

# Annapolis Police Department



## GENERAL ORDER

**Number: B.15**

**Issue Date: December  
2015**

**TO:** All Personnel

**SUBJECT:** Officer Discretion

### **PURPOSE**

Due to the infinite variety of situations with which an officer is faced on virtually a daily basis, it is difficult for a law enforcement agency to make rules or write policies that address every conceivable situation, therefore members of the department shall be issued written policies to define the limits of individual authority, provide guidelines for the exercise of discretion, and establish procedures that must be followed in certain circumstances.

### **POLICY**

It shall be the policy of the Annapolis Police Department to provide for uniformity of decisions and action, and eliminate unnecessary discretion. It is imperative that the exercise of discretion should be compatible with the "Rule of Law," Department policy(s), the "Laws of Arrest," and within the limits of the officer's authority as a sworn law enforcement officer.

#### **I. Situations when Discretion is Restricted or Eliminated**

Discretion Regulated or Restricted by Statute or Directive.

1. Department policy establishes guidelines for officers to use in exercising their discretion. When a written directive dictates a specific procedure for responding to and/or handling certain circumstances or situations, the directive should be followed exactly.
2. In the case of a written directive, discretion is either restricted or eliminated since the directive will describe the individual officer's course of conduct or action.
3. Officers shall be especially cognizant of those laws which remove an officer's discretion such as mandatory arrests, the placing of certain charges, etc. In those instances, officers shall comply with the applicable statute governing such conduct.

4. Any conflict between department directive(s) and applicable law(s) will be resolved in favor of the applicable law(s).

## II. Authority of Police Officers

### A. Maryland Uniform Complaint and Traffic Citation

1. Police officers are required to release on recognizance any person charged with most violations of the state's traffic laws, upon issuance of a Maryland Uniform Complaint and Citation.
2. Certain traffic violations require arrests and presentment of a violator to a District Court Commissioner. Officers' authority in these areas is described in **General Order B. 14**, and in the Maryland Transportation Article of the Annotated Code of Maryland, a copy of which is issued to every officer.

### B. Release of DWI/DUI Suspect to Sober Adult

Under certain circumstances, officers may release a person who has been arrested and charged with driving under the influence of alcohol/narcotics to a sober adult. Refer to **General Order E.3**.

### C. Maryland Criminal/Civil Citation

Officers may charge certain misdemeanor crimes on a Maryland Criminal/Civil Citation and then release the defendant/violator pending trial or payment of a fine. Refer to **General Order C.13**.

### D. Juvenile Citation

Juveniles who have been detained or arrested are referred to the Department of Juvenile Justice upon issuance of a Juvenile Citation. The juvenile is released to the custody of a parent or guardian upon obtaining the signature of the custodian guaranteeing the child's appearance at the hearing. Refer to **General Order C.19**.

### E. Authority of the District Court

Except for the cases listed above, any person who is arrested and charged with the commission of a crime must be presented for an initial appearance before a judge or commissioner of the District Court. The Court official has sole authority to release the person on recognizance, on bail, or to commit the person to the detention center pending trial.

### F. Exercising Discretion

1. Before an officer exercises discretion, he/she must consider all relevant factors, the overall situation, and then using knowledge previously gained, training, and good judgment, make an appropriate decision(s).

2. Because there are public and private agencies that provide services of a varied nature to the community, the Department encourages its officers to make referrals to those agencies as necessary and appropriate, since oftentimes an arrest may not solve or address an underlying problem.
3. An officer making a referral is not relieved from his/her duties and responsibilities regarding the completion and submission of required reports, keeping the victim informed of the status of the case, and any follow-up investigation.
4. Officers must be cognizant of the fact that frequently, a verbal or written warning to violators of very minor offenses may be sufficient and that the formal placing of charges either by way of citation or arrest in such cases should not be made unless the violation is deliberate and/or repeated.
5. Some minor offenses can be resolved by a referral to an appropriate social service agency, such as the Anne Arundel County Department of Social Services, Crisis Resolution Center, or other appropriate agencies.
6. There are some situations in which a minor crime is alleged (i.e., second degree assault) but not committed within the officer's presence or view, and/or an arrest does not fit the criteria listed in the "Laws of Arrest." In instances in which a lawful arrest cannot be made, an appropriate referral would be to the District Court Commissioners Office. Officers are encouraged to give the victim(s) the Suspect Information handout form to assist them in getting the necessary information to file charges with the District Court Commissioners Office.

### **III. Alternatives to Arrest**

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- A. Police officers often have several options available to aid them in the discharge of their obligations under the law. Good judgment and common sense frequently require that the officers take measures less disruptive than physical arrest of citizens who violate minor traffic laws and misdemeanor criminal offenses. These alternatives include:
  1. The issuance of citations for the specified offenses under Maryland Uniform Criminal/Civil Citation system;
  2. The issuance of citations for juvenile offenders and traffic violations;
  3. The use of criminal summonses in lieu of arrest;
  4. Officers are authorized under certain circumstances to release from prearrangement confinement individuals arrested for driving under the influence of alcohol.
- B. For less serious violations, officers may exercise discretion and use informal action to solve the problem, such as:
  1. Referral;
  2. Written or verbal warnings.
- C. In applying these informal alternatives, the officer will take into consideration the victim and the nature of the offense.

References

1. Accreditation Standards 1.2.6, 1.2.7
2. Annotated Code of Maryland
3. Transportation Article of the Annotated Code of Maryland
4. General Orders B.14 Legally Mandated Authority, C.13 Maryland Uniform Criminal Citation and Uniform Municipal/Civil Citation, C.19 Juvenile Arrests and Contacts, E.3 Traffic Offenses Involving Alcohol/Drugs

**Revision:** This General Order replaces General Order B.15 Officer Discretion dated March 2001.