

Citation in Lieu of Arrest: Examining Law Enforcement's Use of Citation Across the United States

Literature Review
2016



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1. EXECUTIVE SUMMARY & INTRODUCTION

Introduction

The criminal justice system in the United States is plagued with high incarceration rates, recidivism, increasing demands, and shrinking budgets. Over the last 50 years, federal, state, and municipal officials have continued to search for ways to ameliorate these issues in the complex system on which citizens rely to serve justice. Criminal justice reform, and pretrial reform in particular, continues to hold a priority position on the agenda of policy makers and stakeholders across the United States.

Many believe that as a practical solution to some of these issues, the use of citation in lieu of full custody arrest, particularly for non-violent misdemeanors, can improve criminal justice efficiency, cutting costs and leaving officers with more time for more pressing duties. Potential reduction in jail population also serves as incentive for use of citation. Additionally, in this time of increased community scrutiny of law enforcement practices, use of citation can show law enforcement's commitment to the preservation of individual rights, and interest in the well-being of the community. Existing literature on each of these advantages is explored in more depth in Chapter 3 of this report.

Citation in lieu of arrest is known by a number of terms in jurisdictions around the United States: citation in lieu of arrest, summons in lieu of arrest, violation citation, cite and release, citation release, field release, field citation, desk appearance tickets (DAT), and likely a number of others. The National Conference of State Legislatures (NCSL) provides this definition: "a citation is a written order, in lieu of a warrantless arrest, that is issued by a law enforcement officer or other authorized official, requiring a person to appear in a designated court or governmental office at a specified time and date."¹ Citations are a formal method of "on-the-spot justice" for police officers with formal legal consequences, giving officers the ability to choose a course of action between the extremes of doing nothing or making an arrest.² "Citations establish the recipient as a suspect in a criminal matter, and like a full custody arrest it involves charging someone with a crime."³ If found guilty, the defendant may be subjected to a fine and/or incarceration.⁴ A citation is considered a form of arrest.⁵

However, although citation in lieu of arrest has been in use for decades, what is not understood is how the nation's 18,000 law enforcement agencies use citation. Questions regarding how citation policy is implemented across the country; how often and in what circumstances it is used; and whether jurisdictions that use citation see the benefits, or challenges, discussed in the literature are just a few of the inquiries yet to be answered. Some research points to the fact that challenges and inconsistencies may have inhibited use of citation in some departments, stifling potential benefits of the policy.⁶ However, existing literature simply does not provide the broad, contemporary data and analysis necessary to paint a clear picture of citation use across the country, nor does it deliver the information necessary for law enforcement executives to make evidence-based decisions about citation use.

The International Association of Chiefs of Police (IACP), with support from the Laura and John Arnold Foundation (LJAF) researched law enforcement's perceptions, concerns, and opinions on the use of citation in lieu of arrest,

through *Citation in Lieu of Arrest: Examining Law Enforcement's Use of Citation Across the United States Project*, in an effort to answer some of these questions. In addition to this literature review, the project conducted a national survey and statistical impact assessment on the use of citation in lieu of arrest, and held focus groups on the subject.⁷ This work compliments IACP's ongoing Pretrial Justice Reform Initiative.⁸ As a starting point for the *Citation* initiative, this literature review is intended to provide a snapshot of literature on the subject of citation in lieu of arrest as it stands today.

What the Literature Tells Us

Overall, the literature confirms that there is still a lot to learn about the use of citation in lieu of arrest. It provides, for the most part, prescriptive guidance and analysis on the need to implement citation policy; short-term impact analysis in specific jurisdictions (or police departments); and some national comparison that dates back 40 or more years. It provides a general historical context for the use of citation, and the current legal framework for citation use. Finally, the existing gaping holes in the literature also provide a roadmap for future research into understanding citation use by police agencies across the country.

Citation Utilization

Existing literature does provide a few key points regarding citation utilization rates.

- **Recent nationwide data does not exist in the literature** (with the exception of the national survey conducted by IACP on citation in lieu of arrest practices in police departments around the country).⁹
- **National data that does exist shows that many law enforcement agencies do use citation in lieu of arrest, but that data is 40 years old.** In a survey conducted by Floyd Feeney in 1975, 75% of responding police departments reported using citations for some non-traffic offenses – 81% for cities with populations over 100,000, and 62% for cities with a population under 100,000.¹⁰ A 1981 study estimated that as many as 800 cities (31 of them over 100,000) were not using citation release at all.¹¹ Until recently, Feeney's study was the most current data on national citation utilization rates available.
- **Existing localized (within specific jurisdictions or police departments) data does give some insight into citation utilization.** For example, after New Orleans, Louisiana, Municipal Code 1956, section 54-28 was changed to encourage the use of citation in lieu of arrest, analysis of New Orleans Police Department data by the Vera Institute of Justice (2011) showed that citations (summons) were issued in 68.2% of municipal cases not including domestic violence or public intoxication, up from 41% in 2009.¹²
- **However, localized data is not necessarily comparable.** While reviews of jurisdiction-specific data show that citation utilization rates increased after implementation of citation policy in a certain municipality or county, comparisons across jurisdictions are difficult because each reports data in a different way. According to Whitcomb and her colleagues,

“[V]ariations in citation utilization rates, both overall and for specific charges, and differences in the types of charges most frequently cited, are a function of several factors. These include

legislative provisions and policy guidelines pertaining to eligibility criteria; the level of screening and verification involved in the release decision-making process; the level of top management support for citation release; and the particular demographic and socio-economic characteristics of the defendant population.”¹³

Legal Framework

The most current and relevant literature on citation in lieu of arrest exists on the subject of the legal context in which it is used. State laws and statutes provide the primary legal framework for police use of citation, with some guidance from local ordinances, department policy and professional standards. A study completed by the National Conference of State Legislatures (NCSL), with support from the LIAF found that broad discretion is given, through state legislation, to law enforcement agencies to utilize citations.¹⁴ The NCSL study found that state laws most often apply citation in lieu of arrest to misdemeanor crimes, and that they are most commonly associated with traffic violations, local ordinances or infractions.¹⁵ In addition, seven states do not specify crimes for which an officer has discretion to issue a citation; two states (Louisiana and Oregon) permit them for some felonies; and laws in 10 states create a presumption that citations be issued for certain crimes and under certain circumstances. More details on the legal landscape for the use of citations can be found in Chapter 2 of this report.

Benefits and Challenges to Citation Use

The literature also provides definitions of the potential benefits (mentioned above) and challenges inherent in the use of citation in lieu of arrest policy. Increased failure to appear (FTA) rates (or the perception of such) is one of the most cited reasons that law enforcement agencies don't use citation more frequently. In addition, process challenges such as those inherent in implementation of citation policy; the impact of interagency collaboration; officer perception; and decreased community perception of justice are all deemed to be stumbling blocks for increased use of citation in lieu of arrest. Also, some explain that procedural challenges, such as the safety of officers when writing citations; and the lack of collection of complete and accurate criminal history data can serve as inhibitors to realizing expansive use of citation policy. Discussion of these concerns, while not necessarily supported with data, is pervasive throughout existing literature. They are more thoroughly explored in Chapter 4 of this report.

Another important challenge introduced in existing literature is the impact of officer discretion on the use of citation throughout the country. In today's environment of increased scrutiny of each and every police decision, the impact of officer discretion to utilize citation in lieu of arrest or not, holds deep interest. While the law enforcement community refocuses on procedural justice and community engagement, the question of how officers use discretion and judgment to solve community problems is key. Existing research on police officer discretion, although expansive, does not clearly define the impact of it on the use of citation in lieu of arrest. Rather, it

introduces yet another concept to be more fully defined and researched. Literature on this is also explored in more detail in Chapter 4 of this report.

Early Literature

Early literature provides a general historic view of the subject, and lays the groundwork for implementation. In 1978, Walter Busher released *Citation Release: An Alternative to Pretrial Detention, Concepts and Guidelines* under a grant from the Law Enforcement Assistance Agency (LEAA), U.S. Department of Justice (USDOJ), giving the first overview of the new protocol of issuing a citation in lieu of arrest for non-traffic violations. In 1982, Floyd Feeney released *The Police and Pretrial Release*, an even more comprehensive look at ways in which police use citations. Whitcomb, Levin, and Levine were then commissioned by the National Institute of Justice (NIJ), USDOJ to study citation release. Published in 1984, their report, *Citation Release*, reviewed use of citations to date and provided a contemporary overview and guidance on implementation. Other investigators during this time focused on use of citation in lieu of arrest (or components thereof) in specific state or local jurisdictions, giving a more detailed look into how specific jurisdictions implement and utilize citation policy. This body of literature, the most comprehensive and extensive on the subject of citation, lays a foundation from which to build continued analysis, but provides little relevant data to facilitate understanding of citation use today.

Limitations in the Literature

As mentioned previously, there are sizeable gaps in the contemporary citation in lieu of arrest literature. While jurisdiction-specific studies continue to be conducted today, recent, comparable, long-term implementation and impact data that provides a national picture of how citation is used today is markedly absent.¹⁶ Very few studies describe citation use in light of “new and innovative policing strategies, advances in technology, shifting public concerns, shifts in offending behaviors, and the historical impact of prevailing policies.”¹⁷ Identifying the number of law enforcement agencies using citation, to what extent and in what context, results (impact) and challenges will make sizeable strides in setting the benchmark for determining whether continued institutionalization of the policy is merited.

The need for more evidence on the use of citation in lieu of arrest is complicated by difficulty in obtaining accurate, comparable data. Even as early as 1984, researchers noted the difficulty in obtaining and comparing citation data for both process and impact evaluation. “Unfortunately, data on citation utilization rates are sparse and, when available, are often not comparable since definitions of utilization rates vary.”¹⁸ This seems to be true for almost every comparison relevant to evaluating use of the policy. In measuring FTA rates in Gwinnett County, Georgia, in 2005, for example, Davis found that operational differences made it difficult to accurately evaluate and compare data.¹⁹ Further, existing literature doesn’t isolate and examine issues associated with citation alone, but rather conflates them with other related topics, including FTA. Though there is an inextricable link between citation and its effects, isolation of specific issues would provide a better basis of comparison and analysis.

Collecting data from disparate criminal justice sources has also been noted as a process that inhibits better analysis of citation in lieu of arrest policy. Whitcomb and her colleagues identified and provided a breakdown of common impact goals of citation release data needed to study the impact and sources of data—all of which must be obtained from a diverse set of sources, including law enforcement, courts, and other criminal justice players.²⁰ A long-term, comprehensive, and interwoven look at use of citation in lieu of arrest, including how the policy affects each step in the justice process, could inform impact on the entire system, but will require a highly coordinated effort to achieve.

Questions regarding use of citation in lieu of arrest are ones that can be answered only by “data—and not mere implicit theory, plausible hypothesis, or hunch.”²¹ If law enforcement agencies are to make evidence-based decisions regarding use of citation, they will need reliable and current analysis of its impact. Existing research and resulting literature simply does not provide a sound evidence base. More well-planned and executed research is necessary to make quality policy decisions. A renewed, large-scale, national research effort into citation policy and use is critical to inform modern evidence-based implementation of the practice.

2. LAW, POLICY, AND STANDARDS

The most recent and relevant literature on citation in lieu of arrest exists in the laws, policy, and standards that govern its use. According to existing literature, the legality of citation in lieu of custodial arrest is regulated by a layering of constitutional law, statute, and municipal legislation. Police departments use departmental administrative rules to provide further policy and procedural guidance on when and how to issue citations. Relevant professional organizations also weigh in on the matter through recommended standards of use. This chapter will review the research in each of these areas in more depth.

