SAN ANTONIO POLICE DEPARTMENT
GENERAL MANUAL

Procedure 505 – Misdemeanor Citation Release

Office with Primary Responsibility:	CTA	Effective Date: Prior Revision Date:	July 1, 2019 May 04, 2012
Office(s) with Secondary Responsibilities:	PSC, PNC, TEC, FCD, IDC, SSB	Number of Pages:	3
Forms Referenced in Procedure:	MC Form #03-003	Related Procedures:	602

.01 *INTRODUCTION*

A. This procedure establishes guidelines for officers in the use of *Misdemeanor Notice to Appear* citations.

B. The purpose of the *Misdemeanor Notice to Appear* is to release nonviolent offenders from custodial arrest in an efficient manner.

.02 *POLICY*

A. Tex. Code of Crim. Pro. Art. 14.06 permits law enforcement agencies to use citation release procedures in lieu of arrest for eligible Class A or B misdemeanor offenses, all Class C misdemeanor offenses and non-traffic city ordinance violations with certain exceptions.

B. Officers shall select the least intrusive/severe method of enforcement when considering issuing a citation in lieu of arrest, which will:

1. Stop existing criminal conduct;

2. Remove the imminent threat of violence or criminal conduct.

3. Prevent persons from endangering themselves or others.

C. Should the arresting officer choose custodial arrest rather than a Misdemeanor/Cite and Release Citation release, the officer:

1. States in the offense report the reasons why physical arrest was appropriate

.03 *MISDEMEANOR/CITE AND RELEASE CITATION ISSUANCE AND SUBMISSION*

A. When issuing a Misdemeanor/Cite and Release Citation, the arresting officer:

1. Completes all sections of the Misdemeanor/Cite and Release Citation pertaining to the violation;

2. Shall sufficiently identify the violator;

a. A form of government photo identification is preferable (State issued ID card/Driver's license, Passports, Consular ID, San Antonio Public Library card or school/university ID);

b. If government photo identification is not available, officers shall use all reasonably available means to confirm the validity of the personal information provided by the person in custody and shall document what identification was used to establish the identity of the person in custody.

3. Shall indicate only one (1) charge per Misdemeanor Citation;

4. Sets an arraignment date accordingly:

a. For San Antonio Municipal Court Misdemeanor Citations:
1) 17 and older – count 50 calendar days and then assign on a Monday through Friday

2) 16 and younger – count 50 calendar days and then assign on a Monday through Thursday.

b. For Bexar County Courts:

1) Set Date of Appearance 10 calendar days from Issue Date of citation.

5. List the Misdemeanor Citation number in the details of the applicable report; and

6. The officer releases the person charged in the arrest on his own recognizance upon completion of issuance of a Misdemeanor Citation, advising the person the required signature is not an admission of guilt, but a promise to appear in court.

B. The officer shall attach a copy of the applicable report, including any evidentiary photographs, to the Misdemeanor or the Cite and Release Citation and forwards all documentation to the handling agency:

1. Misdemeanor Notice to Appear goes to the San Antonio Municipal Court through bin mail;

2. Cite and Release goes to the Bexar County District Attorney's Office through bin mail.

.04 *APPLICATION IN THEFTS FROM BUSINESSES*

A. Officers may issue Misdemeanor Citations to arrestees suspected of Class C misdemeanor thefts from businesses, unless:

1. The violator has been previously convicted of theft; or

2. A situation listed in Subsection .05A is apparent.

B. When issuing a Misdemeanor Citation/Cite and Release in a misdemeanor theft from a business, in addition to the requirements for issuing a Misdemeanor Citation listed in Section .03, the officer:

1. Notifies the owner, arresting agent, and witnesses a Misdemeanor Citation will be issued;

2. Advises the owner, arresting agent, and witnesses they may be subpoenaed to be present for trial;

3. Lists the names of the owner, arresting agent, and witnesses on the offense report;

4. Escorts the violator out of the place of business and off of the property after the Misdemeanor Citation is issued; and

5. Typically, a criminal trespass warning is issued and should be documented in the report.

.05 *RESTRICTIONS FOR USE*

A. The Misdemeanor/Cite and Release Citation release is not authorized in any of the following cases:

1. Misdemeanor thefts, other than thefts from businesses;

2. The person arrested demands an immediate appearance before a magistrate;

3. The person is arrested on a warrant or has outstanding warrants against him;

4. The safety of the person arrested or the safety of others may be jeopardized by his release;

5. The arrested person fails or refuses to give sufficient identification;

6. The person arrested is intoxicated to a degree which renders him unable to care for himself;

7. The person arrested is injured and has not received the required medical attention;

8. Any time when physical force is used to affect the arrest;

9. Class "B" offense of racing, exhibition of speed or acceleration, and reckless driving (exceed Municipal Court jurisdiction); or

10. The violator refuses to sign the Misdemeanor/Cite and Release Citation.

.06 ***CLASS A AND CLASS B MISDEMEANOR CITATIONS***

A. In addition to the above considerations, officers must verify all of the following requirements in order to issue a Class A or B misdemeanor citation. If all the following requirements are not met, the violator is not eligible for citation and the officer is not required to contact a supervisor to make a custodial arrest. The officer will document in their offense report why the violator was not eligible for a citation.

1. The offense is eligible for release by citation and it is the only Class B or above charge against the person; and

2. The violator is not a juvenile; and

3. The violator resides in Bexar County.

B. Eligible Offenses for Cite and Release (no other offenses are eligible for Cite and Release)

Code	Charge	Class
HSC 481.121 (b)(1)(2)	Possession of Marijuana 2 ounces or less	MB
	Possession of Marijuana 4 ounces or less but more than 2 ounces	MA
HSC 481.1161 (b) (1) (2)	Possession of Substance in Penalty Group 2-A 2 ounces or less	MB
	Possession of Substance in Penalty Group 2-A 4 ounces or less but more than 2 ounces	MA
PC 28.03 (b)(2)	Criminal Mischief $100 < $750	MB
PC 31.03 (e)(2)(A)	Theft $100<$750	MB
PC 31.04 (e)(2)	Theft of Service $100<$750	MB
PC 38.114	Contraband in a Correctional Facility	MB
TTC 521.457	Driving While License Invalid	MB

C. Any Evidence related to Cite and Release is handled in accordance with GM 606 Impounding Property.

.06 ***JUVENILE MISDEMEANOR CITATION RELEASES***

Refer to GM Procedure 602, *Juveniles*, Subsections .04C and D for guidelines for issuing Misdemeanor Citations to juveniles.