

U. S. DISTRICT COURT
DISTRICT OF IDAHO
Filed at.....M

JAN 9 - 1980

JERRY L. CLAPP, Clerk
BY _____ Deputy

UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

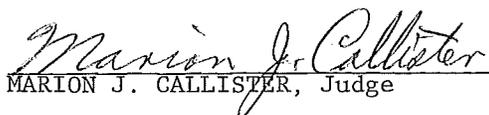
*General order No. 16
and Attached Amendment
Filed 10/29/82*

ORDER AND INSTRUCTIONS
FOR ISSUANCE AND PROCESSING
VIOLATION NOTICES AS TO PETTY OFFENSES

This Order shall become effective for all offenses listed on Appendix
A which arise on or after January 8th, 1980. Issued at Boise, Idaho,
this 8th day of January, 1980.

BY THE COURT:


RAY McNICHOLS, Chief Judge


MARION J. CALLISTER, Judge

DISPOSITION OF FEDERAL PETTY OFFENSES
BY MAIL OR HEARINGS

The United States District Court for the District of Idaho hereby adopts the following Rules for the Disposition of Federal Petty Offenses by Mail or Hearings:

I. CONCEPT

Section 1

This Order provides for forfeiture of collateral in petty offenses in lieu of appearance, thereby permitting persons charged with any of several enumerated petty offenses to post collateral in a fixed amount, to waive appearance before the Court and to consent to the forfeiture of the collateral. This forfeiture is accomplished simply by paying the prescribed amount of collateral (normally by a personal check) by placing it in a pre-addressed, postage-paid envelope furnished as part of the violation notice.

For the petty and minor offenses, whether originating under the applicable Federal Statute or regulations or applicable state statute by virtue of the Assimilated Crimes Act (18 U.S.C 13), occurring within the territorial jurisdiction of the United States Magistrate in Idaho, including areas within the boundaries of United States military installations, bases, institutions, Government reservations located on lands under the exclusive or concurrent jurisdiction of the United States,

IT IS HEREBY ORDERED THAT, except as provided below, collateral may be posted in lieu of the offender's appearance before a United States Magistrate. The person charged is not expected to appear before a United States Magistrate after posting such collateral, the amount of which can be determined by reference to Appendix "A" (Collateral Forfeiture Schedule) attached hereto. The collateral shall be forfeited to the United States and such forfeiture shall signify that the offender does not contest the charge or request a hearing before the United States Magistrate. Forfeiture of collateral shall be in the nature of a plea of nolo contendere. The Central Violations Bureau shall certify the record of any conviction of a traffic violation as required by the applicable state statute.

No forfeiture will be permitted for the following:

1. Offenses resulting in an accident with personal injury or property damage exceeding \$200.00;
2. Operation of a motor vehicle while under the influence of intoxicating liquor or a narcotic or habit producing drug, or permitting another person, who is under the influence of intoxicating liquor or a narcotic or habit producing drug, to operate a motor vehicle owned by the defendant or in his custody or control;
3. Leaving the scene of an accident;
4. Driving while under suspension or revocation of driver's license;
5. Driving without being licensed to drive;
6. Exceeding the speed limit by more than 15 miles per hour;
7. Reckless driving.

Also set forth in Appendix "A" are those offenses, if unaggravated, for which collateral may be posted in lieu of appearance by the person charged.

Section 2

This system has these primary objectives:

- a. Efficient, minimal commitment of judicial and clerical time through a uniform procedure for collection of fines and the scheduling of hearings (where defendants request them or where a hearing is deemed mandatory);
- b. Uniform method of collecting fines;
- c. Convenience to the public; and
- d. Expeditious enforcement of petty offense laws.

II. OPERATING PROCEDURES OF THE CENTRAL VIOLATIONS BUREAU

This Order is issued for the purpose of establishing a Central Violations Bureau in Denver, Colorado, for processing of Violation Notices issued in the District of Idaho. The existence of this Order does not prevent a Federal Officer from filing a Complaint against an offender in lieu of issuing a citation. The procedure merely provides

an alternative method for handling petty offense cases - a method which is usually more convenient to the Federal officer and the defendant.

Even though the amount paid is stated to be a fine, it is in actuality the posting of collateral which is forfeited if the defendant does not appear. Acceptance by the Central Violations Bureau terminates the proceeding. Forfeiture of collateral will not be permitted on some violations on the fine list, and, therefore, the offense requires a mandatory appearance by the defendant before a Magistrate.

VIOLATION NOTICE

The heart of the mail-in fine system is a multi-part ticket designed to provide legal notice to the offender and to supply the Court and the agency with vital information. Tickets are printed on chemically carbonized paper and pre-numbered for accountability.

Each Federal agency is responsible for providing its officers with these Violation Notices.

The copies of the Violations Notices are disposed of as follows:

White (Original)	Mailed to CVB, 1929 Stout St., Drawer 3587, Denver, Colorado 80294
Yellow*	Must remain attached to white copy.
Pink	Kept by issuing agency
Ivory (Cardboard)	Handed to offender at time of issuance or upon arrest; placed on offender's vehicle; or mailed to offender by the issuing agency

* Some agency tickets do not have a yellow copy.

The ivory copy, in addition to providing the offender with the charges against him, also is a postage-free envelope for mailing the fine to the CVB. The back of this copy should be imprinted or stamped with the following address: Central Violations Bureau, U. S. Courthouse, 1929 Stout Street, Drawer 3587, Denver, Colorado 80294.

All Violation Notices issued must contain the following information:

1. Date of Notice. (If the date of offense is different, state it separately.) Month first, then day and year.
2. Signature and number of officer issuing notice.
3. Time and location of offense, including name of facility, forest, park, etc.