Constitutional Law

Although volumes of court opinion exist on the constitutionality of arrest and search and seizure, there has been little litigation testing the validity of custodial arrest or citation release. Two U.S. Supreme Court cases touch on the constitutionality of the practice. First, in the case of *Knowles v. Iowa (1998)*, an officer stopped Knowles for speeding and issued a citation. The officer then conducted a full search of the vehicle and found marijuana and paraphernalia. He arrested Knowles for controlled substance violations. Presented with the question of the search’s constitutionality, the Court held that individuals must be fully arrested to conduct a search incident to arrest; issuance of a citation, without probable cause for a search or a search warrant, is not sufficient grounds for a search.²²

In a second case, *Atwater v. City of Lago Vista (2001)*, the Court ruled against Atwater who claimed her Fourth Amendment rights were violated by her custodial arrest for a simple traffic violation of not wearing her seat belt.²³ The Court upheld the officer’s right to use his discretion to cite or make a custodial arrest even in situations where

a citable offense has occurred, provided that he has valid probable cause that a misdemeanor offense in violation of state law had occurred.²⁴

Some literature predicts the potential for equal protection concerns. Under the Fourteenth Amendment, all persons are entitled to equal protection of the law.²⁵ Some literature provides equal protection questions that may arise with respect to use of citation.²⁶

Legislation Across the United States²⁷

Statutory law, although varying considerably from state to state, provides the most formidable guidance in the use of citation in lieu of arrest. In a separate, complementary effort funded by the LJAF, the NCSL compiled data on citation legislation in each state. According to the study, “state statutes guide the circumstances under which a citation can be issued, often determined by the class of the alleged crime and providing exceptions for certain crimes.”²⁸

Types of Citations

Early research by Whitcomb and her colleagues (1984) identified three types of citation release used in law enforcement agencies around the United States – field release; station house release; and post-detention (or jail) release.²⁹ According to a 1980 article reviewing Nebraska’s citation in lieu of arrest law, “it is apparent from the statutes that citations can be used not only as a substitute for an arrest, but also after an actual arrest as a substitute for the bail procedure.”³⁰ More recently, NCSL’s research found that nineteen states allow citations to be issued after arrest; nine states authorize citations to be issued prior to arrest; and ten states allow both.³¹

Offenses Addressed by Citation

Offenses addressed by citation are broadly defined by statute, and therefore differ from state to state. Most recently, the NCSL study published in 2013 found that state laws most often apply citation in lieu of arrest to misdemeanor crimes, and are most commonly associated with traffic violations, and local ordinances or infractions.³² However, according to the research, seven states do not provide specific guidance on crimes for which an officer has discretion to issue a citation leaving local ordinance or department policy to set standards³³; and laws in ten states create a presumption that citations are issued for certain crimes and under certain circumstances. It also identified two states – Louisiana and Oregon – that permit citations for some felonies.³⁴

While there are still places in the country where custodial arrest for some traffic violations (such as driving without a license) is permissible, some statutory law now requires law enforcement to issue citation in lieu of arrest for all traffic infractions.³⁵ State law authorizes police to issue field citations for a variety of criminal misdemeanors (specified by statute), and city ordinance or code governs the municipal infractions that can be addressed by citation (and further refines the use of citations for misdemeanors).³⁶ In most cases, however,

officers are not *required* to issue a citation in lieu of arrest, but are authorized to do so if the arrestee is eligible and suitable to be released. Because of this, significant variation in the application and use of citation exists across the country.

Early literature also provided insight into specific offenses addressed by citation. Whitcomb's 1982 study (the most recent comprehensive research on the subject) found that field citations were used most for shoplifting or petty larceny. Other offenses for which citations were frequently used included trespassing, harassment, certain assault incidents, property offenses, and possession of small amounts of marijuana.³⁷ Ordinance violations such as animal violations, open container laws, and housing or health code violations were also frequently cited,³⁸ though states and municipal jurisdictions reported any combination of citable offenses. Felony arrestees were almost universally ineligible for field release; even where the statute authorized the release of certain felony suspects, the study reported that the practice was seldom used.³⁹ Further research on the specific crimes most often cited in lieu of custodial arrest across the country is not available.

Municipal Ordinances & Police Department Policy

Municipal ordinances, in conjunction with police department policies, departmental orders, standard operating procedures, and general orders "go a step beyond the statutes by offering guidance and instruction on how to carry out the law's requirements."⁴⁰ According to one author, "perhaps the most explicit guidance provided in the general orders is in the acceptable reasons for denying release on citation."⁴¹ In states like Florida and Texas, for example, legislation authorizes officers to cite individuals for misdemeanors, but there are many local jurisdictions within those states that continue to choose to make full custodial arrests in some cases.⁴² Studies show that legal statutes and organizational policy, more than individual discretion, guide police decisions.⁴³

Professional Standards

A number of professional organizations weigh in on the use of citation in lieu of arrest by developing recommended standards. For example, the American Bar Association's (ABA) *Criminal Justice Standards, Pretrial Release* provides guidance favoring the use of citation in lieu of arrest in many circumstances.⁴⁴ Further, the National District Attorneys Association's (NDAA) *National Prosecution Standards* provide guidance on provisions for pretrial release conditions stating that pretrial release procedures, "recognize a respect for the presumption of innocence and, therefore, state a clear preference for release of defendants pending trial."

The standards also recognize the circumstances that make utilizing pretrial release risky.⁴⁵ The National Association of Pretrial Services Agencies (NAPSA) *Standards on Pretrial Release, Standard 1.2: Presumption of release under least restrictive conditions and other alternative release options* states, "in deciding pretrial release, a presumption in favor of pretrial release on a simple promise to appear (i.e., release on "personal recognizance") should apply to all persons arrested and charged with a crime."⁴⁶ Most recently, the 2011 National Symposium on

Pretrial Justice listed the use of citation releases as one of a number of steps toward pretrial justice reform, recommending, “using citation releases by law enforcement in lieu of custodial arrests for non-violent offenses when the individual’s identity is confirmed and no reasonable use exists to suggest the individual may be a risk to the community or to miss court appointments.”⁴⁷

Citation Eligibility

Statutes, municipal ordinances, and police department administrative policies define the criteria for defendants eligible to receive citations, as do professional organization standards. Organizations such as ABA, NDAA, NAPSA have weighed in on citation eligibility - recommending citation rather than custodial arrest whenever statute and municipal policy allow.⁴⁸

Most recently, the NCSL study defines circumstances under which many statutes require custodial arrest. According to this study, “[g]enerally, a custodial arrest must be made if one or more of these factors are present:

- There is reason to believe the person will not appear for court.
- There is reason to believe a person poses a danger to others, himself or herself, to property, the community, or that the person will not cease committing the alleged crime.
- There are outstanding warrants for the person.
- Detention upon arrest is deemed necessary to carry out legitimate investigation.
- If arrestee requires physical or mental health care, or is under the influence of drugs or alcohol.”⁴⁹

NCSL also found “common circumstances under which state laws generally prohibit a citation being issued:

- The arrestee refuses to sign a written promise to appear;
- The arrestee requests to be taken before a judge;
- Identification of the arrestee is unable to be verified; or
- The person is unwilling to provide fingerprints.”⁵⁰

Early literature on citation release by Busher (1978) spells out the difference between “eligibility” and “suitability” for citation in lieu of arrest.⁵¹ He described eligibility as those objective criteria spelled out in enabling citation legislation, court rules, and administrative operational orders. Suitability refers to subjective criteria that require officers to make determinations about arrestees, such as whether or not they will return to appear in court.⁵² These distinctions speak to the impact of police officer discretion in the use of citation in lieu of arrest.⁵³

Early literature also outlines the progression of legislation and policy from encouraging citation in lieu of arrest, often through legislation, to discouraging full custodial arrest in some instances. For example, the state of California adopted statutes authorizing the use of citation in lieu of arrest in 1957 and 1959.⁵⁴ In 1969, the state adopted a law that not only continued authorization of the practice, but strongly encouraged its use by requiring

the immediate investigation into misdemeanants' backgrounds as a way to secure pretrial release as soon as feasible.⁵⁵ In an effort to even further encourage the practice, jurisdictions like Oakland, California, require officers choosing arrest over citation to report the reasons for their refusal to cite.⁵⁶

3. POTENTIAL ADVANTAGES OF THE USE OF CITATIONS

Today, citation in lieu of arrest is a common practice used to address non-violent misdemeanors by many law enforcement agencies. However, at the time when the majority of foundational literature on the subject was produced (1970s and 1980s), many agencies were not using the practice, and proponents, it appears, utilized literature to advocate for increased use of the practice as a component of pretrial justice reform. For this reason, early citation literature is primarily prescriptive in nature, clearly outlining the use of citations to achieve potential advantages.

As part of that early work, in 1982 Floyd Feeney summed up the rationale for the use of the citation procedure in misdemeanor cases as, cost and time benefits for criminal justice agencies; harm to defendants' rights caused by pretrial detention (as opposed to citation use); and the conclusion that some people can be released safely.⁵⁷ This chapter outlines potential advantages, and supporting research where available, as described in the literature, to using citation in lieu of arrest.

Frees Officers to Return to Patrol

Many proponents of citation use point to its efficiency; writing a citation and sending the defendant on his or her way takes much less time than arresting, transporting, and booking. Therefore, officers are free to quickly return to their beat, respond to additional calls, and focus on other, more serious crime.⁵⁸

The literature on this benefit, however, is mixed. Some studies have shown considerable time savings, while others do not substantiate that the practice makes a significant impact on officers' more expedient return to patrol. In 1971-72 study of the Evanston, Illinois, Police Department citation program, investigators estimated that executing a citation in lieu of arrest involved approximately 15 minutes of an officer's time, while an arrest required a minimum of two hours, saving Evanston officers up to an hour and 45 minutes per incident.⁵⁹ In a more recent (2005) study in Gwinnet County, Georgia, researchers found that a patrol officer could issue a field citation and return to service in an average of 35 minutes, while an officer making a custodial arrest and obtaining an arrest warrant was out of service for 107 minutes (127 minutes if he or she needed to go all the way to the courthouse to obtain it).⁶⁰

On the other hand, Berger's 1970-71 investigation of the use of citation release by the New Haven, Connecticut, Police Department found that officer time savings is difficult to quantify and will vary from jurisdiction to jurisdiction due to arrest procedure and other variables. For example, while up to two hours of field patrol time

could be saved in a case, this significant savings occurred in only 10% of cases. Because of variation in arrest procedures, most cases saved considerably less time. While citation eliminated the time-consuming process of transporting a prisoner and filing paperwork at the jail, an officer making a custodial arrest could instead call for transport and file his or her report by phone in many cases. This eliminated the time necessary to follow the arrestee to the courthouse, thus closing the gap between the time a custodial arrest took and the time issuing a citation took, and reducing the time saved by using citation.⁶¹ Berger concluded that, "Based upon specific New Haven operating procedure, it thus appears that the citation program offered no real economies in field activities, but saved generally the equivalent of .59 man years for the department during the course of the project period."⁶²

Some practitioners support this, albeit without the support of rigorous scientific study. In a 2013 newspaper article, an Assistant Chief said that he believes writing citations saves only about 30 to 45 minutes during a 10 to 12 hour shift.⁶³

Efficiency and Cost Savings

Although studies on citation programs have consistently shown some cost savings and improvement in local criminal justice efficiency, the literature gives mixed reviews on the extent of the impact. As one author put it, "[t]he amount of savings a department might expect to accrue from the institution of a citation release program depends largely on arrest procedures already in place and the kind of citation program implemented."⁶⁴

Issuing a citation in lieu of arrest can eliminate time-consuming and costly involvement in the criminal justice system, claims some literature. For example, citation releases reduce the amount of time spent booking and releasing persons ultimately approved for pretrial release.⁶⁵ The procedure also reduces the number of low risk individuals requiring screening for pretrial services.⁶⁶ Finally, citation in lieu of arrest eliminates the need for court involvement prior to release, unlike release on recognizance, which requires the court to approve the release recommendation.⁶⁷

According to one early report, during the second full year of the Manhattan Summons Project (1969), the department released 22,685 persons saving \$1,587,950 ("the equivalent of saving the cost of more than 28,000 eight hour tours of duty").⁶⁸ In a 1995 study of FTA rates in Charlotte, North Carolina, Hirschel estimated a cost savings of \$100.96 (from \$120.96 for an arrest to \$20 to issue a citation) per citation in lieu of arrest.⁶⁹ Hirschel based the value on the cost of staff time for an arrest vs. a citation.⁷⁰ In 2011, an advocacy group, Florida TaxWatch, encouraged implementation of civil citation programs throughout the state based on an expected cost savings of between \$44 million and \$139 million annually for Florida taxpayers.⁷¹

Still, many questions regarding citation use affect on the efficiency of the criminal justice system remain. Additional studies with sophisticated cost/benefit analyses could benefit the field.

