

BATON ROUGE POLICE DEPARTMENT

General Order
No.211

Effective Date
11-01-1994

Revised Date
04-25-2019

Subject: Criminal Summons

Reviewed 4/25/19

POLICY

It is the policy of the Department that a misdemeanor summons is the primary charging instrument with regard to misdemeanor violations. Custodial arrest shall only be used in instances specifically defined in the Code of Criminal Procedure that is reprinted below. Further guidelines that more narrowly define reasonable grounds and routine identification procedures are detailed in the following procedure.

La. C.Cr.P Art. 210. Service of Summons

The service of a summons is made in the same manner as a citation in a civil action.

La. C.Cr.P Art. 211. Summons by Officer Instead of Arrest and Booking

- A. When it is lawful for a peace officer to arrest a person without a warrant for a misdemeanor, or for a felony charge of theft or illegal possession of stolen things when the thing of value is one hundred dollars or more but less than seven hundred fifty dollars, he may give a written summons instead of making an arrest if all of the following exist:
 - (1) The officer has reasonable grounds to believe that the person will appear upon summons;
 - (2) The officer has no reasonable grounds to believe that the person will cause injury to himself or another or damage to property or will continue in the same or a similar offense unless immediately arrested and booked;
 - (3) There is no necessity to book the person to comply with routine identification procedures.
 - (4) If an officer issues a summons for a felony described in this Paragraph, the officer issuing the summons shall ascertain that the person has no prior criminal convictions.

- B. In any case in which a summons has been issued, a warrant of arrest may later be issued in its place.

PROCEDURES

I. Criteria for Issuance

- A. Officers shall interview arrestees based on the following criteria to determine if the issuance of a summons is appropriate.

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- B. In cases where one or more of the following characteristics are present, extreme caution shall be used before releasing an arrestee with a summons.
 - 1. The arrestee has exhibited a tendency toward violence, threatened violent acts or has committed a violent act.
 - 2. The arrestee is charged in connection with domestic violence or spousal assault.
 - 3. The arrestee is intoxicated or suspected of abusing drugs.
 - 4. The arrestee has assaulted or threatened to assault an officer.
 - 5. The arrestee has threatened or has demonstrated a desire to harm himself.

II. Reasonable Grounds

- A. For the purposes of this order reasonable grounds for belief is hereby defined as the conclusion an officer would reach based on the information supplied by the arrestee, previous experience the officer may have and any other relevant information available. Reasonable grounds for belief that an arrestee will continue with the same behavior, damage property or cause injury to himself/ herself or another shall be based on the following criteria.
- B. The arrestee makes statements indicating he/ she will continue with the same behavior despite being issued a summons.
- C. A credible person states the arrestee has engaged in this type of behavior previously and the behavior is sufficiently destructive or objectionable as to alarm the public or present a threat to the safety of the community, if not stopped.
- D. In domestic violence cases there is a protective order in force and the arrestee knowingly violated the order.
- E. The arrestee has been advised by a police officer not to return to the premises and he did so.
- F. The arrestee makes statements indicating despondence over his/ her arrest, a desire to harm himself/ herself or has exhibited self destructive behavior in the past.
- G. The totality of the circumstances indicate to the investigating officer or his supervisor that a summons will not deter the arrestee from continuing the behavior and the behavior is sufficiently destructive or objectionable as to alarm the public or present a threat to the safety of the community, if not stopped.

II. Identification Procedures

- A. Officers shall make a reasonable attempt to properly identify any arrestee before issuing a summons. In addition to the customary forms of identification such as driver's license and social security card, officers may use investigative techniques to determine the identity of an arrestee.

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- B. Failure to display photographic identification alone shall not cause an arrestee to be booked in jail.
 - 1. The arrestee may be identified by an interested party, such as the victim or a witness.
 - 2. The arrestee may be identified by a family member.
 - 3. The arrestee may be identified through archival information (e.g. driver's license files) and physical description.
 - 4. The arrestee may be identified by another police officer.
 - 5. Any combination of the above or the totality of the circumstances surrounding the arrest may be acceptable.
- C. Probable cause is the standard of proof for an arrestee's identity. In other words, would a reasonable police officer given the facts at hand conclude the arrestee is who he says he is?
- D. If an officer is unable to properly identify an arrestee who fits the criteria in Section II above, he shall compel the arrestee to provide fingerprints and a photograph prior to release.
 - 1. If the arrestee refuses to submit to being fingerprinted or photographed, he shall not be released with a summons. Additional charges may apply.
 - 2. Any arrestee who refuses to properly identify himself or is found to have made untruthful statements relative to his identity shall not be released with a summons.
- E. Proper identification or submission of fingerprints and a photograph shall constitute reasonable grounds for belief that an arrestee will appear in court to answer the summons.

IV. Issuance of Criminal Summons

- A. In all cases where a criminal summons is to be issued, the criminal summons supplement shall be completed and attached to the summons.
- B. Prior to releasing an arrestee with a summons, a check for warrants, both local and NCIC, shall be made by the arresting officer.
 - 1. Arrestees with outstanding City court warrants may be released if there is no indication that a cash only bond is required. The arresting officer shall then add the additional charge(s) to the summons.
 - 2. Arrestees with outstanding felony warrants shall be booked as per normal procedure.

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3. Arrestees with outstanding misdemeanor warrants from another agency shall be held until the issuing agency is contacted.
 - a. If requested, the arrestee shall be held for up to one (1) hour to allow that agency to take custody of the arrestee. If not, the arrestee shall be released with a summons.
 - b. During this time period the arrestee shall be maintained as in Section C (2) below.
- C. Criminal summons may be issued in the field or at a departmental office or district.
 1. It is acceptable to remove an arrestee from the scene to issue a summons if, in the officer's opinion, it would cause an arrestee to "cool down" or remove him from a potentially hostile situation.
 2. It is acceptable to transport an arrestee who otherwise fits the criteria in Sections II and III above and is intoxicated to a district/office to allow him some time to become sober.
- D. In the above instances a supervisor must be notified. It will be up to the supervisor to determine the length of time an arrestee will be held.
 1. Arrestees in these cases must be placed in a secured location (not handcuffed to a bar) and under direct observation every fifteen (15) minutes.
 2. Any summons will be issued to an arrestee when he is released from custody. There is no compulsion the arrestee sign the summons. If he is unable or refuses, the officer will indicate this in the space for signature and hand him the summons.
 3. If at any time it becomes obvious the arrestee will not meet the criteria established in Section II and III above, he shall be booked without delay.
- E. Criminal summons may be issued for the following felony offenses if arrestee meets the criteria for the issuance of a summons:
 1. LRS 14:71 - Issuing Worthless Checks (C.C. Pro. Art. 211.2)
 2. LRS 14:67 - Felony Theft / \$ 750.00 or less (C.C. Pro. Art. 211)
 3. LRS 14:69 - Illegal Possession of Stolen Things (C.C. Pro. Art. 211)
- F. The criminal summons will be delivered to the officer's shift commander (or designated notary) for the purpose of having the citation notarized. The notarized summons will be added to the criminal transmittal and sent to records division.