s) why the citation should be voided.
- c. Attach all three copies of the citation to the letter and submit it through channels to the Traffic Division lieutenant.

##### B. Misdemeanor Citations

- 1. Whenever a misdemeanor citation written by any member or employee has been damaged, written in error, or completed with incorrect information, it shall be voided as follows:

- a. Write the word "Void" in large letters across the front of all three copies.
- b. Deposit the voided citation in the basement Report Receptacle.

## V. FORM COMPLETION INSTRUCTIONS

A. Print clearly. Exert enough pressure to make a legible third copy.

*Line Box Title*

- |    |                                 |  |
|----|---------------------------------|--|
| 1  | Date                            | Enter date the offense occurred.<br>Enter a number for the day, the first three letters of the month, the last two digits of the year.   |
| 1  | Time                            | Do not use the 2400 clock to complete this box. Write the actual time and check either A.M. or P.M.  |
| 2  |                                 | Enter the name, residence address and business address of the violator.  |
| 3  |                                 |  |
| 4  |                                 |  |
| 5  | Drivers License #               | Enter license number or N.I.P. (not in possession).  |
|    | State                           | Leave blank if a California license number. Write name of state if outside California.   |
|    | D.O.B.                          | Enter the violator's date of birth. Enter a number for the day, the first three letters of the month, the last two digits of the year.   |
| 6  | Physical Description            | Complete the physical description of the violator.   |
| 7  | Vehicle License #               | Print the vehicle license number clearly.  |
|    | State                           | Leave blank if a California vehicle license number. Write name of state if outside California.   |
|    | Yr. of License                  | Enter the year of the renewal tab.   |
| 8  | All Boxes                       | Use vehicle descriptions approved by Auto-Statix. Refer to Section A-10 entitled HOW TO DESCRIBE VEHICLES.   |
| 9  | Reg. Owner or Lessee            | Write name of registered owner or lessee if different than name in Line 2. If name is the same, write "same."  |
| 10 | Address of Reg. Owner or Lessee | Write address of registered owner or lessee if different than address in Line 3 or 4. If address is the same, write "same as #3" or "same as #4."  |
| 11 | Violation                       | Traffic:   |
| 12 |                                 | You may write as many as two violations from one of the following codes:<br><br>VC —California Vehicle Code<br>VCA—California Vehicle Code Authority<br>OTC—Oakland Traffic Code (except for violations of 123, 171b, 173 OTC which are entered on Line 14). |

Note: Never cite violations of more than one code on the same citation. Example: An OTC and a VC violation against the same person and vehicle, occurring at the same time, would require two separate citation forms.



Misdemeanors:

You may write as many as two misdemeanor violations from any code(s).

- 13 No Title This line is for comments. Line 12 may also be used for comments when only one violation is written.
- Traffic: For violations of 12500 VC, enter the date of expiration of license. For violations of 24002 VC, describe the violation. Example: worn tires.
- 14 OTC Violations Traffic: For violations of 123, 171b or 173 OTC, check the appropriate box.
- Booking Required Misdemeanors: Check this box so that the violator will report to the Identification Section for fingerprinting and photographing. Instructions to the violator regarding booking are on the reverse side of the violator's copy.
- Request booking for all offenses except those that are merely regulatory in nature, such as violations of the animal ordinance, littering, washing or storing vehicle on street.
- 15 Approx. M.P.H. Enter the estimated actual speed of vehicle.
- P.F. (Max) Speed Enter the sign posted speed limit.
- Veh. Speed Limit Complete this box when citing for one of the following:
- a. 22400 V.C.—minimum speed law.
  - b. 22406 V.C.—3 axle vehicle.
  - c. 22350 V.C.—safe speed for condition. Explain conditions in comments section.
- Direction What direction was cited vehicle going at time of violation? Examples: North, South, parked.
- City of Occurrence Leave blank if offense occurred in Oakland.
- 16 Occurred on, at or near (or meter) Traffic: Enter the street and the nearest cross street. If a meter violation, enter the street and the meter number.
- Misdemeanor: Enter the exact address of the location of offense.
- 17 Conditions Traffic:
- Weather Examples: clear, dense fog, heavy rain, smog.
- Road Cond. Examples: OK., muddy, slick, gravel covered, construction.
- Traffic Conditions Examples: heavy, light, medium, moving slowly.
- 18 No Title Traffic: To be completed by Traffic Division office personnel only.
- Misdemeanors: Check this box for all citizen arrests. Have the arresting citizen sign on the back of the 1st copy. Instruct the arresting citizen to appear at 9:00 A.M. on the

next business day as follows:

For shoplifting cases—at the Prosecuting Attorney's Office, 600 Washington Street, 6th floor.

For all other misdemeanors—at the Information Desk, Criminal Investigation Division, 2nd floor.

