

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: DUTY MANUAL REVISIONS:
WARRANT PROCEDURES**

DATE: July 14, 2023

APPROVED

Memo #2023-019

BACKGROUND

A review of the Duty Manual revealed that the following updates are necessary to bring Department policy into alignment with best practices regarding warrant procedures:

1. SJPD Warrants should be notified as soon as practicable after an unsuccessful attempt is made to serve any in-county warrant or any out-of-county felony warrant
2. Citation release for any felony warrant is prohibited
3. An arrestee with fewer than three active Failure to Appear warrants may be cited and released if eligible under Duty Manual section L 3113
4. An arrestee with three or more active Failure to Appear warrants or one infraction or misdemeanor warrant with a bail of \$15,000 or more shall be booked in jail or administratively (e.g., admin booking)
5. Prior to booking on a warrant, officers will make a diligent effort to confirm the identity of the subject being arrested based on descriptors, fingerprint verification, booking photographs, other photo databases, etc.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike through~~ form.

L 3100 CRIMINAL CITATIONS: *Revised 07-14-23*

Citations are employed as an alternative to physical arrest in all misdemeanor situations, except those *prohibited by law or* in which the arresting officer or the Department can articulate specific factors which cause a belief that the citation process is not appropriate. *In the interest of public safety, nothing prevents an officer from first booking an arrestee before release, regardless of the bail amount.*

L 3101.1 CITATION RELEASE FOR A FELONY PROHIBITED: *Added 07-14-23*

Citation release for any felony is prohibited. All persons arrested with an active felony warrant shall be booked at a jail facility or administratively (e.g., paper booking at a hospital).

L 3113 ELIGIBILITY FOR THE ISSUANCE OF CRIMINAL CITATIONS, OR MISDEMEANOR OR INFRACTION WARRANT CITATIONS:

Revised 07-14-23

Nothing in this section prevents an officer from first booking an arrestee before release.

All persons arrested where any of the following circumstances exist are ineligible for citation release and shall be booked at a jail facility or administratively (e.g., paper booking at a hospital):

- The subject cannot provide satisfactory evidence of personal identification
- The subject demands to be taken before a magistrate
- The subject refuses to sign the citation

All persons arrested for "on-view" misdemeanor violations, or misdemeanor or infraction warrants, for any of the following are ineligible for citation release unless any of the circumstances below exist; and shall be booked at a jail facility or administratively, or released to comport with Duty Manual Chapter L 3600 - INFORMANTS; however, nothing prevents an officer from first booking an arrestee before release:

- A felony or wobbler
- The offense involves domestic violence (including but not limited to PC 273.5; PC 242-243(e); PC 242-243(e)(1); PC 646.9 (Stalking); PC 273.5(e) (Domestic Violence with a prior conviction within 7 years); PC 422 (Felony), or PC 273.6
- The subject is arrested for a violation of any protective court order

In all circumstances, unless articulable and extenuating circumstances exist, all persons arrested for "on-view" misdemeanor violations, or misdemeanor or infraction warrants for any of the following should be booked at a jail facility or administratively:

- ~~The subject is arrested for a felony~~
- ~~The subject cannot provide satisfactory evidence of personal identification~~
- ~~The subject demands to be taken before a magistrate~~
- ~~The subject refuses to sign the citation~~
- The subject was arrested and released for a similar charge (other than PC 647(f) or H&S 11550) in the previous twenty-four (24) hours, or there is a reasonable likelihood the safety of persons or property is imminently endangered by the release of the subject
- The arresting officer or a supervisor determines there is likelihood of reoccurrence or a risk to persons or property if the subject is cited and released
- The offense involves violence (including but not limited to PC 136.1, 236/237, 368(f), 422, and 452(d), and brandishing a weapon (including an imitation firearm))
- ~~The offense involves domestic violence (including but not limited to PC 273.5; PC 242-243(e); PC 242-243(e)(1); PC 646.9 (Stalking); PC 273.5(e) (Domestic Violence with a prior conviction within 7 years); PC 422 (Felony), or PC 273.6~~

