

	LANE COUNTY SHERIFF'S OFFICE POLICY	Number: G.O. 1.09
		Issue Date: March 21, 2005
		Revision Date:
CHAPTER: Sheriff's Office Role and Authority		Related Policy: G.O. 1.08 (Guidelines for Arrest)
SUBJECT: Alternatives to Incarceration for Adults		Related Laws: ORS 133.055 (Criminal Citation, Exception for Domestic Disturbance), ORS 133.065 (Service of Criminal Citation), ORS 133.066 (Criminal Citations Generally), ORS 133.068 (Contents of Criminal Citation), ORS 426.460 (Non-Criminal Detox)

POLICY: Overcrowding in the Corrections Facility shall continue to be monitored and shall be reduced by appropriate utilization of available alternatives as allowable by law or as may be provided or accomplished through identified and available resources provided to the Sheriff's Office and the Corrections Division.

RULE: None

PROCEDURE:

- I. Citation to Appear (Misdemeanor or Class C Felony)
 - A. A Citation to Appear may be issued in lieu of custody in the following situations, subject to the below listed guidelines:
 1. Misdemeanor crimes or violations.
 2. Class C Felonies.
 3. The Citation to Appear may apply in the following instances:
 - a. Where the arrest is made without a warrant, under provisions of ORS 133.310 (except for violations of the Abuse Prevention Act).
 - b. Where the arrest is made by a private party and the arrestee is delivered into the custody of a Peace Officer.
 - c. Where the Judge who receives a complaint or information authorizes it.
 - d. Citations received from the court on citizens of Lane County.
 - B. Exceptions

A Citation to Appear will not be issued under the following circumstances:

1. An arrest which is required by the Abuse Prevention Act.
2. Assault 4 - when the victim is a Police Officer.
3. Resisting arrest.
4. A Class "C" Felony not listed in Section "D" of this procedure.
5. A person not meeting criteria outlined in Section "C" of this procedure.

C. Criteria

The Deputy shall determine if the arrestee meets the following criteria for release on a Citation to Appear, prior to issuing the citation:

1. The ability of arrested persons to care for themselves. If the arrestee is unable to care for himself/herself due to intoxication and meets the remaining criteria, that person shall be cited for the appropriate offense and shall then be arrested for non-criminal detoxification under the guidelines for non-criminal detoxification arrest established by this procedure.
2. Satisfaction of the arrestee's identity. Does the arrestee have adequate identification to establish identity?
3. The necessity for prevention of continuing criminal conduct by the arrestee. Is further criminal conduct likely to result if the arrestee is released on a citation?
4. The necessity for prevention of injury to other persons or property by the arrested person.
5. The necessity of having the arrested person available for further investigation of the offense. Is further investigation needed that would require the arrestee's presence at the Correctional Facility?
6. The character of the arrested person, as evidenced by a police record of criminal activity and past pre-trial release experience. Is the arrestee's criminal record indicative of a past history of failure to appear for court?
7. The likelihood of the arrested person appearing in court at the cited time.
8. The location of the arrested persons residence; must be an Oregon resident.

9. The community ties of the arrested person. Does the arrestee have relatives or friends in the area? Does the arrestee work or go to school in the area?

D. Class C Felonies

1. The following are Class C felonies for which citations may be issued:

ORS

163.257	Custodial Interference - 1 st Degree
163.275	Coercion
164.055	Theft - 1 st Degree
164.065	Theft of Lost or Mislaid Property
164.085	Theft by Deception
164.095	Theft by receiving
164.135	Unauthorized use of a Vehicle
164.365	Criminal Mischief - 1 st Degree
165.013	Forgery - 1 st Degree
165.022	Criminal Possession of a Forged Instrument - 1 st Degree
165.032	Criminal Possession of a Forged Device
165.055	Fraudulent use of a Credit Card
165.085	Sports Bribery
165.090	Sports Bribe Receiving
163.515	Bigamy
163.525	Incest
163.535	Abandonment of a Child
163.555	Criminal Non-Support
162.065	Perjury
162.185	Supplying Contraband
162.265	Bribing a Witness
162.325	Hindering Prosecution
162.275	Bribe Receiving by a Witness
167.012	Promoting Prostitution
167.127	Promoting Gambling - 1 st Degree
167.137	Possession of Gambling Records - 1 st Degree
167.212	Tampering with Drug Records
811.182	Driving while Suspended or Revoked

