

OGDEN CITY POLICE

Office of the Chief

Policy No: 33

Subject Citations	Effective Date February 24, 2023
Department Police	Replaces Policy Dated March 2018
Division All Police Personnel	Review Date March 2025
Authorized Signature 	

NOTE: This rule or regulation is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this agency, and then only in a non-judicial administrative setting.

I. PURPOSE

Realizing that there is often not enough space in the jail to incarcerate everyone who commits a crime, or that circumstances exist that make a full custody arrest impractical, it becomes necessary to establish a policy for the issuance of misdemeanor citations.

II. POLICY

As per 77-7-18, an officer may, in lieu of taking a person into custody for a misdemeanor or infraction, issue that person a citation. If the officer determines that a citation is the appropriate format for resolving a situation in lieu of a custodial arrest, the officer must have positively identified the person and determined the person is a local area resident. If the person has outstanding warrants, may be chargeable for multiple offenses, or the original charge might escalate into a felony, then a custodial arrest is required. In circumstances where the officer is accepting custody of a person who has been placed under citizen arrest, the officer should explain the option of a citation in lieu of the full custody arrest to the arresting person.

III. PROCEDURE

An arresting officer may issue a citation to appear at the time and place specified in the citation whenever any person is detained by or is in the custody of an arresting officer for a misdemeanor or infraction charge.

- A. If the arresting officer believes that a person is likely to disregard a citation or is likely to cause harm to himself or to any other person, then the person will be brought before a magistrate through the process of a warrantless arrest.
- B. Service of a Citation on a Defendant:
 1. If a citation is issued pursuant to Section 77-7-18, the officer shall issue one copy to the person cited and shall, within five days deliver the original copy to the Records Bureau for processing and forwarding to the specified court.
 2. Each copy of the citation issued under authority of this policy shall contain:
 - a. The name of the court before which the person is to appear.
 - b. The name of the person cited.
 - c. A brief description of the offense charged.
 - d. The date, time, and place at which the offense is alleged to have occurred.
 - e. The date on which the citation was issued.
 - f. The name of the officer who issued the citation, and the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the arrested person into full custody.
 - g. The time and date on or before and after which the person is to appear.
 - h. The address of the court in which the person is to appear.
 - i. A certification above the signature of the officer issuing the citation in substantially the following language: *"I certify that a copy of this citation or information (summons and complaint) was duly served upon the defendant according to law on the above date and I know or believe and so allege that the above-named defendant did commit the offense herein set forth contrary to law. I further certify that the court to which the defendant has been directed to appear is the proper court pursuant to Section 77-7-21."*

- j. A notice containing substantially the following language:
"READ CAREFULLY - This citation is not an information and will not be used as an information without your consent. If an information is filed, you will be provided a copy by the court. You MUST appear in court on or before the time set in this citation. IF YOU FAIL TO APPEAR AN INFORMATION WILL BE FILED AND THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST."

IV. IMPROPER DISPOSITION OR CANCELLATION OF NOTICE TO APPEAR OR TRAFFIC CITATION

Employees of the Department do not have the authority to dismiss a citation once it has been issued and will act in compliance with Utah Code 77-7-26.

- 1) It is unlawful and official misconduct for any peace officer or other officer or public employee to dispose of:
 - i. A notice to appear; or
 - ii. Traffic citation

The provisions of Subsection 1) do not apply if the disposal is done with the consent of the magistrate before whom the arrested person was to appear.

- 2) A person who cancels or solicits the cancellation of a notice to appear or a traffic citation, in any manner other than as provided by law, is guilty of a class B Misdemeanor.