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| <b>NORTHAMPTON POLICE DEPARTMENT</b>   |  |  |
| <b>Administration &amp; Operations Manual</b>  |  |   |
| <b>Policy: Discretion in Arrest Situations</b>   |  | <b>AOM: O-111</b>   |
| Massachusetts Police Accreditation<br>Standards Referenced:<br>[1.2.6] [1.1.3] [74.3.1] [41.2.7] |  | Issuing Authority<br><hr/> Jody Kasper<br>Chief of Police                           |
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## I. Introductory Discussion

A law enforcement officer’s primary duty and intent is to protect the public at large. At times there may be circumstances in which the public interest would be better served by not making an arrest, even though there is legal justification for such action. The intent of this chapter is to provide guidelines for officers to follow when exercising discretion in arrest situations.

## II. Alternatives to Arrest [1.2.6]

A. Summons: A court official may issue a summons instead of a warrant in certain circumstances. The requirements for a summons are generally the same as those for a warrant (See *AOM 0110 Arrest*) except that a summons directs the defendant to appear before a court at a stated time and place rather than ordering the defendant’s arrest. Usually when a defendant fails to appear, a warrant will be issued for their arrest. [74.3.1]

1. The use of a summons in lieu of making an arrest is most commonly used with juvenile offenders. It is the policy of the Department, relative to the arrest of

juveniles, that if the totality of the circumstances do not require that an arrest be made, then the arrest should not be made and the juvenile should be summonsed instead (refer to *AOM O220 Juvenile Operations* for departmental policy regarding alternatives to the arrest of juveniles).

- B. Citations: Citations, normally used in traffic violations, are similar to a summons but they are not issued by a court official on the basis of a complaint. A citation merely gives notice to offenders that they may be arrested if they do not voluntarily appear in court to answer charges against them. (Refer to *AOM O300 Traffic Law Enforcement* regarding the use of citations for traffic violations).
- C. Warnings: In some cases, at the officer's discretion, they may simply warn the offender that such an offense, if repeated, may result in future law enforcement action. Officers need to consider the totality of the circumstances and the interests of the public when exercising their judgement as to whether or not a warning is sufficient. Circumstances in which a warning may be appropriate is when the violation is a result of ignorance of a particular law (refer to *AOM O300 Traffic Law Enforcement* regarding the use of verbal and written warnings for motor vehicle violations).
- D. Informal Resolutions/Referrals: In some cases, providing an informal resolution or referring a person to another agency may better serve the public interest than would an arrest (refer to *AOM O220 Juvenile Operations* and *AOM O215 Handling the Mentally Ill*).

### III. When to Use Alternatives to Arrest

Circumstances (discretion) in which the public interest would be better served by not making an arrest include, but are not limited to the following:

1. When an arrest could aggravate community conflict or possibly precipitate a serious disorder.
2. When there is a greater priority to respond to a more serious crime or to an urgent public emergency.
3. In neighborhood quarrels, noisy parties, landlord-tenant problems, and minor disturbances of the peace where no serious crime has been committed and the officer can successfully act as a mediator.
4. In minor juvenile offenses where a warning and a talk with the parents can avoid a court appearance.
5. In cases involving persons better served by other agencies, such as alcohol/drug abusers or the mentally ill. [41.2.7]
6. In other minor offenses where a summons can effectively accomplish the intended purpose. Especially, when the likelihood that the offender will flee is minimal (roots in community).