Reduction in Jail Population

Existing literature supports that utilizing citation in lieu of arrest is one strategy that may reduce the size of the pretrial jail population, and alleviate overcrowded jail.⁷² This is based, at least in part, on the assumption that pretrial detention of non-violent, misdemeanor offenders drives jail overcrowding. In a study in Mecklenburg County in 2005, the University of North Carolina at Charlotte found that 27% of the pretrial population was charged with misdemeanors only.⁷³ Nationally, a staggering 60% of inmates in jails today are awaiting trial.⁷⁴

While some studies did show that citation utilization rates increased during implementation of citation policy, which in turn reduced jail 'bed days,' the actual impact on jail populations did not appear to be studied in depth.⁷⁵ For example, one study on the use of summons in lieu of arrest in an undisclosed jurisdiction shows that cases originating during the study period (8 months at the end of 2002, immediately following implementation of summons policy), were more likely to be booked and released on the same day than those in the comparison period (the same 8 months during the previous year, prior to implementation of summons policy), reducing bed stays, from 49,796 prior to implementation of the policy to 40,168 after implementation of the policy.⁷⁶

According to one author, "the degree to which local jurisdictions choose to utilize these nonfinancial pretrial release alternatives will help determine whether jail overcrowding improves or worsens in the 1990s."⁷⁷ More thorough research on citation policy impact on jail populations is necessary to fully understand the impact.

Protection of Individual Rights of the Accused

Much of the literature reviewed cites protection of individual rights of the accused in cases of minor crimes as another benefit of using citation as an arrest alternative.⁷⁸ Literature suggests this as a benefit for a number of reasons:

1. Unnecessary arrest can cause undue hardship on the arrestee, forcing loss of work, damage to his or her reputation, and financial burdens.⁷⁹ One author writes, "to an individual under arrest, it generally means at least a temporary loss of freedom, a damaged reputation, and an arrest record which may not be expugnable even if the arrest was illegal."⁸⁰
2. Use of citation in lieu of arrest can keep first time offenders from becoming involved in the criminal justice system in the first place.⁸¹ Research suggests that diversion from the criminal justice process tends to reduce reoffending, particularly in the case of young and first-time offenders.⁸²
3. Cited offenders do not incur arrest records in some jurisdictions.
4. Cited individuals are free to prepare for their day in court because they are not incarcerated prior to trial.⁸³ Some studies have shown a correlation between pretrial detention and conviction rates, suggesting that those who are not free to prepare for trial may be at a disadvantage in court.⁸⁴

5. Use of citations in lieu of arrest avoids pre-trial release based solely on financial ability, which is often considered discriminatory.⁸⁵
6. Some law enforcement agencies have suggested that the availability of citation release for minor offenders has reduced the number of complaints about police “brutality and maltreatment in detention.”⁸⁶
7. Employment of citation in lieu of arrest procedures can reduce community disruption and ill will generated by hardship for minor offenses, according some literature.⁸⁷ One report states, “research suggests that the unnecessary removal of individuals from their communities has serious effects on the stability of families and neighborhoods, and may actually contribute to problems of crime and disorder.”⁸⁸

While literature claims that use of citation policy can help protect the individual rights of the accused and the communities in which they reside, the field would benefit from more rigorous studies on the subject, including the tradeoffs between benefits and risks to the community.

4. CONSIDERATIONS AND CHALLENGES FOR LAW ENFORCEMENT

Existing literature also identifies potential challenges and considerations for implementation of citation policy. This chapter reviews those issues.

Increases in Failure to Appear Rates

The most commonly cited risk of using citation in lieu of arrest is the increased probability of FTAs in court. For example, in response to a Texas law that allows officers to issue a citation in lieu of arrest on minor offenses, one County Sheriff expressed the concern that, “[i]f you write a thief a ticket, he’s not going to show up and you’re going to end up having to pick him up on a warrant and you’ll be right back where you started.”⁸⁹ Much of the research and news articles about citations touch on the actual or perceived threat of increased FTA in citation populations. There is some existing data and research on the issue of FTA rates for citations, but the field would benefit a great deal from more research on this topic, including how to weigh the costs of FTAs against the potential benefits of citations, and to what extent those tradeoffs may exist.

Although some studies exist on FTA rates for citations in specific jurisdictions, many of them suffer from significant limitations. First, it is hard to make comparisons across jurisdictions because studies use multiple operational definitions of FTA, and different units of analysis.⁹⁰ In addition, very few studies have isolated FTA rates on citations versus those of the entire defendant population.⁹¹ This is a significant shortcoming because without isolating FTA rates for citation recipients, it is impossible to determine if changes in FTA rates are directly related to citation policy, or another causal variable affecting the entire defendant population. Finally, the ways in which FTA data is collected and stored by criminal justice agencies varies from jurisdiction to jurisdiction, making accurate comparisons difficult.

A number of studies have attempted to investigate whether increased use of citation actually does increase the rate at which individuals fail to appear for court, or if this is simply a pervasive perception.

- In 1961 during the Manhattan Bail Project, researchers found that pretrial release based on verifiable information about a defendant’s stability and community ties (rather than financial criteria) could ensure that a defendant would return for court appearance.⁹²
- In 1969, researchers surveyed a number of California communities using early implementation of citation in lieu of arrest to determine impact on FTA rates. Although a relatively small sample was used, researchers found that FTA rates for jail citations ranged from 0% to 13%.⁹³
- In his 1972 article on the New Haven, Connecticut, Police Department’s implementation of citation in lieu of arrest, Berger found that 79.5% of all persons issued citations during the study period appeared in court as promised, leaving an FTA rate of 20.5%.⁹⁴
- In a 1995 study of Charlotte, North Carolina, FTA rates, Hirschel found that 23.2% of those issued citations failed to appear at their first scheduled court appearance versus 3.9% who had been arrested.⁹⁵ These numbers increased to 37.1% and 13.8% when researchers account for the number of court appearances missed.⁹⁶ The chart below shows this in detail.

TABLE 2
COMPARATIVE FAILURE TO APPEAR RATES FOR CITATION AND ARREST CASES

	Defendant Failed to Appear at First Scheduled Court Appearance ^a		Total Number of Times Defendant Failed to Appear for Scheduled Court Appearances ^b		
	Yes	No	0	1	2
Citation	39 (23.2%)	129 (76.8%)	105 (62.9%)	59 (35.3%)	3 (1.8%)
Arrest	9 (3.9%)	223 (96.1%)	200 (86.2%)	30 (12.9%)	2 (0.9%)

^a $\chi^2 = 34.50; p > 0.01; \text{Phi} = 0.29.$
^b $\chi^2 = 29.43; p > 0.01; \text{Cramers } V = 0.27.$

Table 1: From Hirschel & Dean. "The Relative Cost Effectiveness of Citation and Arrest"

Additionally, news reports in Austin, Texas claim that after a 2007 change in Texas state law allowing expanded use of citation for certain misdemeanors, an FTA rate as high as 40% was reported for these cases.⁹⁷

In order to address concerns about public safety, justice and cost associated with FTA rates, some jurisdictions have implemented strategies to attempt to reduce FTA for citations. For example, some agencies have seen success in the use of some form of court date notification or reminder system, such as postcards or live call reminders, to decrease FTA rates.⁹⁸ Others recommend a reduction in the time between arrest and court appearance. In New York City, the time between arrest and arraignment was one of the strongest predictors of FTA among 2011 DAT arrests.⁹⁹ In Gwinnet County, Georgia, if a defendant fails to appear for their first court date, the county generates a second court date at which time a notice is sent reminding him or her that he or she missed the scheduled court

date, informing him or her of the new date, and encouraging him or her attend the “second chance” to avoid issuance of a bench warrant.¹⁰⁰

Implementation

Some literature contends that implementation challenges in citation in lieu of arrest can contribute to underutilization of the policy in some jurisdictions. In their comprehensive work on citation release, Whitcomb and her colleagues (1984) cite faulty program planning and implementation as one reason. Her work offers steps for proper planning and implementation, including needs assessment, statutory review, prioritization of objectives, formulation of policy, design of citation form, and refinement of procedures.¹⁰¹ Other authors followed suit in offering additional prescriptive program implementation steps and guides.¹⁰² These same authors encourage detailed data collection and continual program evaluation as a means for improving citation processes.¹⁰³

It is difficult, however, to determine from the literature how many agencies proactively implemented citation in lieu of arrest policy as a formal program, or simply adapted to policy change as a response to address a budget, jail crowding, or other issue. Very few studies discuss the actual process of implementation of citation policy in a jurisdiction, other than those providing guidance on how it “should” be done. In his study of changes in arrest policy due to court imposed reductions in jail population, Welsh raises the question of how the lack of well-researched, well-choreographed, and well-accepted changes impact the sustainability of a pretrial release policy.¹⁰⁴ He warns against making reflexive changes to criminal justice environments without the benefit of a calculated approach. He believes that sustained change comes with evidence-based methodology.¹⁰⁵ The question of how citation policy is actually planned, implemented, and integrated into law enforcement agencies has yet to be answered in relevant and contemporary literature.

Interagency Collaboration

The interconnectivity of autonomous criminal justice agencies, the literature suggests, creates hurdles to implementing new or expanded citation policy. According to Whitcomb, “local government is not structured to nurture development and use of citation release procedures.”¹⁰⁶ She goes on to say “effective planning and operation of citation release programs require integrated action among a broad and disparate array of departments, agencies, and officials.”¹⁰⁷ Welsh adds that an agency’s release decisions tend to serve the interest of their own organization as opposed to common goals.¹⁰⁸ Unintended consequences to other agencies may occur once citation procedures get under way, causing each agency to adapt as they deem appropriate.

