

**POLICY
300**

**EFFECTIVE
DATE
11-29-21**

**Eugene
Police Department**



Arrests

300.1 PURPOSE AND SCOPE

Eugene Police officers are sworn to enforce municipal, state, and federal criminal laws, and should take enforcement action where appropriate and consistent with department policy. This document outlines the different options afforded to a Eugene Police officer when making an arrest.

300.2 ARRESTS

A person may be arrested when there is probable cause to believe they have committed a crime, or when officers become aware of a warrant for the person's arrest.

- a. Once a person has been arrested, there are five options:
 1. Release the person
 2. Cite the person before releasing them
 3. Book the person into jail
 4. Retain the person in a holding cell for another agency to retrieve
 5. Allow the person to post bail and then release them
- b. Miranda warnings must be provided as appropriate, and the arrestee should be transported to a proper facility as soon as possible.
- c. The arresting officer is responsible for any arrestee in their custody; arrestees may not be mistreated.

300.2.1 DISCRETION TO ARREST

While this department recognizes the statutory power of peace officers to make arrests throughout the state, officers are encouraged to use sound discretion in the enforcement of the law. In most cases on-duty arrests will only be made outside the boundaries of the city in cases of hot and/or fresh pursuit, or while following up on crimes committed within the city or the city's immediate boundaries, or while assisting another agency.

On-duty officers who discover criminal activity outside the jurisdiction of the city of

Eugene should consider contacting the agency having primary jurisdiction, when circumstances permit, before attempting an apprehension.

300.2.2 TEMPORARY CUSTODY OF JUVENILES

- a. 2021 Senate Bill 386 requires immediate parental notification of an interview of a child witness (under 18 years of age).
- b. 2021 Senate Bill 418 renders juvenile's statements involuntary when an officer intentionally uses information known by the officer to be false to elicit the statement during a custodial interview regarding all misdemeanor and felony investigations.

300.3 WARRANT ARRESTS

- a. Arrest warrants should be served in a timely fashion and attempts to serve them documented. Officers are responsible for arrestees until they are transferred to the Lane County Adult Corrections (LCAC) facility, Springfield Municipal Jail (SMJ) or released. These arrangements must also be completed in a timely manner.
 1. Every arrest warrant should be confirmed prior to serving it.
 - a. If an officer anticipates serving the warrant, the confirmation should be done through Records. Field confirmations are done via Communications.
 - b. Suspects may not be arrested on unverified warrants. This means the originating agency must confirm the warrant is active.
 2. If a defendant challenges the validity of a warrant, reasonable inquires (e.g., police agencies, courts) must be made to confirm its validity. The defendant should be asked if they have any court paperwork to support their claim. (Note: Circuit Court judges sometimes delegate decisions on release agreements to the pre-trial services staff at the LCAC facility. Pre-trial services staff, acting under direct authority from the judge, may elect to have the warrant served on the defendant; similarly, if the defendant ignores the judge's order to report to pre-trial services staff, the warrant remains in effect.

This creates the possibility of encountering a defendant who has appeared before a judge, but still has a valid warrant for their arrests. In this situation, the pretrial services staff member's word is final on the warrant's validity.
3. Except in cases of fresh pursuit, consent, or when exigent circumstances exist, a search warrant will be obtained prior to making entry into premises to serve an arrest warrant, unless the subject of the warrant resides in those premises and there is probable cause to believe that the subject is there at that time.

4. Notify Communications when a warrant is served. They will in turn notify Records.

300.3.1 EUGENE MUNICIPAL COURT WARRANTS

Arrest warrants from Municipal Court will normally be sent to the initial arresting or citing officer for attempted service.

- a. Serving the warrant
 1. Give the defendant the opportunity to post bail.
 2. If the defendant has the means to post bail during normal business hours, take them to the front counter of Municipal Court. If bail is posted at Municipal Court, notify Station 2 so that the warrant can be cleared. Communications will follow normal warrant clearance procedures.
 3. If the defendant has the means to post bail after hours, take them to the EPD front counter to post.

- b. Citation in lieu of custody

See *Section 300.4 – Citations in Lieu of Custody* for additional information on criminal warrants.

1. Defendants who have an outstanding Eugene Municipal Court warrant whose custody would pose significant problems or cost may be cited. Examples of such circumstances may include:
 - Advanced stages of pregnancy
 - Injury or illness that would require extraordinary accommodations or care
 - Small children who would require care that is not readily available
 - LCAC and SMJ are full and will not accept additional arrestees
 - With Watch Commander approval.
2. Supervisor approval must be attained before a citation in lieu of arrest is issued.
 - a. The citation should be issued under the case number of the warrant. In the “charges” area, the name of the offense, followed by: “Cited in lieu of custody – Warrant #” should be written.
 - b. Multiple warrants may be cleared in this manner if the warrant numbers and related cases are in the report.
 - c. The bail amount is the same as the warrant and is the total if there are multiple warrants.

