

45.2 a. Policy Favoring Issuance of Citations

It should be the policy of law enforcement agencies to issue citations in lieu of arrest or continued custody to the maximum extent consistent with the effective enforcement of the law and public safety. A law enforcement officer having grounds for an arrest should take the accused into custody, or already having done so, detain the accused further only when such action is required by the need to carry out legitimate investigative functions, to protect the accused or others where the accused's continued liberty would constitute a probably risk of harm, or when there are reasonable ground to believe that the accused will refuse to respond to a citation.

b. Mandatory Issuance of Citation

(1) Legislative or court rules should be enacted which enumerate the offenses for which citations may be issued.

(2) An officer having authority to issue a citation may make an arrest:

(a) When an accused subject to lawful arrest fails to give satisfactory identification;

(b) When an accused refuses to sign the citation;

(c) When arrest or detention is necessary to prevent imminent bodily harm to the accused or to another or there is reason to believe the accused will commit another if released;

(d) When the accused has no ties to the jurisdiction reasonably sufficient to assure appearance and there is substantial likelihood that the accused will refuse to respond to a citation; or

(e) When the accused previously has failed to appear in response to a citation for an offense.

c. Encouragement to Issue Citation

Law enforcement agencies should promulgate regulations designed to increase the use of citations to the greatest degree consistent with public safety. Except where arrest or continued custody is patently necessary, the regulations should require such inquiry as is practicable into the accused's place and length of residence, family relationships, references, present and past employment, criminal record, and any other facts relevant to appearance in response to a citation.