As part of a comprehensive review to reduce jail overcrowding in Los Angeles County in 2011, the Vera Institute of Justice recommended that, as a first step, stakeholders reach a consensus “on the most critical uses of the jail and find alternatives for the others.”¹⁰⁹ In New Orleans, a recent decision by the New Orleans City Council to change

four minor offenses into city ordinance violations in an effort to reduce custodial arrests in those cases is backed by all segments of the criminal justice system, including judges, prosecutors, and law enforcement.¹¹⁰

However, citation in lieu of arrest policy can also be met with resistance from criminal justice counterparts, positioning the practice in the center of a justice tug-o-war. In response to Texas legislation permitting citation for five misdemeanors (marijuana possession, theft by check or services, criminal mischief, graffiti, and driving with an invalid license), two Texas district attorneys said in an interview that they would not prosecute the offense if brought to their office by citation.¹¹¹ Conversely, county jailers in California responded to an overcrowding problem by refusing to take misdemeanants who could have been cited instead of arrested by law enforcement (conducting jail releases instead). “[B]etween January 1 and November 13, 1989, county jailers refused to take 24,447 misdemeanor suspects brought to them by the local police agencies.”¹¹²

Procedural Challenges

According to existing literature, procedural challenges stemming from implementation or increased use of citation can inhibit departments from utilizing the practice as frequently as they could. As one author puts it, “making an arrest, booking an offender, charging a crime, securing a plea, imposing a term of months or years, and revoking parole are all tasks that can become almost automated, particularly when performed day in and day out over the course of years.”¹¹³ When changes to processes are required, literature posits, difficulties are inevitable. While little data supporting these challenges was identified, specific procedural areas cited as being negatively impacted by citation in lieu of arrest policy are officer and community safety, and deficiencies in criminal history data.

Officer/Community Safety

Some contend that officer safety may be reduced by procedures used to issue citations in lieu of arrest at the scene. In a review of the Evanston, Illinois, Police Department in 1974, for example, officers expressed concern about the process of writing a citation at the scene of an incident while crowds gathered. In fact, 52% of officers interviewed feared their safety—and the safety of the arrestee—was compromised by interference from bystanders.¹¹⁴

However, one could argue that making a custodial arrest could be equally, or more dangerous than issuing a citation, with almost 50,000 law enforcement officers assaulted during performance of duty in 2013.¹¹⁵ Of those assaults, 31.2% occurred responding to disturbance calls, 16.3% occurred while attempting to make other arrests, and 12.8% occurred while handling, transporting or maintaining custody of prisoners.¹¹⁶ While further analysis on the danger inherent to officers making a full custodial arrest versus issuing a citation would be beneficial, no studies were found during the research conducted for this report.

Data

Lack of data is another prominent procedural concern noted throughout the literature for two reasons. First, because citation eligibility is based on the ability of the officer to verify the identity of a citation recipient, access to data to facilitate identification is important. In the study by Whitcomb and her colleagues in 1984, the most commonly cited risk in using field citations was the inability to secure positive identification on the arrestee (e.g., via fingerprints and photographs).¹¹⁷ According to Allen's study of California's implementation of Penal Code Section 853.6, "since a large proportion of the physical arrests for misdemeanor offenses are due to insufficient evidence of identity to qualify for a field citation, the results of the identification check become crucial."¹¹⁸ While much of the literature written on these concerns date back 30 or more years—prior to law enforcement's ability to access volumes of data through mobile data terminals and other technology—there is evidence that it is still a challenge today. During a 2011 review of Los Angeles County Jails, the Vera Institute of Justice recommended increasing law enforcement's capacity for field identification and expanding the County's Blue Check program to make identification technology available in all patrol cars so that law enforcement officers can cite and release more individuals in the field.¹¹⁹

The second procedural challenge with regard to data is that in cases where booking, fingerprinting, or photographing of cited individuals does not occur, no record of them or their infraction may exist. "The primary purpose for booking an arrested person is to obtain fingerprints and photographs for department files."¹²⁰ Because actual booking does not occur in the citation process, in many cases, fingerprints and other identifier information are not captured, and a criminal history record entry may not be created for the offense – sometimes not even after conviction on the charge.¹²¹ This may be due to lack of access to a database or other technology at the time of citation issuance, or other procedural challenge. To some, this is a benefit of utilizing citation policy.¹²² To others, it is a deficiency in the process, and a concern for law enforcement. According to a 2013 paper by Mark Perbix at SEARCH,¹²³ "one of the biggest unintended consequences of cite and release policies is the adverse impact on recording complete arrest information in state criminal history repositories." Perbix goes on to say that, "although the prosecution of the offender continues in most cases, the outcome cannot be accurately recorded in the criminal history because (a) no original arrest record exists in the criminal history, and (b) the court has no biometric identifier associated with the offender."¹²⁴

Police Officer Discretion

In many jurisdictions, subject to the statutory limitations discussed above, a considerable amount of latitude is given to law enforcement to determine when to issue citations. Citations give officers an option between the extremes of doing nothing or making an arrest, and can thus provide officers more flexibility when enforcing the law and protecting public safety.¹²⁵ However, it may also create opportunities for officer use of discretion that may be unfair or undermine public safety. Citations might be utilized "in a discriminatory or arbitrary fashion: some arrestees may be cited when they should have been detained or released with only a warning."¹²⁶ Law enforcement agencies have taken different approaches to the use of officer discretion in the issuance of citations.

Floyd Feeney described the three general approaches law enforcement agencies take to officer decision-making with respect to citation.

- The individual discretion approach provides the officer with the most latitude to decide whether to cite or arrest. It may work best in smaller departments where officers have more knowledge about individuals in the community.
- The departmental guidelines approach provides the officer with the most latitude to decide whether to cite or arrest. It may work best in smaller departments where officers have more knowledge about individuals in the community.
- The point system approach provides the officer with useful departmental guidance on when to cite or arrest, without adding the complexity of a point system. It standardizes the decision making and reduces officer discretion. However, this approach can be somewhat cumbersome.¹²⁷

Some jurisdictions place firm limits on officer discretion. For example, in Oakland, California, officers are required to document the reason arrest was selected in cases where citation is authorized. "Oakland requires that the officer report his reasons for any refusal to cite."¹²⁸ In other jurisdictions, departments use point systems as a tool to streamline decision making in issuing citations. Point system tools typically assist in assessing FTA risk when making citation versus arrest decisions.

Many studies have been conducted to better understand how officer discretion impacts arrest decisions. One study from 1972 showed that an organizational emphasis on ticket quotas increased the proportion of citations issued to certain demographics of the population.¹²⁹ Additionally, an observational study of police in Cincinnati, Ohio, in 1996-97 showed officers were more likely to issue citations as opposed to doing nothing, or to making a custodial arrest in non-traffic encounters.¹³⁰ However, another study (2002) found that non-arrest behavior, given a range of options, is much more prevalent than arrest regardless of evidence strength.¹³¹

The inability to accurately predict and explain how an officer will use discretion in determining which cases to issue citation makes its impact on utilizing citation policy unpredictable.¹³² Understanding the criteria that officers perceive to be effective in informing discretionary custodial decisions and effectiveness of those criteria should be studied. The field could benefit from new research, data and tools to assist officers in making the best possible decisions about when it is safest and most cost-effective to utilize citations.

Net Widening

Related to officer discretion in issuing citation in lieu of arrest is the theory of "net widening."¹³³ The theory, as explained in the literature, contends that, generally, as control becomes less punitive, it is extended to greater numbers of individuals.¹³⁴ Proponents of this theory predict net widening could be a challenge for implementation

of citation policy. They warn that citation release procedures could lead to increases in the total number of persons coming before the courts.¹³⁵ “The new arrest alternative, although intended to reduce the number of persons being subjected to full custody arrest, could also reduce the number of those to whom nothing is done.”¹³⁶ In other words, “some critics have suggested that officers will be prone to issue citations to persons who previously would have been released with a warning or reprimand, thereby bringing more people into the criminal justice system and ‘widening the net’ of social control.”¹³⁷ The majority of the literature discussing the net widening theory was published in the 1970s and 1980s, soon after the reform took root.¹³⁸ A study by Julie Horny of the Omaha, Nebraska, Police Department found the theory to have some merit, but only for the offenses of larceny and assault.¹³⁹ In the end, Horney concluded that, “it is also obvious that the citation policy did not result in a dramatic widening of the criminal justice net.”¹⁴⁰

Officer Perception

Lack of departmental internal support for citation in lieu of arrest has been noted as another hurdle to better understanding utilization of the policy. Because officers have such broad discretion in the use of citation, their attitudes about the practice are important to understand. A number of researchers have incorporated stakeholder perceptions into their studies. Many have conducted interviews or surveys to gauge officers’ opinions.¹⁴¹ They found that while many understand and support the benefits of using citation in lieu of arrest, some expressed concern about how the practice impacts policing and, in particular, their ability to protect communities.

Whitcomb and her colleagues surveyed 25 law enforcement agencies and visited six. They found that some line officers believed citations to be a “bankrupt policy,” leaving law enforcement without the sanctioning power to serve justice.¹⁴² Some officers become frustrated by the “revolving door” situation that is created when those who break the law are arrested but are immediately back out on the street, possibly committing the same crimes again.¹⁴³ In these cases, officer morale suffers.

In an interview during Welsh’s study of California’s use of cite and release policy published in 1993, one police official said, “(c)ops dislike it because it makes your job meaningless ... you’re banging your head against the wall; they tell me I’m out here to uphold the law, and I pick these people up who did all these bad things ... and now you let them go.”¹⁴⁴ Similarly, in a study in the 1970s of Evanston, Illinois, police use of citation in lieu of arrest, researchers found that officers “held a negative view” of the policy, fearing the potential for further violence, lack of legitimacy, offender FTA rates, and failure to convict.¹⁴⁵ They also cited other concerns associated with the procedure such as loss of overtime pay.¹⁴⁶ In Texas, the Jefferson County Sheriff expressed concern regarding recently changed legislation making a number of misdemeanor offenses citable, stating, “[p]hilosophically, I don’t like that it seems to be a step toward decriminalizing the offenses.”¹⁴⁷

More recent literature, however, shows that the approach of using citations may be becoming increasingly accepted in the law enforcement community. In a survey of Georgia law enforcement in 2005, 82% of surveyed sheriff's offices and 93% of surveyed police departments supported changes to criminal procedure laws allowing officer discretion to use field citations for misdemeanor shoplifting. While a few officers noted preference based on specific criteria¹⁴⁸ to make custodial arrests as reasons for reluctance to use the policy,¹⁴⁹ for the most part, those surveyed embraced the potential use of citations. Those officers who preferred custodial arrest over citation referenced uncertainty in appropriateness for citation, victim preference for arrest of offender, belief in arrest as a powerful deterrent, and personal preferences as reasons for the preferring to use custodial arrest. In a *Times-Picayune* article, the New Orleans, Louisiana, Police Superintendent called a recent change in municipal code that makes four types of offenses citable, "not being soft on crime but smart on crime."¹⁵⁰

Whitcomb and her colleagues noted that police departments seemed to lack training regarding citation policy. They suggested that training officers on the benefits and procedures for issuing citation in lieu of arrest might help to ameliorate officer concerns and generate support for its use.¹⁵¹ In more recent studies, little mention of officer training on citation is made.

Community Perception

Literature tends to support that community perception of citation in lieu of arrest can have an impact on its use. Officers have reported that they are sometimes reluctant to use citations when victims complain about seeing offenders simply given a citation and sent on their way, as opposed to being arrested and taken to jail.¹⁵² Utilization of citation represents apparent leniency of police response to the incident.¹⁵³ In 2013, the Humboldt County, California, Sheriff's Office faced criticism from citizens regarding cite and release incidents. A media report on the issue stated, "[r]epeat offenders are said to be arrested for crimes like car theft and burglary and only cited and released due to the jail's recently-infused population of non-violent felony offenders."¹⁵⁴ Special interest groups (e.g., business organizations, bail bondsman organizations) may also resist the use of citations for those offenses that threaten to impact their business. In San Francisco, for example, a local merchant group in a popular tourist area opposed the use of citation for prostitution.¹⁵⁵ Community opposition to cite and release policy could be a particular challenge for law enforcement officers who are often the first contact for victims, business owners, and residents affected by the policy. However, more information on the community's perception of the use of citation policy could help to inform a better understanding of how, when and why citation policy is used.