- d. The subject should be cited to appear on the next available court date at the appropriate arraignment time.
 - e. The subject may be photographed and/or fingerprinted in accordance with department procedures.
- c. Other agencies

Other agencies should not be authorized to serve a Eugene Municipal Court warrant unless:

- 1. The arresting agency can transport the defendant to the Lane County Jail or a mutually agreeable site may be arranged for transfer of the arrestee to EPD custody; or
- 2. The Watch Commander authorizes the arresting agency to lodge the defendant in that agency's jail, until the Watch Commander can arrange for prisoner transport before the next available arraignment.

300.3.2 OTHER WARRANTS

- a. Transport arrestees to LCAC or SMJ for lodging and/or posting of bail.
- b. Arrestees may not receive a cite in lieu of custody for a warrant issued by a court other than Eugene Municipal Court unless the warrant itself authorizes this or with confirmation from the other court via tele-type and with Watch Commander approval.

300.3.3 FELONY WARRANTS

- a. If assigned to conduct a follow-up investigation where a felony warrant has been issued the follow-up should be conducted in a timely manner so that the "speedy trial" provisions of the law are met.
- b. Any unsuccessful attempts to serve the warrant should be documented using a Supplemental Report under the original case number and the report should be routed to the Lane County District Attorney's office.

300.3.4 FUGITIVE FROM JUSTICE

Oregon Revised Statutes (ORS) 133.805 authorizes the arrest of a person when a peace officer or private citizen has "reasonable information" that the person stands charged with a felony in the court of another state.

- a. If a person is wanted in another state, officers will arrest the person as a "fugitive from justice." For probable cause, two elements must be established:
 - 1. There is a valid felony warrant for the person in another state; and

2. The person being arrested is the same person for whom the warrant was issued.
- b. Reports should spell out in detail all the ways the arrestee was matched to the identity of the person for whom the warrant was issued. Officers must be specific as to:
1. The types of identification the suspect possessed (e.g., a photo driver's license from a specific state.)
 2. If the suspect acknowledged the existence of the warrant, and
 3. If the Social Security number given by the suspect matched that on the computer "hit."

300.3.5 COMMUNICATIONS PERSONNEL

When a teletype request for warrant service is received from an outside agency, Communications must determine if the warrant involves a felony or an issue of officer safety.

- a. If the warrant involves a felony or an issue of officer safety, the warrant and extradition information must be confirmed before dispatching an officer to serve the warrant.
- b. If the request involves a warrant of a less serious nature and there is no immediate need to dispatch, the teletype should be routed to the Watch Commander for a determination of what further action should be taken.

300.4 CITATIONS IN LIEU OF CUSTODY

Pursuant to *ORS 133.055*, officers may issue a criminal citation to a person if the officer has probable cause to believe that the individual has committed a misdemeanor or certain felonies. This policy governs only criminal citations.

Also see *Section 300.3.1(b) – Eugene Municipal Court Citations in Lieu of Custody*.

300.4.1 STATUTORY REQUIREMENTS

- a. In accordance with *ORS 181.515*, the Eugene Police Department will not issue a citation in lieu of custody if the crime is a class "C" felony, a misdemeanor crime involving sexual conduct, or is a violation of the Uniform Controlled Substances Act unless the suspect is fingerprinted and the fingerprints are submitted to the Oregon State Police.
- b. Officers may not issue a citation, even if fingerprinted, if any of the following

circumstances apply:

1. The crime for which the suspect is under arrest is a class "A" or "B" felony.
 2. The crime for which the suspect is under arrest is statutorily mandated to require the suspect to be physically arrested and lodged at a jail (Abuse Prevention Act (APA), Violation of a Restraining Order (VRO), etc.)
- c. Officers will cite offenders into the court before which they would appear if arrested. The citations must specify the time, date, court of appearance and the court date shall not be later than 30-days after the citation was issued (*ORS 133.055 and 133.060.*)

300.4.2. DEPARTMENT PROCEDURE

The following procedure will be followed to comply with State law:

a. Field citations

Upon obtaining satisfactory identification and verifying that there are no outstanding warrants for the individual, officers may issue citations to a person upon probable cause to believe that the person has committed a misdemeanor or has committed a felony eligible for citation under state law (see *Section 302.2 – Arrests*), unless there is a disqualifying reason making the person ineligible for citation (*ORS 133.055*.)

b. Disqualifying circumstances

In certain circumstances, cite and release may not be appropriate. Those situations include:

1. *ORS 133.055* specifically exempts persons arrested for assault or menacing at the scene of a domestic violence complaint. Those persons must be physically taken into custody and shall be transported and lodged at the jail.
2. The person has outstanding warrants for their arrest.
3. The investigation or prosecution of the offense or offenses for which the person was arrested, or the investigation or prosecution of any other offense or offenses, would be jeopardized by the immediate release of the person arrested.
4. There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.

