

From: D. Jacob Summers
To: Robert J. Church
Date: 6/10/2013 10:55 AM
Subject: Fwd: PLEASE READ- Requests to dismiss traffic citations
Attachments: Memo.Favoritism.Traffic.Citations.docx

While you were gone, this became an issue. Again. So, I worked with Greg and drafted this memo and had Steve send it out to the officers.

Jake

>>> Steve H. Clark 6/5/2013 10:28 AM >>>

Please read the attached memo from City prosecutor Jake Summers regarding requests to dismiss traffic citations. There have been multiple incidents of officers learning that another officer has issued a citation to a family member or a friend and that officer makes a request to the officer who issued the citation to have it dismissed. The days of "fixing tickets" are long over, and in fact under Utah Criminal Code 77-7-26, it is unlawful and official misconduct (and a class B misdemeanor) for any peace officer to cancel or solicit the cancellation of a notice to appear or a traffic citation in any manner other than as provided by law. Once the citation has been electronically transmitted, or submitted it is considered a formal filing, and any change to that filing must come in the form of a motion to dismiss filed by the City Prosecutors office to the court.

Please familiarize yourself with the attached memo and with Utah Criminal Code 77-7-26. Please do not put yourself in a position where your integrity can be called into question, or create a situation which brings potential liability to the City.

Thanks, Steve

Recently, the following question was brought to the City Attorney's office.

- An officer issued a ticket to a family member/good friend/ of another officer or to city staff, what should the officer do?

The answer to this question is simple. Officers should treat all individuals with the same respect and deference.

If you stopped the individual for a traffic violation, and you would normally issue a citation on the offense, then you should issue a citation. The use of one's discretion to show favoritism or "professional courtesy" opens the Department of Public Safety and the City of Orem to criticism and potential liability. Recently, a North Logan officer was accused of showing favoritism. There, the officer prevented the citation from being transmitted by computer to a state system that records traffic violations after learning he had issued the ticket to the Logan Police Chief's wife. (<http://www.sltrib.com/sltrib/mobilemobileopinion/56057652-82/citation-officer-wilkinson-hawkes.html.csp> ; <http://www.ksl.com/?nid=148&sid=24544180>) In the end, there should be no expectation from family members, employees, etc. that because they are connected to law enforcement that they are exempt from the law.

Once the ticket has been submitted and transmitted to the court, the ticket is out of the officer's hands. The submission of the ticket, acts as a formal filing. In order to "take the ticket back", the City Prosecutor's office must file a motion to dismiss. The City Prosecutor's office will not file a motion to dismiss based on a family relationships, "professional courtesy", employment with a governmental agency, or friendship. The City Prosecutor's office has, and will continue, to prosecute cases involving city council members, city staff, and family of city staff. The City Prosecutor's office cannot allow any appearance of favoritism or impropriety. In the end, the creation of any system of favoritism will only undermine the public's trust in the Orem Department of Public Safety and the City Prosecutor's office.

Asking that an officer or prosecutor exercise "professional courtesy" is ultimately a request for favoritism. Not only does it place the officer in an awkward situation, it is potentially illegal and may be grounds for disciplinary action or termination. For example, Utah Code § 77-7-26 "A person who cancels or solicits the cancellation of a notice to appear or a traffic citation, in any manner other than as provided by law, is guilty of a class B misdemeanor".

From time to time, we each may receive a traffic citation. Our family members or friends may get tickets. The issuance of a traffic citation does not prevent anyone from exercising their constitutional rights and fighting the citation in court. In a time, when the public already distrusts government, let's not add to the problem.