5. CONTEMPORARY ISSUES IN USE OF CITATION IN LIEU OF ARREST

Possession, Use, and Purchase of Marijuana

Recent changes in marijuana laws are controversial to say the least. Last year, Denver legalized the sale of recreational marijuana.¹⁵⁶ Cities in states like Maine (Portland) and Washington have made it legal for people 21 and over to possess marijuana, but not to buy or sell it. As part of those changes, the use of citation as a way to address marijuana violations without custodial arrest are becoming commonplace in many jurisdictions. In 2012, Chicago City Council approved a measure allowing police to cite those carrying small amounts of marijuana rather than making an arrest.¹⁵⁷ All indications are that many other jurisdictions are moving in the same direction. The evolving nature of marijuana citation policy can serve as a contemporary illustration of some of the general issues facing law enforcement executives in understanding whether to; how to; and when to implement citation policy.

Not only is marijuana legislation continually evolving, but enforcement of the laws may vary from jurisdiction to jurisdiction. Even within the same department, officers are often given latitude to arrest or cite an offender for possession of marijuana (or as statutorily defined), causing differences in officer response. In March 2014, the Rock Island, Illinois, City Council voted to allow officers to cite for possession of small amounts of marijuana (as well as failure to use a seat belt and unlawful use of communication devices). But, the Rock Island Police Chief enforced his department's right to use discretion during a newspaper interview, "Let me be clear, it is still illegal to possess cannabis in any amount. All we're doing is giving officers another option. There are situations when it's not appropriate to jail someone."¹⁵⁸ The Portland, Maine, Police Chief echoed this sentiment by defending his officers' right to continue to use discretion in cases involving marijuana even after a new law legalizing it went into effect.¹⁵⁹

Even in instances where the directive gives less latitude to officers, they may choose to arrest. For example, in 2011, the New York City Police Commissioner issued a memo to commanders reiterating that officers are not to arrest people who have small amounts of marijuana in their possession unless it is in public view.¹⁶⁰ In May of 2013, desk appearance tickets (DATs) become mandatory for all defendants charged with misdemeanor marijuana possession, with very few disqualifying factors (the only charge for which a DAT must be issued, according to the NYPD Patrol Guide).¹⁶¹

The evolving nature of marijuana laws, and the response of law enforcement's use of citation for those offenses are illustrative of some of the challenges described in the literature. First, the complexity of the constantly changing nature of and the layering effect of state and municipal laws coupled with department directives creates

inconsistencies in addressing marijuana offense. Second, the discretionary latitude given to law enforcement agencies creates inconsistencies in application of marijuana legislation. As one author writes, “the various alternatives to arrest and/or prosecution are underpinned by the notion of police discretion.”¹⁶² Other general considerations—increased FTA rates, lack of internal and community support, political impact, and the potential net-widening effect—on the use of citations for marijuana offenses could provide more insight into general citation policy use nationwide.

6. CONCLUSION

This report was intended to review the existing literature on the use of citation in lieu of arrest, with a focus on information that could inform an understanding of utilization of the practice. The dearth of long-term, contemporary, comparable implementation and impact data needs to be remedied. There is much to learn from those using citation in lieu of arrest, including the extent to which it is being utilized, and in what contexts; there is also a lot to learn from those agencies that *don't* use the practice.

As such, the IACP, in partnership with LJAF conducted a nationally representative survey of law enforcement agencies regarding their experiences, perceptions, policies, and data collection around citation. The intent of the survey was not only to elicit data regarding citation, but also lead to existing data sets, the combination of which will fill a current void. Going forward, this citation-specific data will be invaluable in informing the development of evidence-based citation in lieu of arrest policy.

GLOSSARY

Arrest - While the definition of **arrest** is complex and varied, it can basically be defined as “the decision by a police officer to take into physical custody, by virtue of the authority of the law, a person who is suspected of having violated a law.”¹⁶³ Officers use the power of arrest to maintain order and enforce the law.

Field release - a form of citation release characterized by an arresting officer, upon determining the eligibility and suitability of an arrestee for release, releases the arrestee on his or her written promise to appear, at or near the actual time and location of the arrest. Field releases rely on verification of identity in the field. Station house release is a form of citation release characterized by the deferral of the (1) determination of an arrestee's eligibility and suitability for release and (2) his actual release on his written promise to appear until after he has been removed from the scene of his arrest (if elsewhere than at the arresting department's facilities) and brought to the department's station house or headquarters.¹

Post-detention release (or jail release) - a form of citation release characterized by the deferral of the (1) determination of an arrestee's eligibility and suitability for release and (2) his actual release (on the authority of the arresting department) on his written promise to appear until after he has been diverted by the arresting department to an intake-service center, jail, or other pretrial detention facility for screening, booking, and/or admission.

Pretrial release - refers to “one of a number of procedures whereby an accused person who has been taken into custody is allowed to be free before and during his trial.”¹⁶⁴ Some forms of pretrial release include release on recognizance, conditional release, release to a third party, release on bail, and citation release.¹⁶⁵ “Release on bail is the release by a judicial officer of an accused person who has been taken into custody upon his promise to pay a certain sum of money or property if he fails to appear in court as required, which promise may or may not be secured by the deposit of an actual sum of money or property.”¹⁶⁶

Stationhouse release - a form of citation release characterized by the deferral of the (1) determination of an arrestee's eligibility and suitability for release and (2) his actual release on his written promise to appear until after he has been removed from the scene of his arrest (if elsewhere than at the arresting department's facilities) and brought to the department's station house or headquarters.¹⁶⁷

ENDNOTES

- ¹ National Center for State Legislatures, "Pretrial Release," webpage. <http://www.ncsl.org/research/civil-and-criminal-justice/pretrial-release.aspx> (accessed March 17, 2014).
- ² Robert A. Brown and James Frank, "Police-Citizen Encounters and Field Citations: Do Encounter Characteristics Influence Ticketing?" *Policing: An International Journal of Police Strategies & Management* 28, no. 3 (2005): 435-454.
- ³ Anonymous, "An Analysis of the Citation System in Evanston, Illinois: Its Value, Constitutionality and Viability." *The Journal of Criminal Law and Criminology*. (1973-1), Vol. 65, No. 1 (March 1974), 75-86.
- ⁴ Ibid.
- ⁵ Ibid; Mark Berger, "Police Field Citations in New Haven," *Wis. L. Rev.* (1972): 382-417 ; Floyd F. Feeney, "Citation in Lieu of Arrest: The New California Law." *Vanderbilt Law Review* 25, no. 2 (1972): 367-395; and Julie Horney, "Citation Arrest: Extending the Reach of the Criminal Justice System?" *Criminology* 17, no. 4 (1980): 419-434.
- ⁶ Todd Minton, "Jail Inmates Midyear 2012 - Statistical Tables," U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (May 2013).
- ⁷ Project results and reports can be found at www.theiacp.org/citation.
- ⁸ IACP also addresses pretrial release decisions through the Pretrial Justice Reform Initiative, funded by the Public Welfare Foundation.
- ⁹ Finalized survey data can be found at www.theiacp.org/citation.
- ¹⁰ Feeney, Floyd, *The Police and Pretrial Release* (Lexington, MA: Lexington Books, 1982).
- ¹¹ Whitcomb, *Citation Release*.
- ¹² Justice Policy Institute, *Due South: New Orleans, Louisiana: Reforming Arrest and Pretrial Practices* (May 2011), http://www.justicepolicy.org/uploads/justicepolicy/documents/due_south_-_new_orleans.pdf (accessed April 4, 2014). Criminal Justice Leadership Alliance, "Use of Summonses and Custodial Arrests for Municipal Offenses," April 7, 2010, <http://www.nolacitycouncil.com/docs/committees/Use%20of%20Summonses%20CLA%20final%20report%204%207%2010.pdf> (accessed April 3, 2014); Criminal Justice Leadership Alliance, "Use of Summonses versus Custodial Arrest for Municipal Offenses," September 30, 2010, <http://thelensnola.org/wp-content/uploads/2010/10/cReport-on-summonses.pdf> (accessed April 3, 2014).
- ¹³ Whitcomb, *Citation Release*.
- ¹⁴ <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx>
- ¹⁵ <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx>
- ¹⁶ Whitcomb, *Citation Release*; Hirschel and Dean, "Relative Cost-Effectiveness of Citation and Arrest."
- ¹⁷ Bruce Johnson et al., "An Analysis of Alternatives to New York City's Current Marijuana Arrest and Detention Policy," *Policing* 31, no. 2 (2008): 226-250. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2519880/pdf/nihms48453.pdf> (accessed March 31, 2014).
- ¹⁸ Whitcomb, *Citation Release*.
- ¹⁹ Davis, "Should Georgia Change Its Misdemeanor Arrest Laws to Authorize Issuing More Field Citations?"
- ²⁰ Whitcomb, *Citation Release*, 54
- ²¹ Gottfredson and Gottfredson, *Decision Making in Criminal Justice*, 69.
- ²² Stephanie Gioia, "Knowles v. Iowa: No 'Search Incident to Citation' Exception." *Am. J. Crim. L.* 26, no. 1 (Fall 1998):193-195.
- ²³ Matthew Minerva, "Preventing 'Senseless' Arrests: Searching for a Constitutional Resolution of *Atwater v. City of Lago Vista*," *Hofstra Law Review* 31, no. 1 (2002): 7, <http://scholarlycommons.law.hofstra.edu/cgi/viewcontent.cgi?article=2201&context=hlr> (accessed March 17, 2014).
- ²⁴ Minerva, "Preventing 'Senseless' Arrests"; Davis, "Should Georgia Change Its Misdemeanor Arrest Laws to Authorize Issuing More Field Citations?"
- ²⁵ Anonymous, "An Analysis of the Citation System in Evanston, Illinois," 80.
- ²⁶ "First, does the delegation of extensive discretion to individual officers create the probability that the system will be applied discriminatorily? Second, can eligibility for citation be limited to those individuals who possess adequate community roots? Third, can felons [when there is no additional risk of violence] be excluded from the operation of the system?" The argument here is that in some instances the difference between a misdemeanor and felony version of a charge is small. In the case of theft for example, the difference between a felony and a misdemeanor charge could be \$1 in value of merchandise stolen. Ibid.
- ²⁷ State legislation on citation in lieu of arrest for all 50 states can be found at <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx>.
- ²⁸ The issuing authority is almost always required to consider one or more factors in determining whether or not to issue a citation. (A list of common exclusions to eligibility for receipt of citation in lieu of arrest can be found in Section 2 of this report.) Even under circumstances in which there is presumption of citation, enumerated factors must first be considered. National Conference of State Legislatures, "Citation in Lieu of Arrest."
- ²⁹ Busher, *Citation Release*, viii.
- ³⁰ Alan G. Gless, "Arrest and Citation: Definition and Analysis." *Neb. L. Rev.* 59 (1980): 319.
- ³¹ National Conference of State Legislatures, "Citation in Lieu of Arrest," <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx> (accessed April 29, 2014).
- ³² <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx>
- ³³ This is not to imply that officers have the broad discretion to cite an offender for any offense (i.e. homicide), but that within the context of existing law and policy, officers may use their discretion in issuing citations.
- ³⁴ For example, Maryland requires police officers to issue citation for any misdemeanor that does not carry a penalty of imprisonment, most misdemeanors punishable by a maximum of 90 days, and for misdemeanor possession of marijuana.
- ³⁵ Gless, "Arrest and Citation," 318.

³⁶ Whitcomb, *Citation Release*.

³⁷ *Ibid.*

³⁸ Whitcomb, *Citation Release*.

³⁹ *Ibid.*

⁴⁰ Whitcomb, *Citation Release*.

⁴¹ Whitcomb, *Citation Release*.