4. Short description of offense and the pertinent CFR regulations.
5. Vehicle description and license number.
6. Name, address, zip code, birth date, and description of defendant. (Note: Please obtain a current address verbally; do not rely on a driver's license.)
7. Location of ranger district of Government agency. (Note: Location code numbers are listed in the preface of each fine list.)
8. Fine as indicated on the current CVB fine list. If the offense requires a mandatory court appearance, do not fill in the fine box. If a defendant is charged with more than one offense (one requiring a mandatory appearance and the other carrying a pre-set fine), complete two violation notices, one setting forth the mandatory appearance, and the other by filling in the fine box.

Please refer to pages 8-11 for sample Violation Notices.

CVB files by date of notice. It is IMPERATIVE therefore that the date is entered and legible on both the CVB copy and the violator's copy.

FINE LIST

A fine list will be published separately for each Federal agency using the CVB system. An effort has been made to include only the most frequently cited offenses. It is felt that inclusion of applicable Federal regulations would make the fine list publication too voluminous to be practical.

The amount of the pre-set fine should be stated or Box A checked which makes an appearance before a United States Magistrate mandatory. If the issuing officer does not personally have knowledge of probable cause for the issuance of a Violation Notice, a Complaint must be filed before a United States Magistrate setting forth the facts showing probable cause learned by investigation and interview of witnesses. Also, an officer may issue a Violation Notice for a minor offense within the agency jurisdiction for a mandatory appearance.

REQUEST FOR ORIGINAL CITATION

In the event that the cited offender forwards the fine to the CVB and the original citation has not been received at the CVB office, the issuing agency will be advised to forward the original citation immediately. If the original has been lost, the issuing agency should so advise the CVB and the ticket will be VOIDED and the collateral returned.

VIOLATION NOTICES ISSUED TO UNATTENDED VEHICLES

Violation Notices may be issued to unattended motor vehicles. If at all possible, the issuing agency should ascertain the violator's name and address before they are forwarded to the CVB. When this is not possible, the CVB will attempt to obtain this information.

MAILING VIOLATION NOTICES TO THE CVB - PRE-SET FINE

A Violation Notice (original and yellow copy) should be forwarded to the CVB the same date the citation is issued. These notices should be mailed to:

Central Violation Bureau
U. S. Courthouse
1929 Stout Street
Drawer 3587
Denver, Colorado 80294

These should be accompanied by a transmittal sheet, Form AO-258. CVB files by date of issuance. Please include this on the transmittal letter. For your records, include a xerox copy of this transmittal sheet and a stamped self-addressed envelope. We will then stamp this copy the date received by CVB, sign and return it in the envelope. It is imperative that the CVB receive the Violation Notices promptly. Violation Notices not submitted within ten days may be subject to dismissal.

VOLUNTARY APPEARANCES IN COURT ON PRE-SET FINES

If an offender wishes an appearance before a United States Magistrate, he should check the appropriate box (Box B) on his cardboard copy and mail the notice to the CVB without submitting the amount of the pre-set fine.

The CVB will promptly forward the Violation Notice to the assigned U. S. Magistrate. It then becomes the responsibility of that Magistrate to schedule all court appearances and notify the offender and the issuing agency accordingly. The Magistrate may require the posting of a bond before the hearing is scheduled.

MANDATORY APPEARANCES

The CVB list indicates which offenses require a mandatory appearance before a U. S. Magistrate. When preparing such a Violation Notice, the issuing officer should check Box "1-A," indicating that the offender must appear in Court. Please do not complete this box as to place and time of the Court appearance. This information will be provided to the offender at a later time. The issuing agency should mail the white (original) and yellow copies of the Violation Notice to the CVB within 24 hours.

The CVB will promptly forward the Violation Notice to the assigned U. S. Magistrate. It then becomes the responsibility of that Magistrate to schedule all Court appearances and notify the offender, the United States Attorney, and the issuing agency accordingly.

DISMISSALS

After a ticket has been given to a violator or left with their vehicle, an agency may not on its own accord dismiss a ticket. Before a ticket is given to the violator or left on a vehicle, the issuing officer may void the ticket. Voided tickets are not to be transmitted to the CVB. On those tickets submitted to CVB which the agencies feel dismissal is warranted, they are to direct a letter of explanation to the CVB. This letter should state the reason for dismissal and the name of the issuing officer and the name of the person suggesting dismissal. Upon receipt of a request for dismissal, the CVB will forward the request to the assigned Magistrate who will rule on the matter. If he grants the request, he will return it to the CVB with instructions to notify the violator and the agency. It is important that the request be made promptly in order that, if dismissed, the CVB office can notify the violator before payment is made. If the request is denied, the agency will be informed. The CVB clerks have NO authority to dismiss or change tickets. If a mandatory appearance Violation Notice is sought to be dismissed by the issuing agency, then that request for dismissal must be directed to the Magistrate before whom the appearance was set.

The issuing law enforcement officer or officers need not be present before the individual Magistrate at the date, time and place set forth

for arraignment, but shall attend the trial of the case upon notice of such date, time and place set by the Magistrate. It is thus the responsibility of each Magistrate to notify the concerned agency of any trial setting. The United States Attorney, as counsel for the agency, should also be notified by means of a copy of the notice sent to the agency itself.

FOLLOW-UP ON VIOLATION NOTICES ISSUED

Periodically, the CVB will return to each agency information indicating the final disposition of the citations issued. The agencies may also telephone the CVB in Denver, FTS 327-5475 (303-827-5475 commercial) at any time to ascertain the status of a citation.