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R SHEET ON CITATION IN LIEU OF ARREST

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BACKGROUND

It may only take a moment to put handcuffs on a suspect, but an arrest and its consequences extend much further. The law enforcement officer involved may have to spend hours booking the suspect and the jail potentially thousands of dollars detaining them. At the same time, that suspect faces the incredible unpleasantness of an arrest and any detention, with the disruption threatening everything from employment to family obligations. Eager to avoid these costs and consequences unless absolutely necessary, jurisdictions have turned to the use of citations in lieu of arrest in many situations.

Citations can be either civil or criminal in their nature. In the first instance, a civil citation may convert the situation from a criminal case into one in which the individual can resolve it through paying a fine, participating in community service or engaging in another program. A criminal citation, on the other hand, starts the criminal justice process much as an arrest would. The primary difference is that the individual receives a court date and maintains their freedom without any need to be booked, have a bail hearing or risk immediate detention. The lack of detention can also facilitate the connection of the individual to relevant services or treatment to address any underlying issues.

A law enforcement officer's authority to issue citations is set at the state level. Legislators must determine which offenses and situations can qualify, if there should be any exceptions, and what degree of discretion to afford law enforcement officers. It is then up to local police chiefs and sheriffs to determine the particular contours of any program in their jurisdiction. Citation programs are thus reliant on both state and local policymakers.

CURRENT DEBATE

Over the last few years, the scope and nature of law enforcement's citation authority have been the subject of significant legislative attention. Likewise, local lead-

SUMMARY

- Arrests are disruptive and costly for law enforcement officers, arrestees and society at large.
- Citation in lieu of arrest programs can avoid these problems while potentially improving recidivism outcomes and immediately connecting individuals to relevant services.
- Any expansion of citation programs, however, must account for potential net-widening effects, the program's effect on racial and ethnic disparities and any related changes in failure to appear rates.
- Policymakers should expand citation eligibility and create presumptions in favor of citations, along with rigorous data collection and analysis on their use to help combat any unintended side effects.

ers have wrestled with how to exercise the authorities already available to them under the law. While the trend has moved in favor of more expansive citation authorities and practices, this shift has been coupled with serious discussion about the likely consequences.

To proponents of the increased use of citations, the fact that a citation is not an arrest—with all the costs and consequences that entails—is a huge mark in its favor. A citation requires significantly less officer time than an arrest and does not create jail costs. Likewise, the suspect maintains their freedom with minimal disruption to their life routine. At the same time, citation programs often connect individuals to social service resources, which research suggests can improve recidivism and other outcomes.

Skeptics of wider citation use, on the other hand, raise the prospect of unintended consequences. This includes the prospect of “net widening,” essentially where the citation process, which is quicker and easier than an arrest, results in more—rather than fewer—individuals entering the criminal justice system as officers use their newly

freed time to simply cite more people than they would have arrested. Another critique focuses on the central role of law enforcement discretion in most citation programs, suggesting that this raises the prospect that citation in lieu of arrest programs could exacerbate racial and ethnic disparities if officers do not offer citations to suspects equitably. Finally, opponents argue that citations will increase the rate at which individuals will fail to appear for court.

Legislators wrestling with these issues have generally focused on three areas: first, which offenses or categories of offenses should be eligible for a citation in lieu of an arrest; second, should there be any circumstance-based exceptions to citation authority; and third, what level of discretion should be afforded to officers to determine whether a citation is appropriate in a given case.

ACTION ITEMS

Expand the list of citation-eligible offenses. Overly narrow restrictions on citations miss opportunities for communities to use them in appropriate situations. Instead, jurisdictions should adopt a more nuanced approach which involves broad eligibility coupled with enumerated exceptions that law enforcement officers can utilize at their discretion. This allows officers to use citations in a wider array of situations, while still protecting public safety and maintaining high appearance rates.

Create presumptions in favor of citations. For lower-level offenses, especially those unlikely to result in any jail time or that do not implicate public safety, the default should be a citation rather than an arrest. Likewise, any citation exceptions should be discretionary rather than mandatory so that the law enforcement officer on scene can make the necessary judgment based on the facts at hand.

Collect data on citation use. Any efforts to expand citation authority should be accompanied by rigorous data collection and analysis. This is necessary to ensure that programs are operating as intended and to safeguard against the threats of net widening, racial and ethnic disparities, and unacceptable reductions in the failure to appear rate.

Encourage and support local programs. While the legal landscape is set at the state level, citation programs remain predominantly local affairs. State policymakers should be mindful of the challenges facing local leaders and assist them wherever possible. This includes ensuring that state funding opportunities are flexible enough to accommodate citation or other diversion programs, and otherwise leveraging state resources to support these programs.

CONTACT US

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