⁴² Margie Menzel, "Tallahassee Plans Citations as Arrest Alternative," Channel 2 News On-line, October 31, 2012, <http://www.nbc-2.com/story/19966013/tallahassee-plans-citations-as-arrest-alternative> (accessed March 18, 2014); Texas District & County Attorneys Association, "Pot Smokers Might Not Get Arrested," <http://www.tdcaa.com/node/1063> (accessed March 31, 2014).

⁴³ William Terrill and Eugene A. Paoline, "Nonarrest Decision Making in Police-Citizen Encounters," *Police Quarterly* 10, no. 3 (2007): 308-331, <http://www2.cohpa.ucf.edu/crim.jus/documents/PaolineNonarrestdecisionmaking.pdf> (accessed March 19, 2014).

⁴⁴ American Bar Association (ABA), *Criminal Justice Section Standards, Pretrial Release*, 3rd ed. (Washington, DC: American Bar Association, 2007). http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_pretrialrelease_toc.html (accessed on March 17, 2014). Specific wording includes:

- "The purposes of the pretrial release decision include providing due process to those accused of crime, maintaining the integrity of the judicial process by securing defendants for trial, and protecting victims, witnesses and the community from threat, danger, or interference."
- "The law favors the release of defendants pending adjudication of charges."
- "Release by Law Enforcement Officer Acting Without An Arrest Warrant. This part of the standard gives guidance to LEOs regarding citations, including policy favoring issuance of citations (10-2.1), mandatory issuance of citation for minor offenses (10-2.2), permissive authority to issue citations in all cases (10-2.3), and lawful searches (10-2.4)."
- "It should be the policy of every law enforcement agency to issue citation in lieu of arrest or continued custody to the maximum extent consistent with the effective enforcement of the law. This policy should be implemented by statutes of statewide applicability."

⁴⁵ National District Attorneys Association (NDAA), *National Prosecution Standards*, 3rd ed. (National District Attorneys Association), <http://www.ndaa.org/pdf/NDAA%20NPS%203rd%20Ed.%20w%20Revised%20Commentary.pdf> (accessed April 11, 2014).

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⁴⁹ National Conference of State Legislatures, "Citation in Lieu of Arrest," <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx> (accessed April 29, 2014). Similar lists can also be found in Whitcomb, *Citation Release*; Feeney, "Citation in Lieu of Arrest"; and Anonymous, "An Analysis of the Citation System in Evanston, Illinois."

⁵⁰ *Ibid.*

⁵¹ Busher, *Citation Release*.

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APPENDIX A

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APPENDIX B

Citation in Lieu of Arrest State Legislation Chart (National Conference of State Legislatures)¹

State & Statute	For What Offenses Can a Citation Be Issued?	Exceptions	Presumption of Citation	When Is Citation Issued?	Who Issues Citation?
Alabama §11-45-9.1	Class C Misdemeanors	Offenses involving violence, threat of violence, alcohol or drugs.	No	After arrest	Law enforcement officers
Alaska §12.25.180	Misdemeanors	Offenses involving violence to property or person; when there is probable cause that domestic abuse was involved.	No	Prior to arrest	Peace officers
Arizona §13-3903	Misdemeanors	Not specified	No	After arrest	Peace officers
Arkansas No statute located					
California Penal Code §853.6	Misdemeanors	Offenses involving domestic violence or abuse (unless the officer determines there is not a reasonable likelihood that the offense will continue). Offenses that require a bail hearing rather than release according to a bail schedule.	Yes	Either	Law enforcement officers or their superiors.
Colorado §16-3-105	Misdemeanors	Domestic violence offenses	No	After arrest	Law enforcement officers; responsible command officers.
Connecticut §54-1h	Misdemeanors; offenses punishable by a maximum of one year imprisonment or a maximum fine of \$1000.	Not specified	No	After arrest	Arresting officer
Delaware 11 Del. C. §1907	Misdemeanors	Not specified	No	Not specified	Peace officers
District of Columbia No statute located					
Florida §901.28 superseded by R. Cr. P. 3.125	1 st or 2 nd degree misdemeanors.	Not specified	No	After arrest	Law enforcement officers

¹ National Conference of State Legislatures, "Citation in Lieu of Arrest," <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx>

State & Statute	For What Offenses Can a Citation Be Issued?	Exceptions	Presumption of Citation	When Is Citation Issued?	Who Issues Citation?
Georgia No statute located					
Hawaii § 803-6	Misdemeanors and petty misdemeanors.	Not specified	No	Prior to arrest	Police officers
Idaho §19-3901	Misdemeanors	Not specified	No	Not specified	Law enforcement officers
Illinois 725, ILCS 5/107-12	When there are reasonable grounds to believe that a person is committing or has committed a crime.	Not specified	No	Not specified	Peace officers
	Class C misdemeanors	Not specified	No	After arrest	Sheriff
Indiana §35-33-4-1(f)	Misdemeanors	Traffic misdemeanors	No	Not specified	Law enforcement officers
Iowa § 805.1	When a crime has been committed in the presence of the police officer or there is reasonable grounds to believe that a crime has been committed.	Offenses not eligible for pretrial release; stalking; domestic violence offenses resulting in injury, where there was intent to inflict injury, involving use of dangerous weapon, or where there was pressure applied to throat or neck or obstructing nose or mouth.	No	Either	Peace officers
Kansas § 22-2408	Misdemeanors	Traffic violations	No	After arrest	Law enforcement officers
Kentucky § 431.015	Misdemeanors	Violation of a protective order	Yes	Prior to arrest	Peace officers
	Misdemeanor offenses of driving under the influence; assault; sexual crimes; crimes involving firearms or weapons; 4 th degree assault in a hospital room; 3 rd degree criminal trespass; harassment; and aggravated driving under the influence.	Violation of protective order	No	Prior to arrest	Peace officers
Louisiana C. Cr. P. Art 211	Misdemeanors; felony theft or illegal possession of stolen things if the value is between \$500 and \$1000; writing worthless checks.	Not specified	No	Prior to arrest	Peace officers
Maine 17-A § 15-A	When there is probable cause to believe a crime has been or is being committed.	Not specified	No	Prior to arrest	Law enforcement officers

State & Statute	For What Offenses Can a Citation Be Issued?	Exceptions	Presumption of Citation	When Is Citation Issued?	Who Issues Citation?
Maryland Cr. Pr. Law § 4-	Misdemeanors that do not carry a penalty of imprisonment, any misdemeanor with a maximum penalty of 90 days or less, and possession of marijuana.	Failure to comply with a peace order; violation of a condition of pretrial release while charged with a sex crime against a minor; possession of an electronic control device after conviction of a drug felony or violent crime; violation of any out of state domestic violence ordinance; violation of an interim, temporary or final protective order; abuse or neglect of an animal.	Yes	Either	Peace officers
101					
Massachusetts No statute located					
	Misdemeanors with a maximum of 93 days.	Not specified	No	Prior to arrest	Police officers
Michigan §764.9c	Any offense less than felony.	Domestic assault; violation of a protection order; crimes subject to mandatory confinement or mandatory condition of pretrial release.	No	Prior to arrest	Authorized public servants
	Not specified	Stalking; domestic abuse; violation of a protection order; violation of a domestic abuse no contact order.	No	Either	Peace officers
Minnesota §626.862; §629.72	Stalking; domestic abuse; violation of a protection order; violation of a domestic abuse no contact order.	Not specified	Yes	After arrest	Officer in charge of police station; county sheriff.

State & Statute	For What Offenses Can a Citation Be Issued?	Exceptions	Presumption of Citation	When Is Citation Issued?	Who Issues Citation?
Mississippi § 99-3-18	Misdemeanors	Not specified	No	After arrest	Police officers; booking officers; superiors.
Missouri No statute located					
Montana § 46-6-310; §46-6-311	When the officer has probable cause to believe a person has committed a crime.	Partner or family member assault involving injury to the victim, use of a weapon, violation of restraining order.	No	Not specified	Peace officers
Nebraska § 29-422	Misdemeanors	Violations of protection order for domestic violence	No	Either	Peace officers
Nevada § 171.1771; §171.177	Misdemeanors	Misdemeanors that require a bail hearing	No	After arrest	Peace officers
New Hampshire §594:14	Misdemeanors	Not specified	No	After arrest	Peace officers
New Jersey § 2B:12-21 authorizes R. Crim. P. Rule 3:4-1	Crimes committed in an officer's presence.	Not specified	Yes	After arrest	Law enforcement officers
New Mexico § 31-1-6	Petty misdemeanors	Not specified	No	After arrest	Law enforcement officers
New York Cr. P. Law §150.20; §140.10	Any offense	Class A, B, C, D felonies; 3 rd degree rape; 3 rd degree criminal sex act; 2 nd degree escape; 1 st degree absconding from a temporary release; absconding from a community treatment facility, 2 nd degree bail jumping; violation of a protection order.	No	After arrest	Police officers; authorized public servants.
Cr. P. Law §150.75	Possession of marijuana.	Not specified	Yes	After arrest	Police officers
North Carolina § 15A-302	Misdemeanors	Not specified	No	Not specified	Law enforcement officers; other authorized persons.
North Dakota §29-05-31 superseded by R. Cr. P. 5(e)	Crimes committed in an officer's presence.	Not specified	No	Either	Law enforcement officers; prosecuting attorney must duly issue for felony offenses.

State & Statute	For What Offenses Can a Citation Be Issued?	Exceptions	Presumption of Citation	When Is Citation Issued?	Who Issues Citation?
Ohio § 2935.26	Minor misdemeanors	Not specified	Yes	Prior to arrest	Law enforcement officers
Oklahoma 22 § 209	Misdemeanors	Not specified	No	After arrest	Law enforcement officers
Oregon § 133.055	Misdemeanors; felonies authorized by law to be reduced to a misdemeanor.	Domestic disturbance when the officer has probable cause to believe that an assault has occurred between family or household members or believes that an assault has occurred which has placed a person in fear of imminent danger.	No	Not specified	Peace officers
Pennsylvania R. Cr. P. 519 & 441	2 nd degree misdemeanors; 1 st degree driving under the influence; crimes punishable by a maximum of 90 days.	Not specified	Yes	After arrest	Law enforcement officers
Rhode Island § 12-7-11; §12-7-12	Misdemeanors	Not specified	No	Either	Peace officers; officer in charge of a police station.
South Carolina §56-7-10; §56-7-15; §22-3-540	Offenses enumerated in §56-7-10; offenses under the jurisdiction of a magistrate (maximum penalty of 30 days jail and \$500 fine) that are committed in the presence of a law enforcement officer.	Not specified	No	Not specified	Law enforcement officers
South Dakota No statute located					
Tennessee § 40-7-118; §40-7-120	Misdemeanors	Driving under the influence unless the offender was admitted to a hospital or detained for medical treatment for at least three hours; misdemeanor traffic offenses.	Yes	After arrest	Peace officers

State & Statute	For What Offenses Can a Citation Be Issued?	Exceptions	Presumption of Citation	When Is Citation Issued?	Who Issues Citation?
	Shoplifting; writing bad checks; assault or battery if the officer believes there is a reasonable likelihood of a danger to another person; prostitution if the officer has knowledge of past conduct of the defendant in prostitution or has reasonable cause to believe the prostitution will continue.	Not specified	No	After arrest	Peace officers
	Misdemeanors	Not specified	No	After arrest	Sheriff or designee.
Texas C. Cr. P. Art. 14.06.	Class C misdemeanor; Class A or B misdemeanor of driving while license invalid, contraband in correctional facility, theft of service, theft, graffiti, criminal mischief, possession of substance penalty group 2-A, or possession of marijuana.	Public intoxication	No	After arrest	Peace officers
Utah § 77-7-18	Misdemeanors	Not specified	No	Either	Peace officers; public officials charged with enforcement of law; port of entry agents; authorized volunteers.
Vermont R. Cr. P. 3	Misdemeanors committed outside the presence of a officer.	Assault against a family member; operating a vehicle under the influence; hate-motivated crimes, stalking; simple assault; reckless endangerment; cruelty to children; failure to comply with sex offender registration; abuse of a vulnerable adult; violation of a protection order.	No	Prior to arrest	Law enforcement officers

State & Statute	For What Offenses Can a Citation Be Issued?	Exceptions	Presumption of Citation	When Is Citation Issued?	Who Issues Citation?
Virginia § 19.2-74	Class 1 – 4 misdemeanors.	Driving while intoxicated; motor vehicle offenses; public drunkenness.	Yes	After arrest	Arresting officer
Washington CrRLJ 2.1	Misdemeanors or gross misdemeanors committed in the presence of an officer.	Offenses enumerated in §10.31.100	No	Either	Police officers
West Virginia § 62-1-5a	Misdemeanors; persons being detained for investigation of shoplifting.	Offenses involving injury to a person	No	Prior to arrest	Law enforcement officers
Wisconsin § 968.085; § 968.075; § 813.12; § 813.122; § 813.125	Misdemeanors	Domestic abuse offenses if believed abuse will continue, involves physical injury or the arrestee is the predominant aggressor; violation of protection order involving domestic abuse, child abuse or harassment.	No	Either	Law enforcement officers
Wyoming § 7-2-103	Misdemeanors	Not specified	No	After arrest	Peace officers; district or city attorney.