- |    |                                |  |
|----|--------------------------------|--|
| 19 | Signature                      | Sign name and serial number.   |
| 20 | Accident?                      | <p>Traffic: Check appropriate box to indicate whether a collision was involved.</p> <p>Do not issue a citation at the scene of a vehicle collision unless the issuing officer witnessed the violation.</p>   |
|    | Name of A/O if Different       | <p>Traffic: To be completed by Traffic Division office personnel only.</p> <p>Misdemeanor: To be completed by Jail Division personnel only.</p>  |
| 21 | Violator's Signature           | Have the violator sign his name in the space and give him the last copy of the citation.   |
| 22 | Date & Time                    | <p>Traffic: Refer to citation book calendar for booking date information. You must allow at least 10 days. Cite all violators to appear at 9:00 A.M. in Court #8.</p> <p>Misdemeanors: Cite all violators to appear at 9:00 A.M. in Court #5.</p> <p>If you cite on Saturday, schedule the appearance for the next Friday.</p> <p>If you cite on any other day, schedule the appearance for the 7th day after the citing date.</p> <p>If the selected date falls on a Sunday or holiday, schedule the appearance for the next court day.</p> |
| 23 | Within 15 Days                 | Traffic: Check this box for violations that do not require a mandatory court date.   |
| 24 | Upon Receipt of Written Notice | Traffic: Check this box when citing juveniles for traffic offenses.  |

Completing the CERTIFICATION OF CORRECTION on the back of the violator's copy.

Traffic: Whenever a member verifies the correction of a vehicle license plate violation or an equipment violation, he shall complete the CERTIFICATE OF CORRECTION as follows:

*Box Title*

Section Vio.: Write the code section of violation that is corrected.

Signature of Person Certifying Correction: Write your first initial and last name.

No.: Write your serial number.

Agency: Write OAKLAND P.D.

Date: Write the date on which you verified correction.

Note: If you are verifying the correction of multiple violations, list each violation on a separate line and complete all boxes.

## **Appendix D**

### **SOURCES OF TECHNICAL ASSISTANCE**

Sheriff Brad Leach  
Boulder County Sheriff's Department  
Boulder County Justice Center  
1777 6th Street  
Boulder, CO 80302  
(303) 441-3630

Sheriff Michael Hennessey  
City Hall, Room 333  
San Francisco, CA 94102  
(415) 558-2411

Chief Martin O'Connor  
Commanding Officer, Inspection  
and Planning Bureau  
Nassau County Police Department  
1490 Franklin Avenue  
Mineola, NY 11501  
(516) 535-7320

Sgt. Robert Hafvenstein  
Forms Manager  
Minneapolis Police Department  
City Hall, Room 136  
Minneapolis, MN 55415  
(612) 348-3787

Lieutenant M.G. Berg  
Commanding Officer  
Oakland City Jail  
Police Administration Building  
455 7th Street  
Oakland, CA 94607  
(415) 273-3548

Mr. Don Leonard  
Mayor's Criminal Justice Council  
City Hall, Room 159  
San Francisco, CA 94102  
(415) 431-9614

Dr. Walter H. Busher  
Dr. Jerome A. Needle  
American Justice Institute  
725 University Avenue  
Sacramento, CA 95825  
(916) 924-3700

Dr. Floyd Feeney  
Center on Administration of  
Criminal Justice  
University of California, Davis  
Davis, CA  
(916) 752-2893

**National Institute of Justice**

James K. Stewart

*Director*

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Pennsylvania  
Crime Commission  
St. Davids, Pa.

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Victims' Assistance  
Legal Organization  
Virginia Beach, Va.

**Donald Baldwin**

Executive Director  
National Law Enforcement  
Council  
Washington, D. C.

**Pierce R. Brooks**

Retired Chief of Police  
Eugene, Oreg.

**Leo F. Callahan**

President  
International Association  
of Chiefs of Police  
Fort Lauderdale, Fla.

**James Duke Cameron**

Justice  
Arizona Supreme Court  
Phoenix, Ariz.

**Donald L. Collins**

Attorney  
Collins and Alexander  
Birmingham, Ala.

**Harold Daitch**

Attorney, partner  
Leon, Weill and Mahony  
New York City

**Gavin de Becker**

Public Figure Protection  
Consultant  
Los Angeles, Calif.

**John Duffy**

Sheriff  
San Diego, Calif.

**George D. Haimbaugh, Jr.**

Robinson Professor of Law  
University of South Carolina  
Law School  
Columbia, S.C.

**Richard L. Jorandby**

Public Defender  
Fifteenth Judicial Circuit  
of Florida  
West Palm Beach, Fla.

**Kenneth L. Khachigian**

Public Affairs Consultant  
formerly Special Consultant  
to the President  
San Clemente, Calif.

**Mitch McConnell**

County Judge/Executive  
Jefferson County  
Louisville, Ky.

**Guadalupe Quintanilla**

Assistant Provost  
University of Houston  
Houston, Texas

**Frank K. Richardson**

Associate Justice  
California Supreme Court  
San Francisco, Calif.

**Bishop L. Robinson**

Deputy Commissioner  
Baltimore Police Department  
Baltimore, Md.

**James B. Roche**

Massachusetts State  
Police Force  
Boston, Mass.

**H. Robert Wientzen**

Manager  
Field Advertising Department  
Procter and Gamble  
Cincinnati, Ohio

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