

RULE 3.125 | NOTICE TO APPEAR

(a) Definition. Unless indicated otherwise, notice to appear means a written order issued by a law enforcement officer in lieu of physical arrest requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time.

(b) By Arresting Officer. If a person is arrested for an offense declared to be a misdemeanor of the first or second degree or a violation, or is arrested for violation of a municipal or county ordinance triable in the county, and demand to be taken before a judge is not made, notice to appear may be issued by the arresting officer unless:

- (1) the accused fails or refuses to sufficiently identify himself or herself or supply the required information;
- (2) the accused refuses to sign the notice to appear;
- (3) the officer has reason to believe that the continued liberty of the accused constitutes an unreasonable risk of bodily injury to the accused or others;
- (4) the accused has no ties with the jurisdiction reasonably sufficient to assure the accused's appearance or there is substantial risk that the accused will refuse to respond to the notice;
- (5) the officer has any suspicion that the accused may be wanted in any jurisdiction; or
- (6) it appears that the accused previously has failed to respond to a notice or a summons or has violated the conditions of any pretrial release program.

(c) By Booking Officer. If the arresting officer does not issue notice to appear because of one of the exceptions listed in subdivision (b) and takes the accused to police headquarters, the booking officer may issue notice to appear if the officer determines that there is a likelihood that the accused will appear as directed, based on a reasonable investigation of the accused's:

- (1) residence and length of residence in the community;
- (2) family ties in the community;



- (3) employment record;
- (4) character and mental condition;
- (5) past record of convictions; or
- (6) past history of appearance at court proceedings.

(d) How and When Served. If notice to appear is issued, it shall be prepared in quadruplicate. The officer shall deliver 1 copy of the notice to appear to the arrested person and the person, to secure release, shall give a written promise to appear in court by signing the 3 remaining copies: 1 to be retained by the officer and 2 to be filed with the clerk of the court. These 2 copies shall be sworn to by the arresting officer before a notary public or a deputy clerk. If notice to appear is issued under subdivision (b), the notice shall be issued immediately upon arrest. If notice to appear is issued under subdivision (c), the notice shall be issued immediately on completion of the investigation. The arresting officer or other duly authorized official then shall release from custody the person arrested.

(e) Copy to the Clerk of the Court. With the sworn notice to appear, the arresting officer shall file with the clerk a list of witnesses and their addresses and a list of tangible evidence in the cause. One copy shall be retained by the officer and 2 copies shall be filed with the clerk of the court.

(f) Copy to State Attorney. The clerk shall deliver 1 copy of the notice to appear and schedule of witnesses and evidence filed therewith to the state attorney.

(g) Contents. If notice to appear is issued, it shall contain the:

- (1) name and address of the accused;
- (2) date of offense;
- (3) offense(s) charged – by statute and municipal ordinance if applicable;
- (4) counts of each offense;
- (5) time and place that the accused is to appear in court;



(6) name and address of the trial court having jurisdiction to try the offense(s) charged;

(7) name of the arresting officer;

(8) name(s) of any other person(s) charged at the same time; and

(9) signature of the accused.

(h) Failure to Appear. If a person signs a written notice to appear and fails to respond to the notice to appear, a warrant of arrest shall be issued under rule 3.121.

(i) Traffic Violations Excluded. Nothing contained herein shall prevent the operation of a traffic violations bureau, the issuance of citations for traffic violations, or any procedure under chapter 316, Florida Statutes.

(j) Rules and Regulations. Rules and regulations of procedure governing the exercise of authority to issue notices to appear shall be established by the chief judge of the circuit.

(k) Procedure by Court.

(1) When the accused appears before the court under the requirements of the notice to appear, the court shall advise the defendant as set forth in rule 3.130(b), and the provisions of that rule shall apply. The accused at such appearance may elect to waive the right to counsel and trial and enter a plea of guilty or nolo contendere by executing the waiver form contained on the notice to appear, and the court may enter judgment and sentence in the cause.

(2) In the event the defendant enters a plea of not guilty, the court may set the cause for jury or nonjury trial on the notice to appear under the provisions of rules 3.140 and 3.160. When the court sets a trial date by the court, the clerk shall, without further praecipe, issue witness subpoenas to the law enforcement officer who executed the notice to appear and to the witnesses whose names and addresses appear on the list filed by the officer, requiring their attendance at trial.

(l) Form of Notice to Appear and Schedule of Witnesses and Evidence. The notice to appear and schedule of witnesses and evidence shall be in substantially the following form:

IN THE COUNTY COURT, IN AND FOR _____ COUNTY, FLORIDA

NOTICE TO APPEAR

Agency Case # _____

STATE OF FLORIDA, COUNTY OF _____

In the name of _____ County, Florida: The undersigned certifies that he or she has just and reasonable grounds to believe, and does believe, that:

On(date)....., at _____ () a.m. () p.m.

