

## **860.30 CITATIONS-IN-LIEU-OF-CUSTODY**

### ***First Universal Review: 5/15/23 – 5/30/23***

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#### **Refer:**

- ORS 133.225 Arrest By Private Person
- ORS 162.385 Giving False Information to a Police Officer for CILC
- DIR 640.00 Identification Division Procedures
- DIR 660.10 Property and Evidence Procedure
- DIR 870.30 Processing of Persons into MCDC
- DIR 830.00 Arrest Without Warrant
- DIR 880.30 Security Deposit Setting
- DIR 870.50 Arrest, Felony Processing
- Current Multnomah County Sheriff’s Special Order on Charges Acceptable for Booking
- Victim/Complainant Information Form (Operations Branch)

#### **Definitions:**

- **Booking:** The act of presenting an arrested criminal suspect to MCDC Intake for presentation to a magistrate for charging and complete processing which includes fingerprinting, photographing, medical and recognizance interviews, and cell assignment. Booked suspects become part of the official detention center population.
- **Bookable offender:** Any arrested person presented to MCDC Intake on any criminal charge, which may or may not employ the use of a citation.
- **Bookable offense:** Any ORS Statute or City Code Ordinance listed in the current MCDC Special Order. Persons arrested for one or more of these listed ORS Statutes and City Code Ordinances are allowed to be booked into MCDC Intake for either complete processing without a citation or for mug and print processing with a citation.
- **Booking for mug and print:** Any arrested person who has been issued a citation that is lodged into MCDC Intake for identification processing (mug and print) per the Bureau’s requirement or as required by state statute prior to release. This situation employs the issuance of C-Cite and Z-Cite.
- **Lodging:** Act of presenting an arrested person to MCDC Intake only for the purpose of identification verification to allow for the proper issuance of a citation. Lodged suspects do not become part of the official detention center population.
- **C-Citation (C-Cite):** A citation in lieu of custody that shall be used whenever an arrested person is cited for at least one felony crime (including felony traffic crimes) with or without additional misdemeanors crimes which can be either from the ORS or the City Code.

- **Z-Citation (Z-Cite):** A citation in lieu of custody that shall be used whenever an arrested person is cited for at least one misdemeanor crime (including misdemeanor traffic crimes) and shall be used for all violation or infraction level offenses (traffic and non-traffic violations).

### **Policy**

1. To enhance communication and understanding between the community and the Bureau, members will ensure that victims and complainants understand the complaint signing process. Members will also ensure that victims and complainants understand the associated responsibilities when booking and lodging an arrested person into custody or issuing that person a citation by completing a Police Bureau “Victim/Complainant Information Form” in all cases where a private (rather than public) victim exists.
2. Bureau members will follow current MCDC Special Orders and current Bureau policy when deciding whether to book and lodge an arrested person in jail or issue them a citation. Citations will be issued for all offenses that are classified as violations or infractions under the ORS or Portland City Code. Violation or infraction level offenses do not carry jail time as a possible sentence.

### **PROCEDURE (860.30)**

#### **1. Authority to Issue Citations (860.30)**

- 1.1. ORS 133.055 allows for a citation to be issued when a person is arrested for a Class C felony, PCS I, or Delivery of Marijuana for Consideration. Also, it allows for a citation to be issued when a person is arrested for any misdemeanor or violation level offense except when an assault, harassment, menacing, domestic non-criminal menacing or violation of a restraining order has occurred in a domestic relationship incident.

#### **2. Community Safety Exceptions (CSE) (860.30)**

- 2.1. A community safety exemption allows a member to book and lodge an arrested person who is charged with a felony or misdemeanor crime that is not a bookable offense under the current MCDC Special Order, if the following criteria are met:
  - 2.1.1. The offender is bookable.
  - 2.1.2. The criminal offense involved violence, or a potential for violence exists if the defendant is released.
  - 2.1.3. In the member’s opinion, there exists the possibility of a recurrence of the same or more serious crime.
- 2.2. Using a CSE:
  - 2.2.1. Member responsibilities:
    - 2.2.1.1. The arresting member must get approval for a CSE from his/her sergeant prior to transporting the subject to MCDC.
    - 2.2.1.2. Once approval has been granted, the arresting member will book the subject at MCDC (see DIR 870.30).
  - 2.2.2. Sergeant responsibilities:
    - 2.2.2.1. The sergeant receiving the request for a CSE will contact the MCDC Intake sergeant for approval.