5. The person has indicated they will not appear or there is other reason to believe that the person would not appear at the time and place specified in the citation. The basis for this determination shall be specifically stated such as:
 - a. Previous history of failure to appear is documented.
 - b. The person lacks ties to the area, such as a residence, job or family.
 - c. The person initially provided a false name or identification or has previously used false names to avoid prosecution.
6. The person arrested is so intoxicated that they could be a danger to themselves or to others. (Release may occur as soon as this condition no longer exists.)
7. Unusual circumstances lead the officer to conclude that the suspect should be held for further investigation.

c. Instructions to the cited person

The citing officer will, if practical to do so, call attention to the time and place for appearance and take any other reasonable steps the officer deems necessary to ensure that the defendant understands their written obligation to appear.

300.4.3 CITATIONS IN LIEU OF CUSTODY ON WARRANTS

If the offense is not excluded under *ORS 133.055*, a court may authorize an officer to issue and serve a criminal citation in lieu of custody (*ORS 133.110*.) Officers should not issue citations under the following circumstances:

- a. The crime cited in the warrant involves violence.
- b. The crime cited in the warrant involves a firearm.
- c. The crime cited in the warrant involves resisting arrest.
- d. The crime cited in the warrant involves giving false information to an officer.
- e. The person arrested is a danger to themselves or others due to intoxication or being under the influence of drugs or narcotics.
- f. The person is otherwise unable to care for their own safety, or has an extreme medical condition which prohibits them from doing so.

- g. The person has other ineligible charges pending against them.
- h. There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.
- i. The person indicated they will not appear if released on a citation.
- j. The person cannot provide satisfactory evidence of personal identification.
- k. The warrant of arrest does not indicate that the person is eligible to be cited in lieu of custody.

300.4.4 JUVENILE CITATIONS

Completion of criminal citations for juveniles is generally not required with the following exception: misdemeanor traffic violations of the Vehicle Code should be cited through Municipal Court.

All other misdemeanor crimes for juveniles may be documented in a police report with a case number and the case should be referred to the Juvenile Court or appropriate investigative section for further action.

- a. *Policy 324 – Temporary Custody of Juveniles* specifies the way juveniles may be cited in lieu of custody.
 - 1. In lieu of taking a youth into custody for an act that would constitute an offense if committed by an adult, an officer may issue a citation for the same offenses and under the same circumstances that a citation may be issued to adults (*ORS 419 C.085.*)
 - 2. If cited, juveniles will be cited into Juvenile Court unless the offense has been waived into Eugene Municipal Court. Eugene Municipal Court will hear all juvenile citations involving a motor vehicle, bicycling, skateboarding, or pedestrian law that is not a felony.

300.5 PHYSICAL AND/OR MEDICAL STATES OF CONCERN

When a restrained arrestee is in custody, the arresting officer must be alert to the following physical, medical and/or mental states in the prisoner:

- a. Excited delirium/cocaine psychosis: a condition that may be indicated by rapid onset of paranoia followed by aggression toward objects, particularly glass, and/or activities and perceptions that are clearly abnormal.

- b. Cardiac arrest.
- c. Positional asphyxia: a condition that can occur when a position of the body interferes with respiration, resulting in a lack of oxygen or excess of carbon dioxide in the body that results in unconsciousness and often death and is usually cause by interruption of breathing or inadequate breathing supply.
1. Contributing factors causing the inability of an arrestee to move from a position that may potentially be fatal include:
 - Intoxication
 - Illness
 - Injury
 - Unconsciousness
 - Restraint or entrapment (e.g., hobbled and in a prone position)
 2. A restrained arrestee should not be left on their stomach for any significant period. If the person must be left in that position for a short time, they must be continuously monitored.
- d. If the officer observes that a subject may be suffering from any of the above conditions, the officer must immediately summon medical assistance and take action to mitigate risk to the person in custody (such as airway management, movement of the person for safety, CPR, etc.)

Chris Skinner
Chief of Police