_____	_____	_____	_____	_____	_____	_____
Last Name	First	M.I.	Aliases			
_____			_____			
Street – City and State			Date and Place of Birth			
_____	_____	_____	_____	_____	_____	_____
Phone	Race/Sex	Height	Weight	Hair	Eyes	Scars/Marks
_____		_____		_____		
Occupation	Place of Employment		Employment Phone			
_____	_____		_____			
Complexion	Driver's License #		Yr./St. Social Security #			

at (location) _____

in _____ County, Florida, committed the following offense(s):

(1) _____ (2) _____

in violation of section(s): _____ : () State Statute _____

_____ () Municipal Ord.

DID (Narrative): _____



Name of Officer	ID	Agency

☐ Mandatory appearance in court,

Location

on(date)....., at _____ ()a.m. ()p.m.

☐ You need not appear in court, but must comply with instructions on back.

CO-DEFENDANTS:

☐ Cited 1. ☐ Jailed

1.		☐ Cited
		☐ Jailed
	Name DOB Address	

2.		☐ Cited
		☐ Jailed
	Name DOB Address	

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact [identify applicable court personnel by name, address, and telephone number] at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

I AGREE TO APPEAR AT THE TIME AND PLACE DESIGNATED ABOVE TO ANSWER THE OFFENSE CHARGED OR TO PAY THE FINE SUBSCRIBED. I UNDERSTAND THAT SHOULD I WILLFULLY FAIL TO APPEAR BEFORE THE COURT AS REQUIRED



BY THIS NOTICE TO APPEAR, I MAY BE HELD IN CONTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED.

Signature of Defendant

I swear the above and reverse and attached statements are true and correct to the best of my knowledge and belief.

Complainant

Agency or Department

Sworn to and subscribed before me on(date).....

Notary Public, State of Florida

[Editor's Note: Jurat should include identification information required by F.S. 117.05(13).]

WAIVER INFORMATION

If you desire to plead guilty or nolo contendere (no contest) and you need not appear in court as indicated on the face of this notice, you may present this notice at the county court named on the reverse of this page.

From(date)....., _____ to(date)....., _____
Hour Hour

and pay a fine of _____ dollars in cash, money order, or certified check.

The waiver below must be completed and attached. Read carefully.

Your failure to answer this summons in the manner subscribed will result in a warrant being issued on a separate and additional charge.



"In consideration of my not appearing in court, I the undersigned, do hereby enter my appearance on the affidavit for the offense charged on the other side of this notice and waive the reading of the affidavit in the above named cause and the right to be present at the trial of said action. I hereby enter my plea of Guilty [] or Nolo Contendere [], and waive my right to prosecute appeal or error proceedings.

"I understand the nature of the charge against me; I understand my right to have counsel and waive this right and the right to a continuance. I waive my right to trial before a judge or jury. I plead Guilty [] or Nolo Contendere [] to the charge, being fully aware that my signature to this plea will have the same effect as a judgment of this court."

Total Fine and Cost _____

Defendant Signature _____

Address _____



IN THE COUNTY COURT, IN AND FOR
_____ COUNTY, FLORIDA

SCHEDULE OF WITNESSES AND
EVIDENCE FOR NOTICE TO APPEAR

Agency Case #

Aliases

Address

.....(date of notice to appear)..... Offense(s): (1)

(2)

TANGIBLE EVIDENCE: (If none, write "None")

Item: _____

Obtained from (person and/or place):

first received by: given to:

WITNESSES: (If none, write "None")

#1 Name: _____
 Res. Tel. No. _____ Address: _____
 Bus. Tel. No. _____ Address: _____
 Testimony _____

#2 Name: _____
 Res. Tel. No. _____ Address: _____
 Bus. Tel. No. _____ Address: _____
 Testimony _____



#3 Name: _____
 Res. Tel. No. _____ Address: _____
 Bus. Tel. No. _____ Address: _____
 Testimony _____

I certify that the foregoing is a complete list of witnesses and evidence known to me.

 Investigating Officer

 Agency

Committee Notes

1992 Amendment. The amendment deletes subdivision (k) and reletters subdivisions (l) and (m). The elimination of subdivision (k) will entitle individuals charged with criminal violations to the same discovery, without regard to the nature of the charging instrument. As amended, persons charged by way of a notice to appear can obtain the same discovery as persons charged by way of either an information or an indictment. In this regard the committee also has proposed amendments to rule 3.220(b)(1), (b)(2), (c)(1), and (h)(1) to change the reference from “indictment or information” to “charging document.”

