



MEMO

To: Mayor Hughson and Council
From: Chase Stapp, Director of Public Safety
Date: February 20, 2020
Re: Article 14.06 – Texas Code of Criminal Procedure (Cite and Release)

At the core of the discussion about local criminal justice reform is the topic of the use of cite and release in lieu of custody arrest for certain Class A, Class B, and Class C misdemeanor offenses. For reference, copied below is the section of the Texas Code of Criminal Procedure that allows for the use of citation in lieu of custody arrest in certain instances.

Art. 14.06. MUST TAKE OFFENDER BEFORE MAGISTRATE. (a) Except as otherwise provided by this article, in each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall take the person arrested or have him taken without unnecessary delay, but not later than 48 hours after the person is arrested, before the magistrate who may have ordered the arrest, before some magistrate of the county where the arrest was made without an order, or, to provide more expeditiously to the person arrested the warnings described by Article [15.17](#) of this Code, before a magistrate in any other county of this state. The magistrate shall immediately perform the duties described in Article [15.17](#) of this Code.

(b) A peace officer who is charging a person, including a child, with committing an offense that is a Class C misdemeanor, other than an offense under Section [49.02](#), Penal Code, may, instead of taking the person before a magistrate, issue a citation to the person that contains:

- (1) written notice of the time and place the person must appear before a magistrate;
- (2) the name and address of the person charged;
- (3) the offense charged;
- (4) information regarding the alternatives to the full payment of any fine or costs assessed against the person, if the person is convicted of the offense and is unable to pay that amount; and

(5) the following admonishment, in boldfaced or underlined type or in capital letters:

"If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section [46.04](#)(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney."

(c) If the person resides in the county where the offense occurred, a peace officer who is charging a person with committing an offense that is a Class A or B misdemeanor may, instead of taking the person before a magistrate, issue a citation to the person that contains written notice of the time and place the person must appear before a magistrate of this state as described by Subsection (a), the name and address of the person charged, and the offense charged.

(d) Subsection (c) applies only to a person charged with committing an offense under:

(1) Section [481.121](#), Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(1-a) Section [481.1161](#), Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(2) Section [28.03](#), Penal Code, if the offense is punishable under Subsection (b)(2) of that section;

(3) Section [28.08](#), Penal Code, if the offense is punishable under Subsection (b)(2) or (3) of that section;

(4) Section [31.03](#), Penal Code, if the offense is punishable under Subsection (e)(2)(A) of that section;

(5) Section [31.04](#), Penal Code, if the offense is punishable under Subsection (e)(2) of that section;

(6) Section [38.114](#), Penal Code, if the offense is punishable as a Class B misdemeanor; or

(7) Section [521.457](#), Transportation Code.