

## **DEPARTMENT GENERAL ORDER 99-14**

OFFICE of the CHIEF OF POLICE  
REPLACES/AMENDS: None

DATE: February 12, 1999

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### **OFFICER DISCRETION IN ARREST SITUATIONS**

#### **I. PURPOSE.**

The use of discretion by individual officers in certain arrest situations may successfully resolve a situation with a minimum of intrusion and use of coercion. As such, the judicious use of discretion on the part of sworn members of the department is permitted in accordance with the parameters established herein.

#### **II. DEFINITIONS.**

Police Discretion - A power or right conferred upon an officer by law of acting officially in certain circumstances according to the dictates of their own judgment and conscience.

#### **III. ALTERNATIVES TO ARREST**

Situations involving non-serious criminal conduct, to include traffic violations, ordinance violations, and/or certain state misdemeanor offenses, should be examined to determine if alternate enforcement measures are preferable to a full custodial arrest and confinement. Potential alternates to arrest are:

- A. Verbal Warning
- B. Written Warning
- C. Summons
- D. Referral to family
- E. Referral to social organizations.

#### **IV. OFFICER DISCRETION.**

Officers of this command may utilize the discretion inherent to their lawful authority in those situations where the application of same is consistent with state and local legal requirements, department policy, and accepted ethical considerations (Refer General Order 99-7, Statutory Authority). The use of officer discretion, or the election to proceed with full enforcement action must not be influenced by personal malice, vengeance, or prejudice based on race, sex, religion, ethnic background, or political affiliation. In addition, the decision to either accept or reject the use of alternatives to arrest must be defensible in terms of furthering the department's mission.

The type or severity of enforcement action chosen by an officer shall not be extended unnecessarily for the purpose of delaying the release or inhibiting the free movement of any person.

Factors which may be considered in the application of discretionary enforcement action are:

- A. Age of offender
- B. Physical/mental condition of offender
- C. Attitude of victim
- D. Nature of offense
- E. Mitigating circumstances surrounding offense
- F. Attitude of offender
- G. History of offender.

Certain restrictions shall apply in the use of discretion, which will generally correlate to the seriousness of the offense under investigation. Basic guidelines are as follows:

- A. Felony Offenses - In all cases where probable cause exists to arrest or hold for investigation, officers shall effect the arrest.
- B. Misdemeanor Offenses - In those cases involving serious misdemeanor offenses where probable cause exists to arrest or hold for investigation, officers should effect an arrest. Less serious misdemeanors, such as those involving property crime, may be dealt with in a more discretionary manner. Should a question exist as to the proper course of action, the matter should be referred to a supervisor.
- C. Traffic Offenses - In those cases involving Driving Under the Influence (both alcohol and drugs) and Leaving the Scene of an Accident, where probable cause exists to arrest or hold for investigation, officers should initiate an arrest. Other types

of traffic violations may be dealt with in the manner judged most appropriate by the officer on the scene.

V. CONFINEMENT OPTIONS.

Once a subject has been taken into full custody arrest, officers of this command shall, contingent upon the nature (seriousness) of the offense, the past criminal history of the offender, the circumstances surrounding the offense, and the objectives of the current investigative effort, also have certain discretionary authority to either confine the individual in a correctional facility, or to release same on their own recognizance pending application for warrant.

BY ORDER OF:

RICHARD T. MORRIS  
Chief of Police

RTM:dld

CALEA Reference: 1.2.6/1.2.7