

WEBER COUNTY SHERIFF'S OFFICE		POLICY AND PROCEDURES	
SUBJECT: Alternative to Arrest		CHAPTER/SECTION NO.: 1.17	
EFFECTIVE DATE: 10/7/03		REVIEW DATE:	
AMENDS/SUPERSEDES: See attached sheet		APPROVED: <u>**See Master File</u> Sheriff	
STANDARD NUMBER: 1.2.6			

1.17 Policy

- 1.17.1 Deputies of the Weber County Sheriff's Office, when attempting to resolve the various types of problems to which they respond, are encouraged to seek alternatives to physical arrest (with incarceration) when no hazard(s) to the community, the victim or suspect will result.
- 1.17.2 As outlined in sections 1.12, 1.18 and 1.19 Deputies are allowed the use of discretion within the guidelines of Sheriff's Office standards, statutory and case law, and to some extent, prevailing community standards.
- 1.17.3 Deputies will exercise arrest powers in felony situations. Dependant upon the felony offense (non-hazardous) and prosecutorial approval, certain felony arrestees may be released pending arraignment and a summons issued, without being formally incarcerated.
- 1.17.4 Deputies may use "verbal warnings" on those traffic and simple misdemeanor offenses where the facts indicate proper resolution of the event can be achieved without a formal charge.

- A. This discretionary action may be restricted by the supervisor or Sheriff's Office administration in those areas of directed patrol or selective traffic enforcement requiring stricter attention to enforcement or where community need warrants formal charges.
- B. Deputies should not use the "verbal warning" to evade resolving the situation properly. Supervisors will ensure that each incident response and resolution by a Deputy is properly documented as directed by applicable standards and orders.

1.17.5 Pretrial Release

- A. Certain situations require the physical arrest and incarceration of a crime suspect, either by law or by virtue of the circumstances confronting the Deputy(s) at the time of the contact. Many other contacts however, do not require a physical arrest and incarceration, and should thus be handled through the implementation of an appropriate alternative.
 - 1. Juveniles Detention/Holding - Generally used in cases involving juveniles who may not be incarcerated, while awaiting disposition or acceptance by a juvenile holding facility, release to parent(s), relative, or a responsible adult.
 - 2. Deputies shall use misdemeanor citations in lieu of arrest for persons charged with misdemeanors under most circumstances. When the person can be identified beyond reasonable doubt, has been a local resident for at least six months, then citations shall be issued. If the person has outstanding warrants, may be chargeable for multiple offenses, or the original charge might escalate into a felony, a custodial arrest is required. Other situations not specified here will require the deputy to use discretion as to making an arrest

or issuing a citation.

- a) A Deputy may issue a citation to appear at a time and place specified in the citation whenever any person is detained by or in the custody of a Deputy for:
 - i. A misdemeanor or infraction charge. UCA 77-7-18.
- b) Anything in this subsection to the contrary notwithstanding, if the arresting Deputy believes that (1) any person likely to disregard a citation, or (2) is likely to cause harm to him/herself or to any other person, then the person should be brought forthwith before a magistrate, or booked into jail.
- c) Service of citation on defendant - filing in court - contents of citations:
 - i. If a citation is issued the Deputy shall provide one copy to the person cited and shall within five (5) days file a duplicate copy with the court specified in the citation.
 - ii. Each copy of the citation issued shall contain:
 - 1) the name of the court before which the person is to appear;
 - 2) the name of the person cited;
 - 3) a brief description of the offense charged;
 - 4) the date, time, and place at which the offense is alleged to have occurred;

- 5) the date on which the citation was issued;
- 6) the name of the Deputy who issued the citation, and the name and address 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 before a magistrate;
- 7) the time and date on or before, and after which the person is to appear not less than five days or later than fourteen days;
- 8) the address of the court in which the person is to appear;
- 9) a certification above the signature of the Deputy 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."; and

- 10) 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." UCA 77-7-20

- (c) Summons: In non-hazardous felony or misdemeanor cases and with prosecutorial approval, deputies may allow a suspect to appear by summons.
 - (i) A summons may be issued through the prosecutors office, if it appears the accused will appear on a summons and there is no substantial danger of a breach of the peace, injury to persons or property, or danger to the community.
 - (ii) If a corporation is the defendant a summons shall be used in all cases.
 - (iii) Deputies may serve summons at any place within the State.
 - (iv) A summons shall be served as in civil actions, or by mailing the summons to the defendant's last known address.
 - (v) A deputy serving a summons shall make returns thereof to the magistrate as soon as practicable.

1.17.6 Diversion

- A. Deputies may use their discretion and divert a juvenile offender to his/her parent(s), guardian(s), school, youth court etc., if the Deputy feels that the juvenile, the Sheriff's Office and community are best served by doing

this. The Deputy must consider the following factors when making a decision to divert:

1. Has the offender or juvenile, in the past, committed any other offenses.
2. What type of crime(s), if any, did the offender or juvenile commit.
3. How serious was the crime(s) committed.