- 2.2.2.2. Upon approval, the sergeant will instruct the arresting member to book the subject at MCDC (see DIR 870.30).
      - 2.2.2.3. If approval is not granted, the sergeant will inform the arresting member that the CSE request has been denied.
3. **One Member Issuance: Arrest and Reporting (860.30)**
  - 3.1. Routinely, only one member will effect an arrest and advise the arrested person of his/her Miranda rights and issue the citation. Whenever more than one member is present at an incident, the other members associated with the incident will have their involvement/association to the case detailed in the arresting member's report unless that member was involved in the arrest in some manner or the incident involves a situation where a member was injured or was attempted to be injured. Refer to the narrative section of the Custody, Investigation and Continuation Reports (i.e., cover, transport, finder of evidence, etc.). Additional members observing elements, factors or gathering information pertinent to the case, which is separate and distinct from that of the arresting member, will complete a Special Report detailing their involvement.
4. **Multiple Arrest Situations (860.30)**
  - 4.1. The supervisor-in-charge of a mission, demonstration, or other such event that has the potential for creating mass misdemeanor arrests, is to notify the MCDC Officer-in-Charge (MCDC-OIC), the Bureau's Complaint Signer's Office and the appropriate DA Unit prior to the event. Misdemeanor arraignments will occur not more than 30 days from the date of arrest, but as close to 30 days as possible. Arraignment dates should be distributed over several days beginning with latest available court date and working back (30 days if possible). Whenever possible, do not cite more than 8-10 subjects for any single date. Monday and Friday arraignments are to be avoided.
5. **Arrests Requiring Mandatory Processing for Mug and Print (860.30)**
  - 5.1. ORS 181.511 and 181.515 require that all persons arrested on the following charges be fingerprinted and photographed at the time of arrest, even if they are to be cited in lieu of being taken into custody:
    - 5.1.1. Any felony.
    - 5.1.2. Any misdemeanor or other offense involving sexual conduct.
    - 5.1.3. Any crime involving the possession or delivery of a controlled substance.  
Possession of less than one ounce of marijuana is a violation and, therefore, is not subject to being booked into MCDC.
6. **Identity Questions (860.30)**
  - 6.1. In those situations where the reasonable identity of an arrested suspect is either unknown or in question, the arresting member will follow the procedures outlined in DIRs 640.00 and 870.30.
7. **MCDC Processing of Persons Subject to Citation (860.30)**
  - 7.1. When all other means of identification verification have been exhausted (as discussed in DIR 640.00), arrested persons who are eligible for booking or lodging will be processed into MCDC under the name presented by the offender or Jane/John Doe. The narrative portion of the Custody Report will contain language articulating all efforts made to determine the identity of the arrested person prior to taking them to MCDC Intake for the processing.
  - 7.2. If the MCDC or Police Bureau ID staff are able to determine the true name of the arrested person being processed at MCDC Intake, and the arresting member is still

present, he/she will add the Furnishing False Information charge onto his/her custody or onto a citation (along with the original felony or misdemeanor crime that the person was arrested for) and issue that citation to the arrested person. If the arresting member is not still present, the matter will be handled by MCDC and the DA's Office, as discussed in DIR 640.00.

## **8. Processing of Jailable Violent Suspects Who Have Been, or Are to Be, Issued a Citation (860.30)**

8.1. Members may present cited (C-Cite and Z-Cite) violent suspects to MCDC Intake for processing, provided the suspect is eligible for booking or lodging. This includes persons subject to the Alcoholic Treatment Act (DIR 850.10) who are charged with criminal offenses during the custody situation or following placement in Detox.

