



# CLEVELAND DIVISION OF POLICE

## GENERAL POLICE ORDER



EFFECTIVE DATE: AUGUST 9, 2023	CHAPTER: 5 – Field Investigations	PAGE: 1 of 3	NUMBER: 5.15.07
SUBJECT: OPEN CONTAINER CITATION/ARRESTS			
CHIEF: <i>Dornat A. Drummond, Chief</i>			

*This order has been revised in its entirety*

**PURPOSE:** To set guidelines for members to arrest and/or cite individuals for violation of Cleveland Codified Ordinance 617.07 – Open Container Prohibited; a misdemeanor of the fourth degree.

**POLICY:** **It is the policy of the Cleveland Division of Police** to enforce laws pertaining to open containers of alcoholic beverages by using the Multi-Purpose Misdemeanor Complaint Form as the affidavit and charging instrument for Open Container violations.

**DEFINITIONS:**

**Misdemeanor Complaint & Summons** – affidavit and charging instrument for an arrest and/or summons of an Open Container violation.

**Open Container** – an unsealed alcoholic beverage in a prohibited public place in the possession of a person or inside a prohibited vehicle.

**Physical Evidence** – contents of an alcoholic beverage in the original commercial container or suspected alcoholic beverage in any other container (e.g., plastic cup, water bottle, flask, etc.).

**PROCEDURES:**

- I. General Guidelines
  - A. Members who observe an open container on a person in a prohibited place or in a prohibited vehicle may issue a Misdemeanor Complaint and Summons and/or arrest the person in possession of the open container.
  - B. An incident report shall be completed for instances where the subject has not destroyed the evidence.
  - C. Evidence shall be properly marked, tagged, and entered into the Law Enforcement Records Management System (LERMS).
  
- II. Member Responsibilities
  - A. The Multi-Purpose Misdemeanor Complaint citation shall be used for violations of Open Container Prohibited.
    - 1. Summons and/or physical arrest shall be indicated by checking “Misdemeanor Complaint & Summons” on the citation.

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2. Members shall complete the citation with the following information:
  - a. A description of the container shall be completed in the narrative section (e.g., “One 40 ounce glass bottle of Colt .45 Malt Liquor, observed partially full in defendant’s possession, bottle cold to the touch, strong odor of an alcoholic beverage from the bottle”). If necessary, narrative may be continued on the back of the white copy.
  - b. Physical evidence shall be indicated on the form by selecting the “Evidence” field.
    - i. If the subject destroys the evidence by pouring out or drinking the contents, it shall be noted next to the “Evidence” field by writing “Destroyed by Subject”.
    - ii. Instances where the evidence is destroyed by the subject, the member **shall not** complete an incident report.
  - c. Physical arrest shall be indicated by checking the “Physical Arrest” field on the citation.
    - i. “Booked at CCCC” shall be written in the “Court date and Time” field and on the defendant’s signature line.
  - d. Summons shall be signed by the subject.
  - e. The pink copy of the citation shall be given to the subject.
3. Members shall swear/affirm to the affidavit before a notary public, deputy clerk of courts or have the affidavit acknowledged by a supervisor.
4. Turn in citations to the Officer-in-Charge (OIC) in accordance with district or unit procedures.

**B. Reporting**

1. Members shall complete an incident report for Open Container violations.
  - a. The only exception to the incident report requirement is if the subject destroys the physical evidence.
  - b. All other circumstances require an incident report.
  - c. Complete the incident report as required, documenting in the first line of the narrative that a summons was issued in lieu of arrest (e.g., Open Container/Summons in Lieu of Arrest) if applicable.

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2. In instances where an open container is located inside of a vehicle, the vehicle information shall be entered into the report with a description of where the open container was located.

C. Evidence

1. Members who have physical evidence (i.e., liquid contents) of open container violations shall adhere to the following procedures:
  - a. Secure the commercial container, if possible, to maintain the integrity of the evidence.
  - b. Commercial containers that cannot be resealed:
    - i. Pour a sample of the contents into a plastic specimen bottle and secure it with accompanying lid.
    - ii. Discard the remaining contents of the commercial container.
    - iii. Affix the plastic specimen bottle to the empty commercial container, ensuring that it is secure.
  - c. Members that have reasonable articulable suspicion to believe that the contents of a non-commercial container (e.g., cup, flask) is intoxicating beer or liquor, shall:
    - i. Photograph the container with the contents using the District cellular phone and attached to the incident report.
    - ii. The contents of the container shall be poured into a plastic specimen bottle and secured with accompanying lid. The container shall be affixed to the plastic specimen bottle.
  - d. Properly mark, tag, and enter evidence into LERMS and the District/Unit property book.

III. Supervisor Responsibilities

- A. Supervisors shall review and acknowledge misdemeanor citations for open container violations.
- B. Review and approve incident reports.
- C. The Officer in Charge (OIC) shall ensure the evidence is properly marked, tagged, and entered into LERMS and the District/Unit property book.

**THIS ORDER SUPERSEDES ANY PREVIOUSLY ISSUED DIRECTIVE OR POLICY FOR THIS SUBJECT AND WILL REMAIN EFFECTIVE UNTIL RESCINDED OR SUPERSEDED.**

DAD/arg  
Policy Unit

Revised 08/09/23; Replaces 03/01/02