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- The offense involves a probation violation (including but not limited to PC 1203.2(a) or PC 1203.2(b))
- The offense involves sexual assault (including but not limited to PC 314, 290, 243.4, and 647.6(a)(1))
- The offense involves a firearm (including but not limited to PC 30305(a)(1))
- The offense involves delaying, resisting, or obstruction, including but not limited to PC 135, 148, 148.5, 148.9 and VC 2800
- The offense involves being an accessory after the fact, harboring, concealing, or aiding a fugitive, or escape to avoid any punishment pursuant to crimes including but not limited to PC 32
- The subject is arrested for any on-view impaired driving. Absent other eligibility guidelines, warrants for impaired driving or CVC 23247(e) are eligible for cite and release.
- The subject is arrested for any on-view or warrant for PC 192 or on-view violation of CVC 23247(e), 40302, or 40303
- ~~The subject is arrested for a violation of any protective court order~~
- The subject is a danger to themselves or to others due to intoxication, influence of narcotics, or requires immediate medical care
- The prosecution of the offense or offenses for which the person is arrested, or the prosecution of any other offense or offenses, would be jeopardized by immediate release of the arrestee
- There is reason to believe the subject would not appear at the time and place specified in the notice to appear (e.g., three or more failures to appear in the previous three years)
- The bail of any one warrant is set for \$15,000 or more
- The subject has a three or more active warrants for Failure to Appear
- Warrant is listed as “No Bail”, “No SCIT”, “No Cite Release” and/or any other terminology indicating cite and release is inappropriate.

CITATION RELEASE PROCEDURE

A person taken into custody in the field, either for an on-view misdemeanor charge, or a misdemeanor or infraction warrant, who is eligible for citation release under this policy, should be cited and released in the field or transported to the Main Jail for identification and then cited and released.

In-Field On-View Misdemeanor Cite and Release

Officers will issue an electronic citations using the ~~Notice to Appear (Form 200-15) and Continuation of Notice to Appear (Form 200-15A) Duty Manual section L 3100~~ **CRIMINAL CITATIONS** unless experiencing any of the technical issues listed in Duty Manual section L 3103.

In-Field Misdemeanor or Infraction Warrant Cite and Release

Officers will adhere to the above guidelines to determine the subject’s eligibility for cite and release. Officers will complete the following steps:

1. Have the warrant confirmed through Communications and determine the following:
 - Court date
 - Court address
 - Court telephone number
 - Whether booking is required.

2. Advise Communications the subject is being cited for the warrant. Communications members will notify the Warrants Unit the subject is being cited and request the warrant be removed from the Wanted Person System. If the officer is unable to complete the citation due to an unforeseen circumstance (e.g., Code 3 Fill or priority call), the officer will notify Communications the subject was not cited then Communications will advise the Warrants Unit to reinstate the warrant.
3. Complete the Warrant Citation / Notice to Appear (Form 491). This form is used only for eligible subjects who are cited for outstanding warrants.

Note: Officers will complete a separate Warrant Citation / Notice to Appear (Form 491) for each warrant involving a separate court. If there is insufficient space to list all of the warrant charges, continue listing the charges on an additional Warrant Citation / Notice to Appear (Form 491), completing all of the information on the form. Above the CEN number, hand-write how many pages exist in the complete document (e.g., Page 1 of 2, Page 2 of 2, etc.).

4. Affix the subject's right thumbprint to the face sheet and the pink copy of the Warrant Citation / Notice to Appear (Form 491).
5. Have the subject read and sign the Warrant Citation / Notice to Appear (Form 491), explain the pre-booking requirement, which is described on the back of the form, then give them the yellow copy.
6. By the end of shift, the Warrant Citation / Notice to Appear (Form 491) must be placed in the "Warrants Only" drop box in the BFO Report Writing Room or taken directly to the Warrants Unit. The Warrants Unit will attach the Warrant Citation / Notice to Appear (Form 491) to the warrant or warrant abstract and forward it to the appropriate court(s).

Persons arrested pursuant to out-of-county warrants shall also be cited, when eligible. In addition to the above process, a General Offense Report (Form 200-2-AFR) is required to document the occurrence.