## **9. Physical Evidence (860.30)**

9.1. Seized evidence will be processed in the same manner as in other arrests as outlined in DIR 660.10.

## **10. Warrant Checks (860.30)**

10.1. Prior to releasing a cited suspect or transporting an arrested suspect to MCDC, members will check for outstanding warrants using the name given by the suspect. Any warrants on file will be served. MCDC Intake will serve outstanding warrants on those suspects found to have provided false information following the arresting member's departure.

## **11. Citable Offense Arrests Made in Conjunction with Other Situations (860.30)**

11.1. Warrant Service in Conjunction with Other Arrests:

11.1.1. Mandatory misdemeanor arrests (i.e., arrests made under the Family Abuse Prevention Act) associated with the service of a warrant shall be booked and not cited. All additional felony and misdemeanor charges shall be added to the custody report for booking and will not be cited.

11.1.2. All felony arrests associated with the service of a warrant shall be booked and not cited.

11.1.3. All misdemeanor arrests associated with the service of a warrant will not be booked (even if the charge is bookable). Instead, the suspect will be issued a citation for the new misdemeanor crime(s) as follows:

11.1.3.1. The warrant charge(s) the suspect is being booked on will be listed on the custody report prior to booking.

11.1.4. The charges the suspect is being cited for (and not lodged on) will not be listed on the custody report until after the member leaves MCDC (MCDC does not need a copy of those citations).

11.1.5. Misdemeanor arrests made in conjunction with a felony arrest, under which the suspect will be booked and lodged in MCDC, will also be added to the custody report for booking along with the felony charge(s) rather than cited.

## **12. Outside Cite-In-Lieu Warrant Arrest (860.30)**

12.1. Multnomah County Cite-in-Lieu warrants and all other warrants will be processed as follows. When a member arrests a suspect on an outside Cite-in-Lieu warrant, the following procedures will be followed:

12.1.1. The member will have BOEC Service Net confirm the warrant and obtain all necessary information to complete the C-Cite (i.e., court date and location).

12.1.2. The member will call Teletype stating that he/she has an outside Cite-in-Lieu warrant. The member will give Teletype the information they request to clear the warrant with the outside agency.

### **13. Private Person (Citizen) Issuance (ORS 133.235) (860.30)**

13.1. When an arrest has been made by a non-Bureau member or on behalf of a non-Bureau member (including private security agents):

13.1.1. The complainant/victim will be informed that he/she must contact the DA's office and request that the incident be reviewed for possible prosecution.

13.1.2. The involved member will ensure that the complainant/victim is familiar with how to contact the appropriate DA Unit. To facilitate this procedure, the member shall issue and explain to the non-Bureau member a completed Police Bureau Victim/Complainant Information Form. If the suspect was lodged at MCDC, the victim will be instructed on the form to contact the D.A.'s office by 1100 hours the next business day. If the suspect was issued a citation, the victim will be instructed on the form to contact the D.A.'s office no sooner than two business days after the arrest.

13.2. When private security agents make arrests at business establishments, members will not advise those suspects of their constitutional rights, unless it is deemed necessary to conduct an independent investigation. In such cases, the member's reports will detail his/her involvement.

### **14. Voiding Citations (860.30)**

14.1. All citations (C-Cites and Z-Cites), which have not been issued but must be voided, will be forwarded to the member's RU manager for destruction. In cases where an issued citation needs to be voided, but it is not retrievable, members will:

14.1.1. Complete a Circuit Court Officer's Request to Void Non-Issued Uniform Traffic Complaint (Z-Cite) (DC500, 8-1-79) and staple it to the citation.

14.1.2. The District Attorney's office is notified through an entry into the DA's database.

14.1.3. Members desiring to continue the complaint issuing process will recite the suspect, or if unable to do so, may pursue a warrant through the Complaint Signer's Office.

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