2. Prior to release on a Citation to Appear in court, the arrestee may be photographed and fingerprinted at the Correctional Facility.
3. It shall be the responsibility of the Deputy to thoroughly document in the custody report why a Citation to Appear in court was or was not issued.

E. Mugging and Printing

Arrestees may be transported to the Correctional Facility for photographing and fingerprinting prior to being issued a Misdemeanor Citation, at the discretion of the Deputy.

1. This procedure may be helpful if an arrestee is suspected of involvement in other crimes (such as burglary), or to update the changed appearance of a known criminal.
2. Prior to entering the Corrections Facility, secure the subject's personal property in a weapons locker, or other appropriate safe location. Upon leaving the Corrections Facility, the property will be returned to the subject, who will sign the Deputy's notebook indicating receipt.
3. When utilizing this procedure, the Deputy will advise Corrections personnel immediately upon entering the Bookin area, that this is a "mug and print only."

F. Violations

1. Full custodial arrests involving booking at the Correctional Facility are not authorized for criminal violations, such as Possession of Less than One Ounce of Marijuana.
2. Citations to Appear in court shall be issued for all criminal violations. Deputies may require the arrestee to be photographed and fingerprinted at the Correctional Facility prior to the issuance of the citation.

G. Miranda Rights, Search and Seizure

The fact that a citation will or may be issued has no effect on an individual's Constitutional Rights as specified in Miranda. Therefore, Miranda warnings should be given in appropriate situations.

The right of a Police Officer to conduct a search of the arrested person incident to arrest is not affected by the citation procedure. The citation is not issued in lieu of arrest, but in lieu of continued custody.

H. Completion of Citation Report

1. The Citation to Appear
 - a. In addition to carefully checking the citation to ensure its being completely and correctly filled out, the Deputy should explain to the arrested person just what is taking place, in which court to

appear, and possible consequences for failure to appear at the specified time.

- b. If more than one offense is involved, the Deputy shall issue a separate citation for each class of offense. Felonies, misdemeanors, violations and infractions cannot be listed together on the same citation. Multiple offenses of the same class can be listed on one citation.
- c. Arrested persons will be cited to appear on Tuesday, Wednesday or Thursday, but never on the day following the arrest. In no event shall the date and time set to appear be later than 30 days after the date the citation was issued (ORS 133.060).
It is preferred by the District Attorney's Office that dates are set as close to 30 days out as possible. This will provide adequate time to obtain and prepare a complaint and for the court to arrange its docket.
- d. The case number will be placed in the upper left corner box of the citation.

2. Citizen's Arrest

- a. The Deputy shall verify that the citizen will sign a complaint the following morning at the District Attorney's Office and shall document that in the Custody Report.
- b. A custody report will be completed in addition to the Citation to Appear. The Custody Report shall indicate that the person was "cited and released."
- c. It shall be the responsibility of the Deputy to thoroughly document in the Custody Report why a Citation to Appear in court was or was not issued.

II. Non-Criminal Detoxification

A. Basic Guidelines

1. All persons taken into custody for non-criminal detox under the authority of ORS 426.460 shall be lodged at Buckley House, Inc., located at 605 West 4th Avenue, Eugene. Prior to making an arrest under ORS 426.460, the Deputy shall notify the Communications detail, which shall phone Buckley House, Inc., to determine if space is available. If space is available the Deputy shall transport and lodge the arrestee at Buckley House.
2. If there is no space available at Buckley House, the Deputy shall attempt to elicit from the intoxicated person the name and phone number of a responsible adult who would be willing assume custody of the intoxicated person. The Deputy shall then notify the Communications detail, which

will telephone the responsible adult and ask them to respond to the Deputy's location and take custody of the intoxicated subject.