APPENDIX C

Individual Agency Policies Pertaining to Citation in Lieu of Arrest

The following information regarding individual department policies pertaining to citation in lieu of arrest was obtained from IACP Net, an online membership-based network and resource for law enforcement professionals. In addition to housing more than 20,000 policies from agencies across the country, IACP Net offers Quest Response, a secure peer-to-peer information exchange service that allows members to post questions for and share knowledge with other users. The policies included in the analysis were obtained through a query of the policy library for the terms “citation in lieu of arrest” and “alternatives to arrest” as well as a posting of the following to Quest Response:

“The IACP is conducting research on how police departments approach the use of citation in lieu of arrest. This research will provide the law enforcement community with baseline information about the use of citation across the country and serve as a foundation to develop resources to help law enforcement make data-driven decisions about which individuals pose a risk of committing a new crime or failing to come back to court and therefore should be arrested and booked rather than cited and released. Please get in touch with me if your agency is actively using citations in lieu of arrest and you are willing to discuss your agency’s experience.”

Overview

- In total, 132 total policies from 81 separate agencies across 33 states were identified.
- Of the more than 20,000 policies available in IACP Net, the search terms yielded only 132 results. Of the 132 results, 24 policies pertained to traffic violations, and 19 to juveniles, both of which fall outside the scope of this effort.
- Of the relevant policies, in the majority of cases information regarding citation and/or alternatives to arrest was limited to a couple of sentences.
- The action identified by the term ‘citation’ is variable. Several other terms are used to identify the same concept, including summons, notice to appear, and field appearance ticket.
- Discrepancies in naming may make it difficult to identify all relevant information on the subject. For example, some documents reference additional policies, not identified by the search terms, which appear to contain the information sought.
- Agency size, measured by number of sworn officers, ranged from 13 to 3,400 with a mean of 315 (sworn officer information was unavailable for seven agencies).

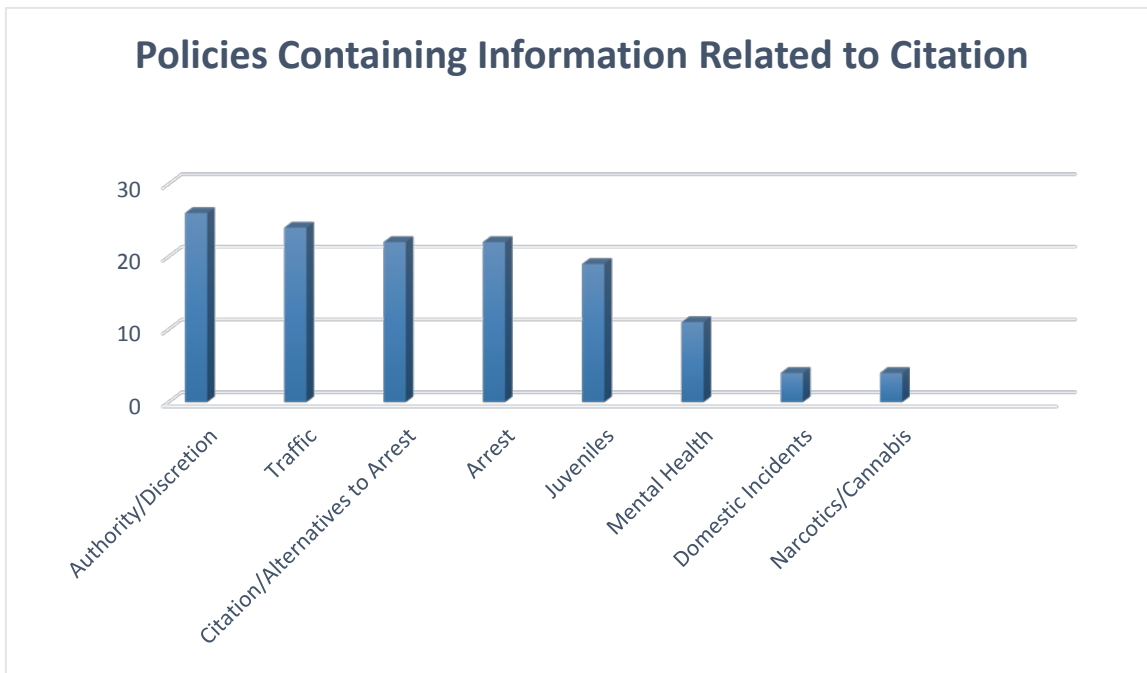
Policy Content

- 27% of agencies have a policy specific to citation in lieu of arrest or alternatives to arrest.
- In many instances, information regarding citation is contained in multiple policies.

- Policies were updated between 2004 and 2014. The distribution is as follows:

<i>Year</i>	<i>Number of Policies Updated</i>
2004	1
2005	0
2006	0
2007	2
2008	7
2009	14
2010	18
2011	12
2012	4
2013	12
2014	3

- Only one policy is no longer in use.
- Information relating to citation is most commonly found in the following policy subject areas:



- Regardless of whether or not an agency has a policy specific to citation in lieu of arrest or alternatives to arrest, policy content varies widely. The primary categories of information, along with the percentage of policies containing that information, is as follows:

<i>Policies</i>	<i>Content</i>
51%	Crimes for which a citation may be issued in lieu of custodial arrest
(54%)	(Additional policies that refer readers to a statute for detailed guidance)
29%	Offenses for which citations may not be issued
(35%)	(Additional policies that refer readers to an alternate source for exceptions)
38%	Procedure for officers to follow and/or required paperwork
54%	Factors for officers to consider when making the determination to cite or arrest, including: <ul style="list-style-type: none"> ▪ The person arrested is a danger to himself or others ▪ The individual's statements or behavior indicate likelihood that they may continue the offense or commit another offense if released immediately on a summons ▪ Location of defendant's residence ▪ Defendant's cooperative or uncooperative behavior
5%	Number of policies that contain all categories of information noted above
18%	Number of policies that recognize alternatives to arrest, but don't contain any of the information described above
1%	Citation in lieu of arrest requires supervisor approval
1%	In addition to completing the summons, one policy requires officers to "[a]dvice the subject that any person who willfully violates a written promise to appear in court, after having signed a release summons agreeing to do so, shall be guilty of a misdemeanor regardless of the disposition of, and in addition to, the charge upon which he/she was originally arrested."
47%	Number of policies that refer readers to specific statutes for additional guidance

- Agency size doesn't appear to be indicative of policy content:
 - The number of sworn officers for the agencies with policies providing all four categories of information are 30, 203, 490, and 1575.
 - A sampling of the 13 agencies whose policies don't include information from any of the four categories include agencies with 53, 200, and 1524 sworn officers.
- In 2013, the National Conference of State Legislatures conducted a survey on state statutes pertaining to citation in lieu of arrest². One component addressed in the research was whether a state's legislation presumes that citations will be issued rather than custodial arrests made for certain crimes and under certain circumstances. The findings follow:
 - In nine states there is a presumption of citation
 - In one state there is a presumption of citation for one offense only (possession of marijuana)
 - In 34 states there is no presumption of citation
 - No statute was identified for six states

Interestingly, the language of the policies analyzed here paints a slightly different picture.

 - Of 21 policies received from jurisdictions in which there is a presumption of citation, only 48% use language indicating that citation is required under certain circumstances.
 - An additional 14% of policies "encouraged" use of citation, but didn't indicate that citation is required under any circumstances.
 - 38% of policies received from presumption jurisdictions use neutral language. These policies recognize citation as an alternative, but neither require nor encourage its use.
 - Of the 34 states without a presumption of citation, four agency policies require citation in certain situations, four encourage but don't require citation, and two discourage citation.

² National Conference of State Legislatures, "Citation in Lieu of Arrest," <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx>.

APPENDIX D

Table of Articles

Author	Title	Year Published	Location of Population Studied	Subject Matter	Data Type	Methodology	Results
Journal Articles							
Allen, Jeffrey	Pretrial Release Under California Penal Code Section 853.6: An Examination of Citation Release	1972	California	Citation release-misdemeanors	FTA rates, analysis of California's citation legislation	Comparison of citation with other pretrial release measures (jail, bail, release on own recognizance); case study of citation release in Oakland, California	Citation can be successful, but requires a well-planned process and significant cooperation between officers, DA, and courts
Anonymous	An Analysis of the Citation System in Evanston, Illinois: Its Value, Constitutionality, and Viability	1974	Evanston, Illinois	Alternatives to bail with emphasis on citation. Article addressed first year's operation of citation system in Evanston, IL. Constitutional concerns (Equal Protection)	Research, court docket sheets, arrest records, interviews with patrolmen	Law review article	Police held negative view of citation, but their concerns were not borne out by study findings; author suggests Constitutional concerns can be remedied through controls including citation formula (assigning weight to situational variables), review by commanding officers, and station house releases
Baumer, Terry, and Kenneth Adams	Controlling a Jail Population by Partially Closing the Front Door: An	2006	Not disclosed	Evaluation of strategy designed to reduce jail crowding by	Comparison of historical data from County records management system	Compares all cases booked during first eight months of issuing summons in lieu of	Use of summons in lieu of arrest was somewhat effective, but fell

Author	Title	Year Published	Location of Population Studied	Subject Matter	Data Type	Methodology	Results
	Evaluation of a 'Summons in Lieu of Arrest' Policy			ordering local police to issue a summons rather than arrest in seven misdemeanor offenses	Included info on all charges associated with case, date of booking, date of dispo, nature of dispo and characteristics of individual charged	arrest for seven misdemeanor offenses, with the first eight months of the previous (prior to using summons in lieu of arrest)	far short of expectations, possibly due to design and planning failures
Berger, Mark	Police Field Citations in New Haven	1972	New Haven, Connecticut	Citations	Research, statutes, citation issuance rate by offense, citation and arrest data, release conditions (over 12 month period)	Law review article Comparison of stationhouse release on recognizance and citation, FTA rates, survey, comparison of arrest activity, cost benefit analysis of New Haven's citation program	A citation program can be added to departmental procedure without negative side effects; it is an effective and workable alternative to arrest
Bornstein, Brian H., et al.	Reducing Courts' Failure-to-Appear Rate by Written Reminders	2013	Nebraska	Effectiveness of different kinds of written reminders to reduce misdemeanor defendants' failure to appear rates	State court data and Defendant surveys from 14 Nebraska counties	Controlled study, randomly assigned use of written reminders comparison with FTA rate; defendant surveys to measure procedural justice perception	Reminders reduced overall FTAs; more substantive reminders were more effective than simple; expectancy theory
Brown, R.A., and J. Frank	Police-Citizen Encounters and Field Citations: Do Encounter Characteristics Influence Ticketing?	2005	Cincinnati, Ohio	What influences police use of field citations in traffic and non-traffic encounters	Citation vs. doing nothing or making arrest with relation to situational, legal and individual characteristics	Systematic social observation of police citizen-encounters in one police agency. Data analyzed using regression models	Offices were more likely to issue citations than do nothing or make an arrest in non-traffic encounters

