



Eric Hawkins
Chief of Police

ALBANY, NEW YORK
POLICE DEPARTMENT
165 HENRY JOHNSON BOULEVARD
ALBANY, NEW YORK 12210



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ALTERNATIVES TO ARREST
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PURPOSE: The purpose of this policy is to provide department members with written guidelines governing the use of individual discretion and to identify alternatives to arrest; to include written guidelines outlining the circumstances governing when to use these alternatives.

POLICY: It is the policy of the Albany Police Department to offer sworn members of the department the ability to use discretion in certain situations to the extent that an alternative to an arrest may be best employed to resolve the situation. Warnings, referrals, informal resolutions, summonses, and citations shall be considered approved alternatives to arrest.

DEFINITIONS: **Discretion** – Discretion means the ability to govern and discipline one's activities by the use of reason and prudence. Discretion includes many concepts; skill and judgment in the use of resources, the power of free decision or the latitude of choice, wisdom, experience, training, law and department policy, procedures, regulations, written directives, and orders.

I. USE OF DISCRETION

A. All department members are encouraged to exercise discretion when dealing with their many duties. One's discretion must be soundly based upon and is limited by the law, departmental directives, experience, and training. Officers must correctly interpret the law and directives and realize that the use of discretion is not permitted when certain activities are mandated by statute, department directive, or supervisory direction.

1. Department members shall seek direction from their supervisor when the appropriate course of action is in doubt.

B. Of special concern is the matter of physical arrest and confinement of an individual. All department personnel must consider such action as very serious. When a person is deprived of his/her liberty to move about, the officer must be certain that what he/she is attempting to do cannot be accomplished in any other way and that the law is fully behind the decision.

II. GUIDELINES FOR EXERCISING DISCRETION

- A.** Sworn officers are vested with a broad range of discretion when deciding whether to make an arrest and while carrying out other police duties and functions.
 - 1. The principal of reasonableness shall guide the officer's determinations.
 - 2. Officers must consider all surrounding circumstances in determining whether legal action shall be taken.
- B.** Consistent and proper use of discretion, based on professional policing competence, will do much to preserve good relationships and retain the confidence of the public.
 - 1. There can be difficulty in choosing between conflicting courses of action.
 - 2. It is important to remember that a timely word of advice rather than arrest, which may be correct in appropriate circumstances, can be a more effective means of achieving a desired end.
- C.** The proper exercise of discretion does not relieve the investigating officer of the responsibility to conduct a thorough preliminary investigation of the events that may precipitate an arrest.
- D.** Officers are authorized and encouraged to use alternatives to arrest when, based upon their discretion, such action is in the best interest of:
 - 1. The public;
 - 2. The parties involved; and
 - 3. The criminal justice system.

III. ALTERNATIVES TO ARREST

- A.** It is important to be aware of the alternatives to arrest and confinement. In lieu of arrest, an officer may exercise discretion and choose an alternative action to solve the problem. Alternatives of this nature include, but are not limited to the following:
 - 1. Warnings:
 - a.** A verbal documented warning may be issued by an officer when, in his/her discretionary judgment, it is the most reasonable alternative for the offender and the violation.
 - b.** Warnings should generally not be used for major offenses or those offenses specifically addressed in a department policy, procedure, written directive, or order.
 - 2. Referrals to Community Service Organizations:
 - a.** Referral is the practice of referring a matter to another departmental component, government agency, or social service organization.

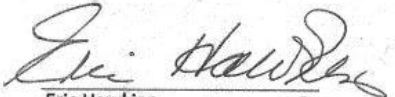
- b. Officers may offer referrals to other agencies and organizations when, in his/her judgment, the officer determines that the referral is the most reasonable alternative for the offender and the offense committed.
- c. Personnel shall refer to [General Order 1.2.10 – Diversion Programs](#) for further procedures relating to criminal justice, juvenile justice, and social service diversion programs.

3. Informal Resolutions:

- a. Officers, at his/her discretion, may offer informal resolutions to situations and conflicts when in the officer's judgment they can be adequately resolved by:
 - i. Brief on-scene discussion for educational purposes;
 - ii. Informing the proper agency or organization; or
 - iii. Advising parents of juvenile activity, etc.

B. Officers must consider the following factors when exercising alternatives to arrest:

1. The presence or absence of probable cause;
2. Existing law and the elements of the offense;
3. The level of cooperation by victims and witnesses;
4. The severity of the offense involved,
5. Available resources; and
6. Department policy, procedures, regulations, written directives, and orders.



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