If no responsible adult can be located and there is no space available at the Buckley House, the intoxicated person shall not be taken into custody. However, if the person is incapacitated, the health of the person appears to be in immediate danger, or the Officer has reasonable cause to believe the person is a danger to him/herself or any other person, the intoxicated subject shall be transported to Buckley House, Inc.

3. Persons taken into custody for Detoxification in the Oakridge or Florence areas will normally be detained at the respective city jails.

B. Lodging Procedure

When lodging persons at Buckley House, provide your name and badge number to intake personnel. Then complete a Custody Report, listing "Non-Criminal Detoxification" as the charge, and describe the circumstances of the person's intoxication, which would indicate that the person was unable to care for himself.

C. Exception

Persons shall be lodged at the Corrections Facility, rather than Buckley House, if the person is also being charged with a crime.

III. Marine and Game Violations

A. Guidelines

All members shall use the following guidelines prior to making a full custodial arrest for all traffic, marine, and game offenses citable on the Uniform Traffic Citation, Uniform Marine Citation, or Uniform Game Citation.

1. Full custodial arrests shall only be made when there is compelling evidence to indicate that the person to be cited will not appear in court or that the identity of the person is in doubt.
2. It shall be the responsibility of the Deputy to thoroughly document in the Custody Report why the person was booked at the Correctional Facility.
3. Whether the defendant is released or booked, the Deputy taking enforcement action shall continue to issue the appropriate Uniform Citation.

B. Exceptions

1. Attempting to Elude a Police Officer - As per established procedure, Deputies shall continue to make full custodial arrests and issue Uniform Traffic Citations.
2. Driving while Under the Influence of Intoxicants - Arrests for DUII will be made as per established policy and procedure with the following exceptions:
 - a. The arresting Deputy shall take the arrestee to the Correctional Facility and offer that arrestee an opportunity to take an Alcohol Breath Test.
 - b. The arrestee shall then be informed that they will be released without the requirement of posting bail if they supply the Deputy with the name and telephone number of a responsible adult, 18 years of age or older, who would be willing to come to the Correctional Facility and take custody of them. Should the arrestee refuse to supply the Deputy with the name and/or telephone number of this responsible adult, the arrestee shall not be released under this procedure but shall be lodged for Non-Criminal Detoxification at the Buckley House.
 - c. Should an arrestee be intoxicated to such a degree as to be unable to make a rational decision as to acceptance of assistance by utilizing alternatives to incarceration, that person shall be issued a Uniform Traffic Citation charging DUII and subsequently taken into custody for Non-Criminal Detoxification. The arresting Officer shall transport the subject to the Buckley House Facility for Detoxification. The arresting Officer shall thoroughly document in a Custody Report the condition of the arrestee that led to the decision to lodge for Non-Criminal Detoxification.
 - d. After being provided the information required of the arrestee, the Deputy should telephone the responsible adult and ask them to come to the Correctional Facility to take custody of the arrestee in a reasonable period of time. The Deputy shall wait for the adult to respond to the Corrections Facility. The intoxicated subject shall then be released to the responsible adult.
 - e. The Deputy shall document the name, address, date of birth, and telephone number of the responsible adult the arrestee was released to. The Deputy shall also document the time the telephone call was made and the time the responsible adult arrived at the Correctional Facility.
 - f. If the Buckley House is full and no responsible adult can be located to take custody of the arrestee, then the arrestee shall be lodged at the Corrections Facility on a charge of DUII.
 - g. Should there be compelling evidence to indicate that the identity of the arrestee is in doubt or that the arrestee will not appear in court, the arresting Officer may book the arrestee for DUII after

conferring with and obtaining authorization from a field supervisor. Should the arrestee be booked, the Deputy shall thoroughly document in the Custody Report the evidence that indicated the identity of the arrestee was in doubt or would not appear in court.