Author	Title	Year Published	Location of Population Studied	Subject Matter	Data Type	Methodology	Results
Chappell, Allison T., John M. MacDonald, and Patrick W. Manz	The Organizational Determinants of Police Arrest Decisions	2006	National	Impact of organizational characteristics on individual officers' arrest rates	Law Enforcement Management and Administrative Statistics (LEMAS); FBI Uniform Crime Reports (UCR)	Linked data from the LEMAS survey to arrest data taken from the 1997 Uniform Crime Reports and performed analysis	<ul style="list-style-type: none"> • Crime rate biggest predictor of police arrest activities • Organizational variables failed to reveal significant relationships
Davis, Warren	Should Georgia Change Its Misdemeanor Arrest Laws to Authorize Issuing More Field Citations? Can an Alternative Arrest Process Help Alleviate Georgia's Jail Overcrowding and Reduce the Time Arresting Officers Expend Processing Non-traffic Misdemeanor Offenses?	2005	Gwinnett County, Georgia	Analysis of existing legislation and whether Georgia should change legislation that would allow officers to issue citations in lieu of arrest for misdemeanors	Georgia law; published literature; Gwinnett arrest and court data; survey data	Review of law and literature; analysis of effects of field citation process upon officer processing time; FTA in Gwinnett; of relevant law enforcement, court and jail staff	Legislature should modify Georgia law to authorize discretionary use of field citations for more misdemeanor offenders
Feeney, Floyd F.	Citation in Lieu of Arrest- The New California Law	1972	California	Citation in lieu of arrest	Summary of research and factors to consider regarding citation in lieu of arrest	Law review article	Citation in lieu of arrest could be adequate to address the needs of the criminal justice system
Gioia, Stephanie	Knowles v. Iowa: No 'Search Incident to Citation' Exception	1999	None	Knowles v. Iowa	Summary of decision	Law review article	Mere issuance of a citation without probable cause for search or search warrant, does not create a "search incident to citation" exception
Gless, Alan G.	Arrest and Citation: Definition and Analysis	1980	Nebraska (primarily)	Analysis of jurisdictional definitions of	Case law, Nebraska statutes	Law review article	<ul style="list-style-type: none"> • Author suggests that there is a need for a clear, principled

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				"arrest"; citation in lieu of arrest			definition of arrest <ul style="list-style-type: none"> • Suggests law enforcement should be encouraged to use citation in lieu of arrest
Hirschel, JD, and C.W. Dean	Relative Cost-Effectiveness of Citation and Arrest	1995	Charlotte, North Carolina	Use of field citation as alternative to arrest. Citation utilization rates, Cost of citations vs. arrest and FTA of citation vs. arrest	Arrest vs. citation characteristics data; cost data; FTA data. Data obtained from police department and court	Experimental Design using 99 weeks starting in 1987 of misdemeanor spouse abuse cases that met criteria to use citations in lieu of arrest	<ul style="list-style-type: none"> • Individuals issued citations have significantly higher FTA rates than arrestees. • Cost savings of issuing citation in lieu of arrest is approximately \$100.96 per case
Horney, Julie	Citation Arrest: Extending the Reach of the Criminal Justice System?	1980	Omaha, Nebraska	Theory of net-widening in the use of citation in lieu of arrest	Number of citations issued in the first year of policy; monthly adult arrest totals (full custody before intervention and both after); analysis of total misdemeanor arrests and separate offenses	Interrupted time series design	Predicted net-widening only occurred for the offense of assault
Johnson, Bruce, et al.	An Analysis of Alternatives to New York City's Current Marijuana Arrest and Detention Policy	2008	New York, New York	Alternatives to NYC's arrest and detention policy	Option 1: Arrest and detain Option 2: DAT Option 3: Violation Option 4: Warn Option 5: No action	Rational, political, and organizational analysis of policy alternatives to arrest for marijuana	Authors suggest use of DATs for marijuana violations in New York City
Minerva, Matthew	Preventing 'Senseless' Arrests: Searching for a Constitutional Resolution	2002	Lago Vista, California	Atwater v. City of Lago Vista	Historical and legal research	Law review article	Supreme Court said that warrantless arrest for a fine

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	of Atwater v. City of Lago Vista						only traffic offense is permissible in light of the Fourth Amendment
Novak, K.J., J. Frank, B.W. Smith, and R.S. Engel	Revisiting the Decision to Arrest: Comparing Beat and Community Officers	2002	Cincinnati, Ohio	Community policing and police arrest practices	Social observations of police officers and U.S. Census data	Systematic social observations of beat officers and community-oriented policing officers	<ul style="list-style-type: none"> The relationship between officer assignment and decisions to arrest is insignificant Several situational-level variables are significant predictors of decisions to arrest
Schnacke, T., Michael R. Jones, and Dorian M. Wilderman	Increasing Court Appearance Rates and Other Benefits of Live Caller Telephone Court-Date Reminders: The Jefferson County, Colorado, FTA Pilot Project and Resulting Court Date Notification Program	2012	Jefferson County, Colorado	Live caller court notification systems' effect on decreasing FTA	Court data and data collected during experiment	Randomly selected misdemeanor and traffic defendants received pre-trial and post-trial live calls using various scripts to determine which increased appearance rate the most	Telephone reminders using live callers increased court appearance rates to 88% (a 43% reduction in FTA)
Terrill, William, and Eugene A. Paoline	Nonarrest Decision Making in Police-Citizen Encounters	2007	Indianapolis, Indiana, and St. Petersburg, Florida	Non-arrest decision making	Observational data set which examined police patrol practices	Analysis of 729 encounters with people whom police or other citizens present placed in the role of suspect (wrongdoers, peace disturbers, or persons for whom complaints were received)	<ul style="list-style-type: none"> Nonarrest behavior is much more prevalent than arrest, irrespective of evidence strength Several situational factors are statistically related to

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							<p>nonarrest decisions</p> <ul style="list-style-type: none"> Alternative arrest actions are not demonstrably different than those noted by descriptive studies 40 years ago, although the reasons for nonarrest behavior are substantially more varied
Tobolowsky, P.M., and J.F. Quinn	Pretrial Release in the 1990s: Texas Takes Another Look at Nonfinancial Release Conditions	1993	Review of US pretrial system; Denton County, Texas	History of pretrial release; pretrial release on personal bonds (with post-release supervision) compared with release on jail bonds	Failure to appear rates and court dispositions	Law review article Comparison of failure to appear rates and court dispositions of pretrial program participants to non-program participants	<ul style="list-style-type: none"> Program participants appeared at a rate higher than non-participants Participants' pretrial arrest performance was at least as good as non-participants Participants had better disposition outcomes than non-participants
Tomkins, Alan J., et al.	An Experiment in the Law: Studying a Technique to Reduce Failure to Appear in Court	2012	Nebraska (14 counties)	Postcard notices to reduce failure to appear	Court data, and Surveys of defendants regarding procedural justice	Random assignment of defendants to receive one of three different postcard reminders; analysis of court data	Reminder postcards reduced failure to appear rates
Welsh, Wayne	Changes in Arrest Policies as a Result of Court Orders Against County Jails	1993	California	Effects of court-ordered jail reductions on	<ul style="list-style-type: none"> Cross sectional: Annual citation rates (78-88) for 	Analysis of cross sectional, time series and interview data	Although some police agencies have adjusted their

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				implementation and use of citation policy	counties under court order and not under court order <ul style="list-style-type: none"> • Time series: Monthly police citations (78-88) in 3 counties under court order • Interviews with law enforcement officials in same 3 counties 		arrest policies in response to jail release procedures, the data supported neither large-scale nor long-term changes in arrest policies
Reports Commissioned by Consulting Firms or Other Groups							
Busher, Walter	Citation Release: An Alternative to Pretrial Detention, Concepts, and Guidelines	1978	None	Overall review of potential use of citation in lieu of arrest	Early literature	Discussion	Discussion of the evolutionary history of citation release, a rationale for its use, a context for planning, and information extracted from operational experience which can prove useful in designing, implementing, operating, and monitoring formal citation release programs.
Friday, Paul C., and Joseph Bernard Kuhns	Mecklenburg County Jail Pretrial Study	2003	Mecklenburg County, North Carolina	Mecklenburg County Pretrial study	Mecklenburg County criminal justice data	Data analysis	Recommendations for pretrial reform
Monaghan, Geoffrey and	Practical implications of policing alternatives to	2013	International	Alternatives to arrest for cannabis offenses	Review of literature and discussion	Comparison of the ways in which various	Recommendations for policy change to implement

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Dave Bewley-Taylor	arrest and prosecution for minor cannabis offences					countries respond to and enforce use of cannabis.	alternatives to arrest for cannabis offenses.
Phillips, Mary	The Past, Present, and Possible Future of Desk Appearance Tickets in New York City	2014	New York, New York	Desk Appearance Tickets	NYPD desk appearance ticket data	History, review and data analysis of use of desk appearance tickets in New York City	Variety of environmental circumstances impact desk appearance ticket use in NYC.
Pretrial Justice Institute	Implementing the Recommendations of the National Symposium on Pretrial Justice: The 2013 Progress Report	2014	National	Recommendations of National Symposium on Pretrial Justice	Status review of 2011 recommendations	Review and discussion	Continued work is necessary
Steadman, Weller, Edelstein, and Policy Studies, Inc.	Mesa County Work Release and Jail Detention Programming Study	2005	Mesa County, Arizona	Mesa County Study of work release and jail detention	Mesa County criminal justice data	Data analysis	Recommendations for reform
Vera Institute of Justice	Los Angeles County Jail Overcrowding Reduction Project	2011	Los Angeles County, California	Los Angeles County Study to reduce jail overcrowding	Los Angeles County criminal justice data	Data analysis and discussion	Recommendations for reform
Whitcomb, Deborah, Bonnie Lewin, and Margaret Levine	Citation Release	1984	National	Citation in lieu of arrest	<ul style="list-style-type: none"> Literature review on citation release Telephone survey of 25 law enforcement agencies Site visits to Boulder County, Colorado, SD; Nassau County, Long Island, PD; Minneapolis, Minnesota, PD; Oakland, California, PD; and San Francisco, 	Literature review; review of implementation and use of citation release procedures	Discussion of history of citation release, rationale for its use, context for planning, and information extracted from operational experience which can prove useful in designing, implementing, operating, and monitoring formal citation release programs

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					California, PD and SD		

APPENDIX E

International Association of Chiefs of Police Staff and Consultants

Staff

- Domingo Herraiz, Director, Programs
- Rosemary DeMenno, Program Manager
- Ryan Daugirda, Project Coordinator
- Melissa Bretz, Administrative Assistant
- Kathleen Kelley, Intern

Consultants

- Jennifer Zeunik, President and Principal Consultant, Jennifer Zeunik Consulting