L 3721

PROCEDURE UPON NOTIFICATION OF WARRANT:

Revised 07-14-23

When the officer is notified that a warrant may be outstanding, the following procedures will be adhered to:

- **VERIFICATION OF IDENTITY:** The arresting officer, prior to booking, will make a diligent effort to verify that the subject being arrested pursuant to the warrant is in fact the person for whom the warrant was issued (i.e., descriptors, fingerprint verification, booking photographs, other photo databases, etc.)
- **CONFIRMATION:** The officer will determine the validity of the warrant by requesting that the warrant be confirmed. Once notified of confirmation, an arrest pursuant to the warrant will be made. Unless extraordinary

circumstances exist, every effort should be made by investigating officers to confirm all warrants with SJPD Warrants through SJPD Communications

- NOTIFICATION OF ARREST: The arresting officer will then ensure that the Warrants Unit is informed that an arrest has been made
- DETERMINING DISPOSITION: The arresting officer will determine which agency holds the warrant and whether or not the arrestee has sufficient funds to immediately post bail. If the arrestee is going to immediately post bail, officers will adhere to the appropriate procedure listed below then obtain the warrant from either the Warrants Unit or have the warrant sent directly to the jail.

~~• Will Bail—San Jose P.D. Warrant Involved: The officer will transport the arrestee to the Police Administration Building and process him/her through the Warrants Unit.~~

~~• Will Bail—Santa Clara County Sheriff Warrant Alone: The arrestee will be transported to the Sheriff's Department Warrant Desk for processing.~~

~~• Will Bail—Sheriff's Warrant and Non-San Jose Warrants Combined: The arrestee will be transported to the Sheriff's Department Warrant Desk for processing.~~

~~• Will Bail—Warrants Other Than San Jose or Sheriff's Office: The officer will transport the arrestee to the Police Administration Building and process him/her through the Warrants Unit.~~

~~• FOUR OR FEWER TRAFFIC INFRACTIONS: Officers who arrest persons on warrants for four (4) or fewer parking offenses or traffic infractions will take the arrested party to the appropriate Warrants Desk to post bail if the arrestee has the bail amount in his/her possession. If the arrestee does not have the full bail amount in his/her possession, he/she is booked at the County Jail. Officers will not request Communications to make calls for the arrested party.~~

~~• DUE DILIGENCE INFORMATION IF ARREST IS NOT MADE:~~

~~If the warrant being served is a San Jose Police Department warrant, note new information about the suspect on the beat copy of the warrant (a space is provided). At the end of shift, put the beat copy into the citation box, the warrants beat file located in the briefing room or turn it in at the Warrants Unit. Include any new information about the suspect such as, new address, in custody status (prison), etc. The Warrant Unit members will attach the new information to the original warrant. If it is a warrant from an outside agency, advise the Warrants Unit to notify the agency of any new information you may have gathered.~~

L 3721.1

INVESTIGATIVE STEPS AFTER NOTIFICATION OF WARRANT:

Added 07-14-23

Investigating officers shall make a diligent effort to attempt to determine if a detained subject is the subject related to the warrant. Officers should consider utilizing investigative techniques including but not limited to the following:

- Confirm descriptors (e.g., scars, marks, tattoos, height, weight, hair, eyes, etc.) on the warrant match that of the subject detained

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- Utilize photo databases (e.g., SJPD Mugshots, Santa Clara County Mugshots, CAL photo, Parolee Leads, Versadex, TLO, etc.)
- Fingerprint verification (e.g., Mobile I.D.)
- Confirm age and date of birth
- Interview other detainees or associated parties
- Internet search (e.g., Google, social media, etc.).

As soon as it can be determined an individual is not the subject related to the warrant and there is no further reasonable suspicion, safety concerns, or on-view charges to justify further detention, the person should be promptly released.

Whether or not the subject is related to the warrant, investigating officers should notify SJPD Warrants as soon as practicable of the identification and disposition.

L 3729

UNSUCCESSFUL ATTEMPT TO SERVE A WARRANT:

Added 07-14-23

SJPD Warrants should be notified as soon as practicable after an unsuccessful attempt is made to serve any Santa Clara County warrant or any out-of-county felony warrant (e.g., the subject no longer resides at the listed address or the address is invalid). SJPD Warrants personnel will update the due diligence form on Santa Clara County warrants or notify out-of-county agencies via teletype.

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



Anthony Mata
Chief of Police

AM:PH:DK:JJ