



RELEASE OF DRIVER ARRESTED FOR INTOXICATION

A. POLICY STATEMENT

It is the policy of the Concord Police Department to actively work to remove drivers who are found to be under the influence of alcohol and/or drugs (DUI) from the roadway. Once the DUI driver is arrested and no longer presents a hazard to the public, the arresting officer has some options available to him/her to ensure that the DUI driver does not present a continued danger to the community while in a state of intoxication. One of those options is to release the driver to the care of a responsible adult.

B. GENERAL

1. In general, persons arrested for DUI should be booked and held for a detoxification period prior to being released. The intent of this General Order is to provide guidelines for the occasions when the release of persons charged with misdemeanor offenses relating to driving under the influence of alcohol are appropriate.

C. CITATION RELEASE

1. Persons charged with misdemeanor driving under the influence of alcohol may be released from custody, following booking, on a written Promise to Appear, if they meet all of the following factors:
 - .1 Proper identification;
 - .2 Likelihood that the Arrestee will appear in Court.
 - .3 A Responsible Adult is available to assume responsibility for the Arrestee.
 - .4 The Arrestee is clear of non-releasable warrants - local, CLETS, and NCIC.
 - .5 The Arrestee has no more than one prior DUI Conviction within seven years of the current D.U.I. arrest.
 - .6 The Arrestee is not under the influence of drugs.
 - .7 The Arrestee is not violent.
 - .8 The Arrestee is not a danger to Self or Others.
 9. The Arrestee's BAC is no greater than .10% BAC
 10. The arrestee has no injury from the arrest or events underlying the arrest that requires medical attention.

2. The Watch Commander or on-duty patrol supervisor is responsible for monitoring Jail Release Procedures. If the criteria for immediate cite release are not met, persons charged with misdemeanor driving under the influence of alcohol, drugs, or combination of both shall be released when they are sufficiently sober to care for themselves and the welfare of others and safely operate a motor vehicle. Exceptions:
 - .1 Whenever an out of state resident does not furnish satisfactory evidence of identity and an address within this state at which he/she can be located. (40305 CVC)
 - .2 The person arrested refuses to sign the notice to appear. (853.6 P.C.)
 - .3 There is reason to believe that the person would not appear at the time and place specified in the notice. The basis for this determination shall be specifically stated. (853.6 P.C.)
 - .4 The person cannot provide satisfactory evidence of personal identification. (853.6 P.C.)

D. PROCEDURE FOR IMMEDIATE POST-BOOKING CITE RELEASE

1. Providing that the Arrestee meets the above criteria for Cite and Release, the following items will be used to qualify an immediate post-booking citation release:
 - .1 Supervisor's permission is necessary to cite and release.
 - .2 Responsible Person should arrive within a reasonable period of time.
 - .3 Responsible Person is not under the influence of alcohol or drugs.
 - .4 Responsible Person is an adult.
 - .5 Responsible Person has proper identification.
 - .6 Responsible Person will be contacted by the Arresting Officer.
 - .7 Toll calls will not be made at City expense.
2. If the above criteria are met, the arresting officer will issue a notice to appear with a court date set.
 - .1 The responsible person's name will be entered in the Violation Section of the Citation (Annex A).
 - .2 The Arrestee will be admonished of the charge and court information and be requested to sign the citation.
 - .3 After signing the citation, the Arrestee will be given his/her copy.
 - .4 If the Arrestee refuses to sign the citation, normal detoxification procedure will be followed.
3. The Arresting Officer or his designee shall admonish the Arrestee and Responsible Person of the following information:
 - .1 The Arrestee has been arrested for driving under the influence.
 - .2 The Arrestee is not to drive a motor vehicle until he/she is no longer under the influence, or he/she may again be subject to arrest.
 - .3 The Arrestee is responsible for his/her own action.

- .4 The Arrestee is being released to the Responsible Person by mutual agreement, and Responsible Person accepts responsibility for his/her care.
- 4. The Responsible Person shall be requested to sign the admonishment form (Annex B). If the Responsible Person refuses to sign the form, write "refused" in the signature box. The form shall be retained and attached to the DUI Report.
 - .1 The Arrested Person shall be held for detoxification whenever a Responsible Person is not willing to sign the admonishment form.
- 5. The Arresting Officer shall include the following information in the Narrative Section of the Arrest Report:
 - .1 Citation number and time of release.
 - .2 The name, address, telephone number, and date of birth of responsible person.

E. OFFENDERS BELOW THE PRESUMPTIVE LEVEL

- 1. In cases where the Arrestee submits to a breath sample and the alcohol level is less than .08, the arresting officer shall contact his immediate supervisor or, in his absence, the Watch Commander.
- 2. The supervisor or Watch Commander so advised shall review the case to determine if the set of circumstances will substantiate prosecution for the offense charged. Factors which may be employed in such an evaluation may include, but are not limited to:
 - .1 Physical evidence; i.e., narcotics, marijuana, etc.;
 - .2 The driving pattern of the arrestee prior to being contacted by the officer;
 - .3 Objective symptoms of intoxication as shown to the officer in the field; and
 - .4 The Arrestee's behavior/actions, etc. in the station.
- 3. In the event the immediate supervisor and/or Watch Commander believe there is insufficient grounds for prosecution, the arrested party shall be released per authority of 849.b (1) PC.
- 4. Refer to Procedure No. 73 for information relating to the use of the interview room and to Procedure No.3 for information regarding the release of persons without prosecution.

Annex A

CONCORD POLICE DEPARTMENT
DUI CITE AND RELEASE ADMONISHMENT

CR #: _____

Arrestee: Citation #: _____

The person named above has been arrested for driving under the influence of alcohol and/or drugs. In taking responsibility for this person, you understand and agree to the following:

1. The person has been arrested for driving under the influence of alcohol and/or drugs.
2. The arrestee is not to drive a motor vehicle until he/she is no longer under the influence, or may again be subject to arrest.
3. The arrestee is responsible for his/her own actions.
4. The arrestee is being released to you by mutual agreement and you accept responsibility for his/her care.

Your signature below is your acknowledgment that you have read, understand, and agree to the conditions set forth above.

Name: _____

Address: _____

Driver's License #: Telephone: _____

Officer: Badge #: _____

Date: Time: _____

Signature: _____